IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

JASON WOLFORD; ALISON WOLFORD; ATOM KASPRZYCKI; HAWAII FIREARMS COALITION,

Plaintiffs,

vs.

ANNE E. LOPEZ, in her official capacity as the Attorney General of the State of Hawai'i; MAUI COUNTY,

Defendants.

Civil No. 1:23-cv-00265-LEK-WRP

DECLARATION OF NICHOLAS M. MCLEAN

Hon. Leslie E. Kobayashi

Hon. Wes Reber Porter

DECLARATION OF NICHOLAS M. MCLEAN

Pursuant to 28 U.S.C. § 1746, I declare as follows:

1. I am the First Deputy Solicitor General in the Department of the

Attorney General, State of Hawai'i, and I am one of the attorneys representing

Anne E. Lopez, in her official capacity as Attorney General for the State of

Hawai'i, in this action.

I make this Declaration in Support of Defendant Anne E. Lopez's
 Memorandum in Opposition to Plaintiffs' Motion for Temporary Restraining Order
 (ECF No. 7) ("TRO Opp.").

3. Attached as **Exhibit 1** is a true and correct copy of the full text of Act

52, as signed into law by Governor Josh Green on June 2, 2023, which is cited in the TRO Opp. at pp. 1, 25.

DECLARATIONS

4. True and correct copies of the following declarations are attached as

Exhibits to the TRO Opp.:

- a. Declaration of Professor Saul Cornell, including one exhibit attached thereto;
- b. Declaration of Dr. Brennan Gardner Rivas, including 25 exhibits attached thereto;
- c. Declaration of Professor Terence Young, including one exhibit attached thereto;
- d. Declaration of Director Patrick McCall; and
- e. Declaration of Director Laura H. Thielen.

HISTORICAL LAWS

5. In the following paragraphs, I include the full citations for the historical laws cited in the TRO Opp. Each law cited is attached hereto as an Exhibit. Following the signature page of this declaration, for the Court's convenience, I have appended a chart which includes the relevant excerpted text from each of these laws, organized by subject matter.

6. Attached as **Exhibit 2** is 1746 N.J. Laws 301-12 (An Act for better settling and regulating the Militia of this Colony of New Jersey, for the repelling

Invasions, and suppressing Insurrections and Rebellions, ch. 84, § 26), which is cited in the TRO Opp. at p. 8.

7. Attached as **Exhibit 3** is An Act for Establishing a Militia in this Government (Delaware, 1756), *reprinted in* The Selective Serv. Sys., 2 Backgrounds of Selective Service, pt. 3, 10-15 (Arthur Vollmer, ed. 1947), which is cited in the TRO Opp. at p. 8.

8. Attached as **Exhibit 4** is An Act for regulating the Militia of the Province of Maryland (1756), *reprinted in* The Selective Serv. Sys., 2 Backgrounds of Selective Service, pt. 5, 83-108 (Arthur Vollmer, ed. 1947), which is cited in the TRO Opp. at p. 8.

9. Attached as **Exhibit 5** is An Act for the Regulation of the Militia of the Commonwealth of Pennsylvania (1780), ch. 902, § 45 (§ 57, P.L.); §48 (§ 60, P.L.), 12th rule, *reprinted in* The Selective Serv. Sys., 2 Backgrounds of Selective Service, pt. 11, 75-104 (Arthur Vollmer, ed. 1947), which is cited in the TRO Opp. at pp. 8-9.

10. Attached as Exhibit 6 is 1852 Vt. Acts & Resolves 19-30 (Act No.
24, An Act to Prevent Traffic in Intoxicating Liquors for the Purpose of Drinking),
§ 15, which is cited in the TRO Opp. at p. 9.

11. Attached as **Exhibit 7** is 1853 R.I. Acts & Resolves 232-42 (An Act for the more effectual suppression of Drinking Houses and Tippling Shops), § 10, which is cited in the TRO Opp. at p. 9.

12. Attached as **Exhibit 8** is 1859 Conn. Pub. Acts 61-63 (An Act in Addition to and in Alteration of "An Act for forming and conducting the Military Force") ch. 82, § 5, which is cited in the TRO Opp. at p. 9.

13. Attached as **Exhibit 9** is 1837 Mass. Acts 273-76 (An Act concerning the Militia), § 1, which is cited in the TRO Opp. at p. 9.

14. Attached as **Exhibit 10** is 1837 Me. Laws 421-27 (An Act additional to an Act to organize, govern and discipline the Militia of this State), ch. 276, § 5, which is cited in the TRO Opp. at p. 9.

15. Attached as **Exhibit 11** is 1840 R. I. Acts & Resolves 3-32 (An Act to regulate the Militia), § 14, which is cited in the TRO Opp. at p. 9.

16. Attached as **Exhibit 12** is Ordinance (Regulating the keeping and conveying [of] Gun Powder and Gun Cotton), ch. 16, § 6, *reprinted in* George Manierre, The Revised Charter and Ordinances of the City of Chicago 123-25 (Chicago, Daily Democrat Off. 1851), which is cited in the TRO Opp. at p. 9.

17. Attached as Exhibit 13 is An Ordinance to Regulate the Sale ofGunpowder, ch. 21, § 4, *reprinted in* The Charter and Ordinances of the City of St.

Paul 167-68 (Saint Paul, Daily Pioneer Off. Print 1863), which is cited in the TRO Opp. at p. 9.

18. Attached as **Exhibit 14** is 1867 Kan. Sess. Laws 25 (An Act to prevent the carrying of Deadly Weapons), ch. 12, § 1, which is cited in the TRO Opp. at p. 9.

19. Attached as **Exhibit 15** is 1883 Mo. Laws 76 (An Act to amend section 1274, article 2, chapter 24 of the Revised Statutes of Missouri, entitled "Of Crimes and Criminal Procedure), § 1, which is cited in the TRO Opp. at p. 9.

20. Attached as **Exhibit 16** is 1883 Wis. Sess. Laws 290 (An Act to prohibit the use and sale of pistols and revolvers), ch. 329, § 3, which is cited in the TRO Opp. at p. 9.

21. Attached as **Exhibit 17** is 1890 Okla. Sess. Laws. 495-96 (Concealed Weapons), ch. 25, art. 47, §§ 4, 7, which are cited in the TRO Opp. at pp. 9, 17.

22. Attached as **Exhibit 18** is 1878 Miss. Laws 178-79 (An Act to prevent the carrying of concealed weapons, and for other purposes), ch. 46, § 2, which is cited in the TRO Opp. at p. 9.

23. Attached as **Exhibit 19** is 1853 N.M. Laws 67-69 (An Act Prohibiting the carrying of a certain class of Arms, within the Settlements and in Balls), § 3, which is cited in the TRO Opp. at pp. 9, 17.

24. Attached as **Exhibit 20** is 1879 New Orleans, La., Gen. Ordinances (Concealed weapons or otherwise in balls or theatres), tit. I, ch. 1, art. 1, *reprinted in* Jewell's Digest of the City Ordinances Together with the Constitutional Provisions, Act of the General Assembly and Decisions of the Courts Relative to Government of the City of New Orleans 1-2 (Edwin L. Jewell, ed., New Orleans, L. Graham & Son 1882), which is cited in the TRO Opp. at p. 9.

25. Attached as **Exhibit 21** is 1858 N.Y.C., N.Y. *in* Minutes of Proceedings of the Board of Commissioners of the Central Park for the Year ending April 30, 1958, at 166-68 (New York, Wm. C. Bryant & Co. 1858), which is cited in the TRO Opp. at p. 15.

26. Attached as Exhibit 22 is 1873 Brooklyn, N.Y., Park Ordinances
(Ordinance No. 1), art. 1, § 4, *reprinted in* Annual Reports of the Brooklyn Park
Commissioners 1861-1873, at 136 (1873), which is cited in the TRO Opp. at p. 15.

27. Attached as **Exhibit 23** is 1868 Pa. Laws 1083-90 (A Supplement to an act entitled "An Act appropriating ground for public purposes in the City of Philadelphia"), § 21, pt. II, which is cited in the TRO Opp. at p. 15.

28. Attached as **Exhibit 24** is 1872 S.F., Cal., Park Comm'rs' Ordinances No. 2 (An Ordinance to Provide for the Regulation and Government of the Avenue and Public Parks in the City and County of San Francisco, in Charge of the Park Commissioners), § 2, pt. 2, *reprinted in* Municipal Reports for the Fiscal Year

1874-75, at 886-89 (S.F., Spaulding & Barto 1875), which is cited in the TRO Opp. at p. 15.

29. Attached as **Exhibit 25** is 1873 Chi., Ill., Rev. Ordinances, ch. 31, § 6, *in* Laws and Ordinances Governing the City of Chicago 88-91 (Murray F. Tuley, ed., Chi., Bulletin Prtg. Co. 1873), which is cited in the TRO Opp. at p. 15.

30. Attached as **Exhibit 26** is 1875 S. Park, Ill., S. Park Ordinances (an act to provide for the location and maintenance of a park for the towns of Chicago, Hyde Park, and Lake), § 6, *in* Laws and Ordinances Governing the Village of Hyde Park Together with Its Charter and General Laws Affecting Municipal Corporations 309-12 (Consider H. Willett, ed., Chi., Hazlitt & Reed 1876), which is cited in the TRO Opp. at p. 15.

31. Attached as **Exhibit 27** is 1881 St. Louis, Mo., art. 10, § 3, *in* The Revised Ordinance of the City of St. Louis 635-36 (M.J. Sullivan, ed., St. Louis, Times Prtg. House 1881), which is cited in the TRO Opp. at p. 15.

32. Attached as **Exhibit 28** is 1886 Park Ordinances, § 3 *reprinted in* City of Boston, Dept. of Parks, Thirteenth Annual Report of Bd. of Comm'n'rs 86 (Boston 1888), which is cited in the TRO Opp at p. 15.

33. Attached as **Exhibit 29** is 1786 Va. Acts 35 (An Act forbidding and punishing Affrays), which is cited in the TRO Opp. at p. 17.

34. Attached as **Exhibit 30** is 1792 N.C., ch. 3, *reprinted in* A Collection of the Statutes of the Parliament of England in Force in the State of North Carolina 60-61 (Francis Xavier Martin, ed., New Bern, Editor's Press, 1792), which is cited in the TRO Opp. at p. 17.

35. Attached as **Exhibit 31** is the 1328 Statute of Northampton, 2 Edw. 3, c.3 (1328), *reprinted in* Statutes of the Realm, vol. 1, 257-61 (London, Dawsons of Pall Mall, 1965), which is cited in the TRO Opp. at p. 17.

36. Attached as **Exhibit 32** is 1817 New Orleans, La. (An Ordinance respecting public Balls), art. 1, *in* General Digest of the Ordinances and Resolutions of the Corporation of New Orleans 370-71 (New Orleans, Jerome Bayon 1831), which is cited in the TRO Opp. at p. 17.

37. Attached as **Exhibit 33** is 1869 Tenn. Pub. Acts 23-24 (An Act to Amend the Criminal laws of the State), ch. 22, § 2, which is cited in the TRO Opp. at p. 17.

38. Attached as **Exhibit 34** is 1870 Ga. Laws 421 (An act to preserve the peace and harmony of the State and for other purposes), tit. XVI, no. 285, § 1, which is cited in the TRO Opp. at p. 17.

39. Attached as **Exhibit 35** is 1870 Tex. Gen. Laws 63 (An Act Regulating the Right to Keep and Bear Arms), ch. 46, § 1, which is cited in the TRO Opp. at p. 17.

40. Attached as **Exhibit 36** is 1875 Mo. Laws 50-51 (An Act to prevent the carrying of weapons in public assemblies of the people, and to repeal "An act to prevent the carrying [of] concealed weapons," approved March 26, 1874), § 1, which is cited in the TRO Opp. at p. 17.

41. Attached as **Exhibit 37** is 1889 Ariz. Sess. Laws 16-18 (An Act Defining and Punishing Certain Offenses Against the Public Peace), no. 13, § 3, which is cited in the TRO Opp. at p. 17.

42. Attached as **Exhibit 38** is 1715 Md. Laws 88-91 (An Act for the speedy trial of criminals, and ascertaining their punishment in the county courts when prosecuted there, and for payment of fees due from criminal persons), ch. 26, § VII, which is cited in the TRO Opp. at pp. 20-21.

43. Attached as **Exhibit 39** is 1721 Pa. Laws, ch. 248, § III, 3 (An Act to prevent the killing of deer out of season, and against carrying of guns or hunting by persons not qualified), *reprinted in* 3 James T. Mitchell & Henry Flanders, The Statutes at Large of Pennsylvania from 1682 to 1801 254-57 (Pa., Clarence M. Busch, 1896), which is cited in the TRO Opp. at pp. 20-21.

44. Attached as **Exhibit 40** is 1722 N.J. Laws 141-42 (An Act to prevent the Killing of Deer out of Season, and against Carrying of Guns and Hunting by Persons not qualified), which is cited in the TRO Opp. at pp. 20-21.

45. Attached as **Exhibit 41** is 1763 N.Y. Laws, ch. 1233, § 1 (An Act to prevent hunting with Fire-arms in the City of New York, and the Liberties Thereof), *reprinted in* 1 Laws of New-York from the Year 1691 to 1773 Inclusive 441-42 (N.Y., Hugh Gaine 1774), which is cited in the TRO Opp. at pp. 20-21.

46. Attached as **Exhibit 42** is 1771 N.J. Laws 343-347 (An Act for the Preservation of Deer and other Game, and to prevent trespassing with Guns), ch. 540, § 1, which is cited in the TRO Opp. at pp. 20-21.

47. Attached as **Exhibit 43** is 1865 La. Acts 14-16 (An Act To prohibit the carrying of fire-arms on premises or plantations of any citizen, without the consent of the owner), no. 10, § 1, which is cited in the TRO Opp. at pp. 20-21.

48. Attached as **Exhibit 44** is 1866 Tex. Gen. Laws 90 (An Act to prohibit the carrying of Fire-Arms on premises or plantations of any citizens without the consent of the owner), ch. 91, § 1, which is cited in the TRO Opp. at pp. 20-21.

49. Attached as **Exhibit 45** is 1893 Or. Laws 79 (An Act To Prevent a Person from Trespassing upon any Enclosed Premises or Lands not His Own Being Armed with a Gun, Pistol, or other Firearm, and to Prevent Shooting upon or from the Public Highway), § 1, which is cited in the TRO Opp. at pp. 20-21.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Honolulu, Hawai'i, July 14, 2023.

<u>/s/ Nicholas M. McLean</u> NICHOLAS M. MCLEAN

RELEVANT EXCERPTS FROM HISTORICAL LAWS EXHIBITS

Ex. No.	TRO Opp. Page	Citation	Key Language	Pincite ¹
		II.A.1. <i>ɛ</i>	a Bars and restaurants serving alcohol	
Ex. 2	8	1746 N.J. Laws 301-12 (An Act for better settling and regulating the Militia of this Colony of New Jersey, for the repelling Invasions, and suppressing Insurrections and Rebellions, ch. 84, § 26)	"[N]o Innholder, or any other Person shall presume to sell any strong Liquor, to any of the Persons so listed, in such Days or Times that they are obliged to appear in Arms, at the Place of Mustering or Training, or within a Mile thereof, until after they are dismissed for that Day"	1746 N.J. 311
Ex. 3	8-9	An Act for Establishing a Militia in this Government (Delaware, 1756), <i>reprinted in</i> The Selective Serv. Sys., 2 Backgrounds of Selective Service, pt. 3, 10-15 (Arthur Vollmer, ed. 1947)	"[N]o Captain or other Officer shall Appoint any place of Meeting for his Company within the Distance of half a mile of any Inn or Tavern under the Penalty of Forty Shillings for every such Offence and no person or persons shall presume to keep a Booth or tent or expose to sale at or Bring on any Pretence whatsoever any strong Liquor to such place of Meeting under the Penalty or Forty shillings for every such offence."	1756 Del. 13
Ex. 4	9	An Act for regulating the Militia of the Province of Maryland (1756) <i>reprinted in</i> The Selective Serv. Sys., 2 Backgrounds of Selective	"[A]ny Person of the Militia who shall get drunk on any Muster- day before or at Muster shall forfeit the Sum of Ten Shillings and any Person who shall presume to vend Sell or Dispose of any Strong Liquor at any Place of training or at any other Place within Five Miles of any Place of training to any Person belonging to the	1756 Md. 93

¹ The pincite contains the year of the law excerpted, the state in which it was enacted, and the page of the source document on which the excerpted language may be found.

Ex. 5	9	Service, pt. 5, 83-108 (Arthur Vollmer, ed. 1947) An Act for the Regulation of the Militia of the Commonwealth of Pennsylvania (1780), ch. 902, § 45 (§ 57, P.L.); §48 (§ 60, P.L.), 12th rule, <i>reprinted in</i> The Selective Serv. Sys., 2 Backgrounds of Selective Service, pt. 11, 75-104 (Arthur Vollmer, ed. 1947)	Militia on any Muster day except between the Time of Discharge from such Training for that day and the Sun sitting thereof Such Person so vending selling or disposing of Such Strong Liquors Shall forfeit and pay the Sum of Five Pounds" § 47 (§ 57, P.L.): "[I]f any non-commissioned officer or private shall, on any occasion of parading the company to which he belongs, appear with his arms and accoutrements in an unfit condition, or be found drunk he shall be disarmed and fined in any sum not exceeding the price of ten days' labor, nor less than one days' labor."; § 48 (§ 60, P.L.): "12th. No company or battalion shall meet at a tavern on any of the days of exercise, nor shall march to any tavern before they are discharged ; and any person who shall bring any kind of spiritous liquor to such place of training shall forfeit such liquors so brought"	1780 Pa. 97, 100
Ex. 6	9	1852 Vt. Acts & Resolves 19-30 (Act No. 24, An Act to Prevent Traffic in Intoxicating Liquors for the Purpose of Drinking), § 15	"It shall be the duty of any sheriff if he shall have information that any intoxicating liquor is kept or sold in any tent, shanty, hut or place of any kind for selling refreshments in any public place, except dwelling houses, on or near the ground of any cattle show, agricultural exhibition, military muster or public occasion of any kind, to search such suspected place without warrant, and if such officer shall find upon the premises any intoxicating liquor, he shall seize and apprehend the keeper or keepers of such place, and take them, with the liquor so found and seized, forthwith, or as soon as conveniently may be, before some justice of the peace of the town in which the same was found and upon proof that such liquor is intoxicating, that the same was found in the possession of the accused, in a tent, shanty, or other place as aforesaid, he or they shall be sentenced to imprisonment for thirty days"	1852 Vt. 25
Ex. 7	9	1853 R.I. Acts & Resolves 232- 42 (An Act for the more	"It shall be the duty of any police officer, of any city or town, if he shall have information that any ale, wine, rum, or other strong	1853 R. I. 238

		effectual suppression of Drinking Houses and Tippling Shops), § 10	or malt liquors, or any mixed liquors as aforesaid, are kept for sale or sold in any tent, shanty, hut or place of any kind for selling refreshments in any public place, on or near the ground of any cattle show, agricultural exhibition, military muster or public occasion of any kind, to search such suspected place, and if such officer shall find upon the premises any ale, wine, rum, or other strong or malt liquors, or any mixed liquors as aforesaid, he shall seize them and apprehend the keeper or keepers of such place, and take them with the liquors and the vessels containing them, so found and seized, forthwith or as soon as may be convenient, before some justice of the peace, or court and upon proof that said liquors are either ale, wine, rum, or other strong or malt liquors, or mixed liquors as aforesaid, that they were found in the possession of the accused, in a tent, shanty or other place as aforesaid, for sale, he or they shall be sentenced to imprisonment in the county jail of the same county for twenty days"	
Ex. 8	9	1859 Conn. Pub. Acts 61-63 (An Act in Addition to and in Alteration of "An Act for forming and conducting the Military Force") ch. 82, § 5	If any booth shed, tent, or other temporary erection, within one mile of any military parade-ground, muster-field or encampment, shall be used and occupied for the sale of spirituous or intoxicating liquor, or for the purpose of gambling, the officer commanding said parade-ground, muster-field or encampment, the sheriff or deputy-sheriff of the county, or any justice of the peace, selectman, or constable of the town in which such booth, shed, tent, or other temporary erection is situated, upon having notice or knowledge that the same is so used or occupied, shall notify the owner or occupant thereof to vacate and close the same immediately; and if said owner or occupant shall refuse or neglect so to do said commanding officer may forthwith abate such booth as a nuisance, and may pull down or otherwise destroy the same, with the assistance of any force, civil or military."	1859 Conn. 62

Ex. 9	9	1837 Mass. Acts 273-76 (An Act concerning the Militia), § 1	"Every able-bodied white male resident within this Commonwealth, who is, or shall be, of the age of eighteen, and under the age of forty-five years, excepting idiots, lunatics, common drunkards, vagabonds, paupers and persons convicted of any infamous crimes, shall be enrolled in the militita"	1837 Mass. 273
Ex. 10	9	1837 Me. Laws 421-27 (An Act additional to an Act to organize, govern and discipline the Militia of this State), ch. 276, § 5	"That no idiot, lunatic, common drunkard, vagabond, pauper, nor any person convicted of any infamous crime, nor any other than white, able-bodied, male citizens, shall be eligible to any office in the Militia."	1837 Me. 424
Ex. 11	9	1840 R. I. Acts & Resolves 3-32 (An Act to regulate the Militia), § 14	"No idiot, lunatic, common drunkard, vagabond, pauper, nor person convicted of any infamous crime, nor any other than able bodied white male citizens, shall be eligible to any military office"	1840 R.I. 9
Ex. 12	9	Ordinance (Regulating the keeping and conveying [of] Gun Powder and Gun Cotton), ch. 16, § 6, <i>reprinted in</i> George Manierre, The Revised Charter and Ordinances of the City of Chicago 123-25 (Chicago, Daily Democrat Off. 1851)	"[N]o permit [to keep or sell gunpowder] shall be granted to any retailer of intoxicating liquors or to any intemperate person."	1851 Chi., Ill. 124
Ex. 13	9	An Ordinance to Regulate the Sale of Gunpowder, ch. 21, § 4, <i>reprinted in</i> The Charter and Ordinances of the City of St. Paul 167-68 (Saint Paul, Daily Pioneer Off. Print 1863)	"[N]o permit [to keep or sell gunpowder] shall be granted to any retailer of intoxicating liquors or to any intemperate person."	1858 St. Paul, Minn. 167
Ex. 14	9	1867 Kan. Sess. Laws 25 (An Act to prevent the carrying of Deadly Weapons), ch. 12, § 1	"Any person who is not engaged in any legitimate business, any person under the influence of intoxicating drink, and any person who has ever borne arms against the Government of the United States, who shall be found within the limits of this State, carrying	1867 Kan. 25

			on his person a pistol, bowie-knife, dirk or other deadly weapon, shall be subject to arrest upon charge of misdemeanor"	
Ex. 15	9	1883 Mo. Laws 76 (An Act to amend section 1274, article 2, chapter 24 of the Revised Statutes of Missouri, entitled "Of Crimes and Criminal Procedure"), § 1	"If any person shall carry concealed, upon or about his person, any deadly or dangerous weapon, or shall have or carry any such weapon upon or about his person when intoxicated or under the influence of intoxicating drinks, he shall, upon conviction, be punished by a fine of not less than twenty-five nor more than two hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment."	1883 Mo. 76
Ex. 16	9	1883 Wis. Sess. Laws 290 (An Act to prohibit the use and sale of pistols and revolvers), ch. 329, § 3	"It shall be unlawful for any person in a state of intoxication, to go armed with any pistol or revolver."	1883 Wis. 290
Ex. 17	9-10	1890 Okla. Sess. Laws. 495-96 (Concealed Weapons), ch. 25, art. 47, § 4; § 7	§ 4: "[I]f any public officer be found carrying 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."; § 7: "It shall be unlawful for any person, except a peace officer, to carry into any place where intoxicating liquors are sold any of the weapons designated in sections one and two [including "pistol[s]" and "revolver[s]"] of this article."	1890 Okla. 495, 496
Ex. 18	9	1878 Miss. Laws 175-76 (An Act to prevent the carrying of concealed weapons, and for other purposes), ch. 46, § 2	"[I]t shall not be lawful for any person to sell to any minor or person intoxicated, knowing him to be a minor or in a state of intoxication, any weapon of the kind or description in the first section of this Act described, or any pistol cartridge, and on conviction shall be punished by a fine not exceeding two hundred dollars"	1878 Miss. 175
Ex. 19	9	1853 N.M. Laws 67-69 (An Act Prohibiting the carrying of a certain class of Arms, within the Settlements and in Balls), § 3	"Sheriff will not permit any person to enter said Ball or room adjoining said ball where Liquors are sold, or to remain in said balls or Fandangos with fire arms or other deadly weapons, whether they be shown or concealed upon their persons"	1853 N.M. Laws 69

Ex. 20	9-10	1879 New Orleans, La., Gen. Ordinances (Concealed weapons or otherwise in balls or theatres), tit. I, ch. 1, art. 1, <i>reprinted in</i> Jewell's Digest of the City Ordinances Together with the Constitutional Provisions, Act of the General Assembly and Decisions of the Courts Relative to Government of the City of New Orleans 1-2 (Edwin L. Jewell, ed., New Orleans, L. Graham & Son 1882)	"[I]t shall not be lawful for any person to carry a dangerous weapon, concealed or otherwise, into any theatre, public hall, tavern, picnic ground, place for shows or exhibitions, house or other place of public entertainment or amusement."	1879 New Orleans, La. 1
		Π	I.A.1.b Public parks and beaches	
Ex. 21	15	1858 N.Y.C., N.Y. <i>in</i> Minutes of Proceedings of the Board of Commissioners of the Central Park for the Year ending April 30, 1958, at 166-68 (New York, Wm. C. Bryant & Co. 1858)	"All persons are forbidden [t]o carry fire-arms within [Central Park]."	1858 N.Y.C., N.Y. 166
Ex. 22	15	1873 Brooklyn, N.Y., Park Ordinances (Ordinance No. 1), art. 1, § 4, <i>reprinted in</i> Annual Reports of the Brooklyn Park Commissioners 1861-1873, at 136 (1873)	"All persons are forbidden [t]o carry firearms within [Prospect Park.]"	1858 Brooklyn, NY 136
Ex. 23	15	1868 Pa. Laws 1083-90 (A Supplement to an act entitled "An Act appropriating ground	"No person shall carry fire arms in [Fairmount Park, Philadelphia] or within fifty yards thereof"	1868 Pa. 1088

		for public purposes in the City of Philadelphia"), § 21, pt. II		
Ex. 24	15	1872 S.F., Cal., Park Comm'rs' Ordinances No. 2 (An Ordinance to Provide for the Regulation and Government of the Avenue and Public Parks in the City and County of San Francisco, in Charge of the Park Commissioners), § 2, pt. 2, <i>reprinted in</i> Municipal Reports for the Fiscal Year 1874-75, at 886-89 (S.F., Spaulding & Barto 1875)	"Within [Golden Gate and Buena Vista Parks] all persons are hereby forbidden: To carry firearms."	1872 S.F., Cal. 887
Ex. 25	15	1873 Chi., Ill., Rev. Ordinances, ch. 31, § 6, <i>in</i> Laws and Ordinances Governing the City of Chicago 88-91 (Murray F. Tuley, ed., Chi., Bulletin Prtg. Co. 1873)	"All persons are forbidden to carry firearms within any one of the public parks."	1873 Chi., Ill. 88
Ex. 26	15	 1875 S. Park, Ill., S. Park Ordinances (an act to provide for the location and maintenance of a park for the towns of Chicago, Hyde Park, and Lake), § 6, <i>in</i> Laws and Ordinances Governing the Village of Hyde Park Together with Its Charter and General Laws Affecting Municipal Corporations 309-12 	"All persons are forbidden to carry fire arms within [South Park]."	1875 S. Park, Ill. 310

		(Consider H. Willett, ed., Chi., Hazlitt & Reed 1876)		
Ex. 27	15	1881 St. Louis, Mo., art. 10, § 3, <i>in</i> The Revised Ordinance of the City of St. Louis 635-36 (M.J. Sullivan, ed., St. Louis, Times Prtg. House 1881)	"No person shall use or have in his possession ready for use in any street, alley, walk or park of the city of St. Louis, any sling, cross bow and arrow, air gun or other contrivance for ejecting, discharging or throwing any fragment, bolt, arrow, pellet, or other missile[.]"	1881 St. Louis, Mo. 635
Ex. 28	15	1886 Park Ordinances, § 3 <i>reprinted in</i> City of Boston, Dept. of Parks, Thirteenth Annual Report of Bd. of Comm'n'rs 86 (Boston 1888)	"[W]ithin the Public Parks it is forbidden to discharge or carry fire-arms"	1886 Boston, Mass. 86
		II.A	.1.c Banks and financial institutions	
Ex. 29	17	1786 Va. Acts 35 (An Act forbidding and punishing Affrays)	"[N]o man [shall] go nor ride armed by night nor by day, in fairs or markets, or in other places, in terror of the county, upon pain of being arrested and committed to prison by any Justice"	1786 Va. 35
Ex. 30	17	1792 N.C., ch. 3, <i>reprinted in</i> A Collection of the Statutes of the Parliament of England in Force in the State of North Carolina 60-61 (Francis Xavier Martin, ed., New Bern, Editor's Press, 1792)	"[N]o man [shall] go nor ride armed by night nor by day, in fairs, markets"	1792 N.C. 60
Ex. 31	17	1328 Statute of Northampton, 2 Edw. 3, c.3 (1328), <i>reprinted in</i> Statutes of the Realm, vol. 1, 257-61 (London, Dawsons of Pall Mall, 1965)	"[N]o man [shall] 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."	1328 Northampton 258

Ex. 32	18	1817 New Orleans, La. (An	"It shall not be lawful for any person to enter into a public	1817 New
		Ordinance respecting public Balls), art. 1, <i>in</i> General Digest of the Ordinances and	ballroom with any Weapon "	Orleans, LA 371
		Resolutions of the Corporation of New Orleans 370-71 (New Orleans, Jerome Bayon 1831)		
Ex. 19	18	1853 N.M. Laws 67-69 (An Act Prohibiting the carrying of a certain class of Arms, within the Settlements and in Balls), § 3	"Sheriff will not permit any person to enter said Ball or room adjoining said ball where Liquors are sold, or to remain in said balls or Fandangos with fire arms or other deadly weapons, whether they be shown or concealed upon their persons"	1853 N.M. Laws 69
Ex. 33	18	1869 Tenn. Pub. Acts 23-24 (An Act to Amend the Criminal laws of the State), ch. 22, § 2	"[I]t shall not be lawful for any qualified voter or other person attending any election in this State, or for any person attending any fair, race course, or other public assembly of the people, to carry any pistol, dirk, bowie-knife, Arkansas tooth-pick, or weapon in form, shape or size, resembling a bowie-knife, or Arkansas tooth-pick, or other deadly or dangerous weapon."	1869 Tenn. 23-24
Ex. 34	18	1870 Ga. Laws 421 (An act to preserve the peace and harmony of the State and for other purposes), tit. XVI, no. 285, § 1	"[N]o person [is] permitted or allowed to carry about his or her person any dirk, bowie-knife, pistol or revolver, or any kind of deadly weapon, to any court of justice, or any election ground or precinct, or any place of public worship, or any other public gathering in this State, except militia muster-grounds."	1870 Ga. 421
Ex. 35	18	1870 Tex. Gen. Laws 63 (An Act Regulating the Right to Keep and Bear Arms), ch. 46, § 1	"[I]f 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 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 fire-arms, whether know as a six-	1870 Tex. 63

Ex. 36	18	1875 Mo. Laws 50-51 (An Act to prevent the carrying of weapons n public assemblies of the people, and to repeal 'An act to prevent the carrying [of] concealed weapons,' approved March 26, 1874), § 1	shooter, gun or pistol of any kind, such person so offending shall be deemed guilty of a misdemeanor" "Whosoever shall go into any church or place where people have assembled for religious worship, or into any school room, or into any place where people be assembled for educational, literary or social purposes, or to any election precinct on any election day, or into any court room during the sitting of court, or into any other public assemblage of persons met for other than militia drill, or meetings called under the militia law of this state having upon or about his person any kind of fire arms, bowie knife, dirk, dagger, slung shot, or other deadly weapon, shall be deemed guilty of a	
Ex. 37	18	1889 Ariz. Sess. Laws 16-18 (An Act Defining and Punishing Certain Offenses Against the Public Peace), no. 13, § 3	 misdemeanor" "If any person shall go into any place where persons are assembled for amusement, or into any circus, show or public exhibition of any kind, or into a ball room, social party or social gathering or to any other public assembly, and shall have or carry about his person a pistol or other firearm he shall be punished by a fine of not less than fifty nor more than five hundred dollars" 	1889 Ariz. 17
	1	II.,	A.2. Private property default rule	
Ex. 38	21	1715 Md. Laws 88-91 (An Act for the speedy trial of criminals, and ascertaining their punishment in the county courts when prosecuted there, and for payment of fees due from criminal persons), ch. 26, § VII	"That if any person or persons whatsoever, that have been convicted of any of the crimes aforesaid, or other crimes, or that shall be of evil fame, or a vagrant, or dissolute liver, that shall shoot, kill or hunt, or be seen to carry a gun, upon any person's land, without the owner's leave, having been once before warned, shall forfeit and pay one thousand pounds of tobacco"	1715 Md. 90
Ex. 39	21	1721 Pa. Laws, ch. 248, § III, 3 (An Act to prevent the killing of	"[I]f any person or persons shall presume to carry any gun or hunt on the improved or inclosed lands of any plantation other	1721 Pa. 255

		deer out of season, and against carrying of guns or hunting by persons not qualified), <i>reprinted</i> <i>in</i> 3 James T. Mitchell & Henry Flanders, The Statutes at Large of Pennsylvania from 1682 to 1801 254-57 (Pa., Clarence M. Busch, 1896)	than his own, unless he have license or permission from the owner of such lands or plantation he shall for every such offense forfeit the sum of ten shillings."	
Ex. 40	21	1722 N.J. Laws 141-42 (An Act to prevent the Killing of Deer out of Season, and against Carrying of Guns and Hunting by Persons not qualified)	"[I]f any Person or Persons shall presume to carry any Gun, or Hunt on the Improved or Inclosed Lands in any Plantation, and on other than his own, unless he have License or Permission from the owner of such Lands or Plantation, and shall be thereof Convicted [he] shall, for every such Offence forfeit the Sum of Fifteen Shillings"	1722 N.J. 141
Ex. 41	21	1763 N.Y. Laws, ch. 1233, § 1 (An Act to prevent hunting with Fire-arms in the City of New York, and the Liberties Thereof), <i>reprinted in</i> 1 Laws of New- York from the Year 1691 to 1773 Inclusive 441-42 (N.Y., Hugh Gaine 1774)	"[I]f any Person or Persons whatsoever, other than the Owner, Proprietor, or Possessor, or his or her white Servant or Servants, do and shall carry, shoot, or discharge any Musket, Fowling- Piece, or other Fire-Arm whatsoever, into, upon, or through any Orchard, Garden, Corn-Field, or other inclosed Land whatever, within the City of New-York, or the Liberties thereof, without License in Writing first had and obtained for that Purpose from such Owner, Proprietor, or Possessor"	1763 N.Y. 442
Ex. 42	21	1771 N.J. Laws 343-347 (An Act for the Preservation of Deer and other Game, and to prevent trespassing with Guns), ch. 540, § 1	"[I]f any Person or Persons shall presume, at any Time after the Publication hereof, to carry any Gun on any Lands not his own, and for which the Owner pays Taxes, or is in his lawful Possession, unless he hath License or Permission in Writing from the Owner or Owners or legal Possessor"	1771 N.J. 344
Ex. 43	21	1865 La. Acts 14-16 (An Act To prohibit the carrying of fire-arms on premises or plantations of any	"[I]t shall not be lawful for any person or persons to carry fire- arms on the premises or plantations of any citizen, without the consent of the owner or proprietor, other than in lawful discharge of a civil or military order"	1865 La. 14

		citizen, without the consent of the owner), no. 10, § 1		
Ex. 44	21	1866 Tex. Gen. Laws 90 (An Act to prohibit the carrying of Fire-Arms on premises or plantations of any citizens without the consent of the owner), ch. 91, § 1	"[I]t shall not be lawful for any person or persons to carry firearms on the enclosed premises or plantation of any citizen, without the consent of the owner or proprietor"	1866 Tex. 90
Ex. 45	21	1893 Or. Laws 79 (An Act To Prevent a Person from Trespassing upon any Enclosed Premises or Lands not His Own Being Armed with a Gun, Pistol, or other Firearm, and to Prevent Shooting upon or from the Public Highway), § 1	"It shall be unlawful for any person, other than an officer on lawful business, being armed with a gun, pistol, or other firearm, to go or trespass upon any enclosed premises or lands without the consent of the owner or possessor thereof."	1893 Or. 79

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GOV. MSG. NO. 1152

EXECUTIVE CHAMBERS KE KE'ENA O KE KIA'ÄINA

JOSH GREEN, M.D. GOVERNOR KE KIA'ĂINA

June 2, 2023

The Honorable Ronald D. Kouchi President of the Senate, and Members of the Senate Thirty-Second State Legislature State Capitol, Room 409 Honolulu, Hawai'i 96813 The Honorable Scott K. Saiki Speaker, and Members of the House of Representatives Thirty-Second State Legislature State Capitol, Room 431 Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 2, 2023, the following bill was signed into law:

SB1230 SD2 HD1 CD1

RELATING TO FIREARMS. ACT 052

Sincerely,

Josh Green, M.D. Governor, State of Hawai'i

EXHIBIT 1 (McLean)

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Approved by the Governor
ACT 052

on _____ JUN 2 2023

THE SENATE THIRTY-SECOND LEGISLATURE, 2023 STATE OF HAWAII

S.B. NO. S.D. 2 H.D. 1 C.D. 1

A BILL FOR AN ACT

RELATING TO FIREARMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that there are compelling 1 2 interests in protecting public health, safety, and welfare from 3 the serious hazards associated with firearms and gun violence. 4 Although the United States Supreme Court has held that the 5 Second Amendment provides for an individual right to keep and 6 bear arms for lawful purposes, the Second Amendment is not "a 7 regulatory straightjacket". New York State Rifle & Pistol 8 Ass'n, Inc. v. Bruen, 142 S.Ct. 2111, 2133 (2022). States 9 retain authority to enact "a 'variety' of gun regulations", id. 10 at 2162 (Kavanaugh, J., concurring), such as prohibitions 11 against the carrying of firearms in sensitive locations and laws 12 and regulations designed to ensure that those who carry firearms 13 are "'law-abiding, responsible citizens'", id. at 2131, 2156 14 (internal citation omitted). 15 The purpose of this Act is to clarify, revise, and update

13 The purpose of this Act is to clarify, levise, and update 16 Hawaii's firearms laws to mitigate the serious hazards to public 17 health, safety, and welfare associated with firearms and gun 18 violence, while respecting and protecting the lawful exercise of 2023-2744 SB1230 CD1 SMA-2.docx 1

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1 individual rights. To accomplish this purpose, this Act amends 2 and enacts requirements and processes for obtaining a license to 3 carry a firearm, updates criteria governing when firearm 4 ownership, possession, or control is prohibited, defines 5 locations and premises within the State where carrying or 6 possessing a firearm is prohibited, prohibits leaving an 7 unsecured firearm in a vehicle unattended, and enacts, amends, 8 and clarifies other provisions relating to firearms. 9 In prohibiting carrying or possessing firearms in certain

10 locations and premises within the State, this Act is intended to 11 protect areas in which carrying or possessing dangerous weapons 12 has traditionally been restricted, such as schools and other 13 places frequented by children, government buildings, polling 14 places, and other analogous locations.

15 This Act also respects the right of private individuals and 16 entities to choose for themselves whether to allow or restrict 17 the carrying of firearms on their property by providing that 18 firearms shall not be carried on private property of another 19 person without the express authorization of the owner, lessee, 20 operator, or manager of the property. Recognizing the risks to 21 public health, safety, and welfare associated with firearms and

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1 gun violence, and based on the legislature's assessment of public sentiment and broadly shared preferences within the 2 State, this Act establishes a default rule with respect to 3 4 carrying firearms on private property of another person that 5 provides for private entities to "opt-in" to authorize the 6 public carry of firearms on their property. 7 This Act also adjusts certain regulatory fees relating to 8 firearms. These adjustments are warranted because prior fee 9 amounts were established by statute decades ago and have not 10 been adjusted to reflect inflation and increased costs 11 associated with background checks and investigations. 12 SECTION 2. Chapter 134, Hawaii Revised Statutes, is 13 amended by adding seven new sections to part I to be 14 appropriately designated and to read as follows: 15 "§134-A Carrying or possessing a firearm in certain 16 locations and premises prohibited; penalty. (a) A person with 17 a license issued under section 134-9, or authorized to carry a 18 firearm in accordance with title 18 United States Code section 19 926B or 926C, shall not intentionally, knowingly, or recklessly 20 carry or possess a loaded or unloaded firearm, whether the firearm is operable or not, and whether the firearm is concealed 21

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HD 1

S.B. NO. 5.D.2

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1	or unconc	ealed, while in any of the following locations and
2	premises	within the State:
3	(1)	Any building or office owned, leased, or used by the
4		State or a county, and adjacent grounds and parking
5		areas, including any portion of a building or office
6		used for court proceedings, legislative business,
7		contested case hearings, agency rulemaking, or other
8		activities of state or county government;
9	(2)	Any public or private hospital, mental health
10		facility, nursing home, clinic, medical office, urgent
11		care facility, or other place at which medical or
12		health services are customarily provided, including
13		adjacent parking areas;
14	(3)	Any adult or juvenile detention or correctional
15		facility, prison, or jail, including adjacent parking
16		areas;
17	(4)	Any bar or restaurant serving alcohol or intoxicating
18		liquor as defined in section 281-1 for consumption on
19		the premises, including adjacent parking areas;
20	(5)	Any stadium, movie theater, or concert hall, or any
21		place at which a professional, collegiate, high

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1		school, amateur, or student sporting event is being
2		held, including adjacent parking areas;
3	(6)	All public library property, including buildings,
4		facilities, meeting rooms, spaces used for community
5		programming, adjacent grounds, and parking areas;
6	(7)	The campus or premises of any public or private
7		community college, college, or university, and
8		adjacent parking areas, including buildings,
9		classrooms, laboratories, research facilities,
10		artistic venues, and athletic fields or venues;
11	(8)	The campus or premises of any public school, charter
12		school, private school, preschool, summer camp, or
13		child care facility as defined in section 346-151,
14		including adjacent parking areas, but not including:
15		(A) A private residence at which education is
16		provided for children who are all related to one
17		another by blood, marriage, or adoption; or
18		(B) A dwelling when not used as a child care
19		facility;
20	(9)	Any beach, playground, park, or adjacent parking area,
21		including any state park, state monument, county park,

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1		tennis court, golf course, swimming pool, or other
2		recreation area or facility under control,
3		maintenance, and management of the State or a county,
4		but not including an authorized target range or
5		shooting complex;
6	(10)	Any shelter, residential, or programmatic facility or
7		adjacent parking area operated by a government entity
8		or charitable organization serving unhoused persons,
9		victims of domestic violence, or children, including
10		children involved in the juvenile justice system;
11	(11)	Any voter service center as defined in section 11-1 or
12		other polling place, including adjacent parking areas;
13	(12)	The premises of any bank or financial institution as
14		defined in section 211D-1, including adjacent parking
15		areas;
16	(13)	Any place, facility, or vehicle used for public
17		transportation or public transit, and adjacent parking
18		areas, including buses, paratransit vans, bus shelters
19		and terminals (but not including bus stops located on
20		public sidewalks), trains, rail stations, and
21		airports;



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1	(14)	Any amusement park, aquarium, carnival, circus, fair,
2		museum, water park, or zoo, including adjacent parking
3		areas; or
4	(15)	Any public gathering, public assembly, or special
5		event conducted on property open to the public,
6		including any demonstration, march, rally, vigil,
7		protest, picketing, or other public assembly, for
8		which a permit is obtained from the federal
9		government, the State, or a county, and the sidewalk
10		or street immediately adjacent to the public
11		gathering, public assembly, or special event; provided
12		that there are signs clearly and conspicuously posted
13		at visible places along the perimeter of the public
14		gathering, public assembly, or special event.
15	(b)	This section shall not apply to a person in an exempt
16	category	identified in section 134-11(a). It shall be an
17	affirmati	ve defense to any prosecution under this section that a
18	person is	<u>:</u>
19	(1)	Carrying or possessing an unloaded firearm in a police
20		station in accordance with section 134-23(a)(6), 134-
21		24(a)(6), or $134-25(a)(6)$;

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1	(2)	Carrying or possessing an unloaded firearm at an
2		organized, scheduled firearms show or exhibit;
3	(3)	Lawfully carrying or possessing a firearm for hunting
4		in compliance with section 134-5;
5	(4)	A private security officer expressly authorized to
6		carry or possess a weapon in a location or premises
7		listed in subsection (a) by the owner, lessee,
8		operator, or manager of the location or premises;
9		provided that the private security officer is acting
10		within the private security officer's scope of
11		<pre>employment;</pre>
12	(5)	Carrying or possessing an unloaded firearm in a
13		courthouse for evidentiary purposes with the prior
14		express authorization of the court;
15	(6)	Lawfully present within the person's own home, other
16		than a college or university dormitory or shelter or
17		residential facility serving unhoused persons or
18		victims of domestic violence;
19	(7)	Carrying a firearm pursuant to a license issued under
20		section 134-9 or in accordance with title 18 United
21		States Code section 926B or 926C in the immediate area

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S.B.	NO.	1230 S.D. 2 H.D. 1 C.D. 1

1		surrounding the person's vehicle within a parking area
2		for the limited purpose of storing or retrieving the
3		<pre>firearm;</pre>
4	(8)	Possessing a firearm in an airport or any place,
5		facility, or vehicle used for public transportation or
6		public transit; provided that the firearm is unloaded
7		and in a locked hard-sided container for the purpose
8		of transporting the firearm;
9	(9)	Walking through a public gathering, public assembly,
10		or special event if necessary to access the person's
11		residence, place of business, or vehicle; provided
12		that the person does not loiter or remain longer than
13		necessary to complete their travel or business; or
14	(10)	Carrying a concealed firearm in accordance with title
15		18 United States Code section 926B or 926C in a
16		location or premises within the State that is not a
17		State or county property, installation, building,
18		base, or park, and not a location or premises where a
19		private person or entity has prohibited or restricted
20		the possession of concealed firearms on their
21		property.

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1	(c) The presence of a person in any location or premises
2	listed in subsection (a) shall be prima facie evidence that the
3	person knew it was a location or premises listed in subsection
4	<u>(a).</u>
5	(d) Where only a portion of a building or office is owned,
6	leased, or used by the State or a county, this section shall not
7	apply to the portion of the building or office that is not
8	owned, leased, or used by the State or a county, unless carrying
9	or possessing a firearm within that portion is otherwise
10	prohibited by this section.
11	(e) As used in this section, "private security officer"
12	means any person employed and duly licensed to engage in the
13	private detective or guard business pursuant to chapter 463.
14	(f) Any person who violates this section shall be guilty
15	of a misdemeanor.
16	(g) If any ordinance of any county of the State
17	establishing locations where the carrying of firearms is
18	prohibited is inconsistent with this section or with section
19	134-E, the ordinance shall be void to the extent of the
20	inconsistency.

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1	<u>§134</u>	-B Duty to maintain possession of license while
2	carrying	a firearm; duty to disclose; penalty. (a) A person
3	carrying	a firearm pursuant to a license issued under section
4	134-9 or	in accordance with title 18 United States Code section
5	926B or 9	26C shall have in the person's immediate possession:
6	(1)	The license issued under section 134-9 or
7		documentation regarding the person's qualifications
8		under title 18 United States Code section 926B or
9		<u>926C;</u>
10	(2)	Government-issued photo identification; and
11	(3)	Except with respect to firearms that are a part of the
12		official equipment of any federal agency as provided
13		under section 134-11(b), documentary evidence that the
14		firearm being carried is registered under this
15		chapter,
16	and shall	, upon request from a law enforcement officer, present
17	governmen	t-issued photo identification and the license or
18	<u>credentia</u>	ls and evidence of registration.
19	(b)	When a person carrying a firearm, including a person
20	carrying	a firearm pursuant to a license issued under section
21	134-9 or	in accordance with title 18 United States Code section

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1	926B or 926C, is stopped by a law enforcement officer or is a
2	driver or passenger in a vehicle stopped by a law enforcement
3	officer, the person carrying a firearm shall immediately
4	disclose to the law enforcement officer that the person is
5	carrying a firearm, and shall, upon request:
6	(1) Identify the specific location of the firearm; and
7	(2) Present to the law enforcement officer a license to
8	carry a firearm issued under section 134-9 or
9	documentation regarding the person's qualifications
10	under title 18 United States Code section 926B or
11	<u>926C.</u>
12	(c) Any person who violates this section shall be guilty
13	of a petty misdemeanor.
14	§134-C Leaving unsecured firearm in vehicle unattended;
15	penalty. (a) No person shall intentionally, knowingly, or
16	recklessly store or otherwise leave a loaded or unloaded firearm
17	out of the person's immediate possession or control inside a
18	vehicle without first securely locking the firearm in a safe
19	storage depository that is out of sight from outside of the
20	vehicle.

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1	(b) For purposes of this section, "safe storage
2	depository" means a safe or other secure impact- and
3	tamper-resistant container that, when locked, is incapable of
4	being opened without a key, keypad, combination, or other
5	unlocking mechanism and is capable of preventing an unauthorized
6	person from obtaining access to or possession of the firearm
7	contained therein. A vehicle's trunk or glove box alone, even
8	if locked, is not a safe storage depository.
9	(c) This section shall not apply to a person in an exempt
10	category identified in section 134-11(a).
11	(d) Any person who violates subsection (a) shall be guilty
12	of a petty misdemeanor.
13	<u>§134-D</u> Unlawful conduct while carrying a firearm; penalty.
14	(a) A person carrying a firearm shall not:
15	(1) Consume alcohol or intoxicating liquor;
16	(2) Consume a controlled substance;
17	(3) Be under the influence of alcohol or intoxicating
18	liquor; or
19	(4) Be under the influence of a controlled substance.
20	(b) As used in this section:

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1	"Alcohol" and "intoxicating liquor" shall have the same
2	meaning as in section 281-1.
3	"Controlled substance" means a drug, substance, or
4	immediate precursor in schedules I through III of part II of
5	chapter 329.
6	(c) Any person who violates this section shall be guilty
7	of a misdemeanor; provided that any person who violates this
8	section by consuming or being under the influence of alcohol or
9	an intoxicating liquor shall be guilty of a petty misdemeanor.
10	<u>§134-E</u> Carrying or possessing a firearm on private
11	property of another person without authorization; penalty. (a)
12	A person carrying a firearm pursuant to a license issued under
13	section 134-9 shall not intentionally, knowingly, or recklessly
14	enter or remain on private property of another person while
15	carrying a loaded or unloaded firearm, whether the firearm is
16	operable or not, and whether the firearm is concealed or
17	unconcealed, unless the person has been given express
18	authorization to carry a firearm on the property by the owner,
19	lessee, operator, or manager of the property.

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1	(b) For purposes of this section, express authorization to
2	carry or possess a firearm on private property shall be
3	signified by:
4	(1) Unambiguous written or verbal authorization; or
5	(2) The posting of clear and conspicuous signage at the
6	entrance of the building or on the premises,
7	by the owner, lessee, operator, or manager of the property, or
8	agent thereof, indicating that carrying or possessing a firearm
9	is authorized.
10	(c) For purposes of this section:
11	"Private entity" means any homeowners' association,
12	community association, planned community association,
13	condominium association, cooperative, or any other
14	nongovernmental entity with covenants, bylaws, or administrative
15	rules, regulations, or provisions governing the use of private
16	property.
17	"Private property" does not include property that is owned
18	or leased by any governmental entity.
19	"Private property of another person" means residential,
20	commercial, industrial, agricultural, institutional, or
21	undeveloped property that is privately owned or leased, unless

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1		gender, race, and county of residence of each
2		applicant or licensee;
3	(2)	The specific reasons for each revocation and denial;
4	(3)	Analysis of denials based on applicants' failure to
5		meet the standards of section 134-9(d), and
6		recommendations to remedy any disparities in denial
7		rates by age, gender, or race;
8	(4)	The number of appeals and appeals granted; and
9	(5)	The number of violations of section 134-A.
10	<u>(b)</u>	No later than February 1 of each year, the chief of
11	police of	each county shall supply the department of the
12	attorney	general with the data the department requires to
13	complete	the report under subsection (a).
14	<u>§134</u>	-G Failure to conceal a firearm by a concealed carry
15	licensee;	penalty. (a) A person commits the offense of failure
16	to concea	l a firearm by a concealed carry licensee if a person
17	is carryi	ng a firearm pursuant to a license issued under section
18	134-9(a)	and intentionally, knowingly, or recklessly causes
19	alarm to	another person by failing to conceal the firearm, even
20	briefly,	whether the firearm was loaded or not, and whether
21	operable	or not.

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1	(b) It shall be a defense to any prosecution under this
2	section if the person:
3	(1) Was within the person's private residence; or
4	(2) Caused the firearm to be unconcealed for the purpose
5	of self-defense in accordance with section 703-304 or
6	defense of another person in accordance with section
7	703-305.
8	(c) Failure to conceal a firearm by a concealed carry
9	licensee shall be a petty misdemeanor."
10	SECTION 3. Section 134-1, Hawaii Revised Statutes, is
11	amended as follows:
12	1. By adding three new definitions to be appropriately
13	inserted and to read:
14	"Concealed" means, in relation to a firearm, that the
15	firearm is entirely hidden from view of the public and not
16	discernible by ordinary observation, in a manner that a
17	reasonable person without law enforcement training would be
18	unable to detect the presence of the firearm.
19	"Criminal offense relating to firearms" means:
20	(1) Any criminal offense under this chapter punishable as
21	a misdemeanor;

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1	(2)	Criminally negligent storage of a firearm under
2		section 707-714.5; and
3	(3)	Any other criminal offense punishable as a misdemeanor
4		under federal or state law or the law of another
5		state, a United States territory, or the District of
6		Columbia that has as an element of the offense the
7		use, attempted use, threatened use, or possession of a
8		firearm.
9	<u>"Unc</u>	oncealed" means not concealed."
10	2.	By amending the definition of "crime of violence" to
11	read:	
12	""Cr	ime of violence" means [any] <u>:</u>
13	(1)	Any offense[, as defined in title 37,] under federal
14		or state law or the law of another state, a United
15		States territory, or the District of Columbia that
16		[involves injury] <u>has as an element of the offense</u>
17		the:
18		(A) Injury or threat of injury to the person of
19		another[, including sexual] <u>; or</u>
20		(B) Use, attempted use, or threatened use of physical

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1		or the creation of a substantial risk of causing
2		bodily injury;
3	(2)	Reckless endangering in the second degree under
4		section 707-714;
5	(3)	Terroristic threatening in the second degree under
6		section 707-717;
7	(4)	Sexual assault in the fourth degree under section 707-
8		733 [and-harassment];
9	(5)	Endangering the welfare of a minor in the second
10	,	degree under section 709-904;
11	(6)	Endangering the welfare of an incompetent person under
12		section 709-905;
13	(7)	Harassment under section 711-1106(1)(a);
14	(8)	<u>Harassment</u> by stalking under section 711-1106.5[-];
15	(9)	Criminal solicitation under section 705-510; provided
16		that the solicitation was for a crime described or
17	•	listed in paragraphs (1) to (8);
18	(10)	Criminal conspiracy under section 705-520; provided
19		that the conspiracy was for a crime described or
20		listed in paragraphs (1) to (8); and

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1	(11) Offenses under federal law, or the law of another
2	state, a United States territory, or the District of
3	Columbia, that are comparable to the offenses
4	described or listed in paragraphs (1) to (10)."
5	SECTION 4. Section 134-2, Hawaii Revised Statutes, is
6	amended to read as follows:
7	"§134-2 Permits to acquire. (a) No person shall acquire
8	the ownership of a firearm, whether usable or unusable,
9	serviceable or unserviceable, modern or antique, registered
10	under prior law or by a prior owner or unregistered, either by
11	purchase, gift, inheritance, bequest, or in any other manner,
12	whether procured in the State or imported by mail, express,
13	freight, or otherwise, until the person has first procured from
14	the chief of police of the county of the person's place of
15	business or, if there is no place of business, the person's
16	residence or, if there is neither place of business nor
17	residence, the person's place of sojourn, a permit to acquire
18	the ownership of a firearm as prescribed in this section. When
19	title to any firearm is acquired by inheritance or bequest, the
20	foregoing permit shall be obtained before taking possession of
21	[a] the firearm; provided that upon presentation of a copy of

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1	the death cert	ificate of the owner making the bequest, any heir
2	or legatee may	transfer the inherited or bequested firearm
3	directly to a	dealer licensed under section 134-31 or licensed
4	by the United	States Department of Justice without complying
5	with the requi	rements of this section.
6	(b) The	permit application form shall [include the]:
7	(1) Incl	ude:
8	<u>(A)</u>	The applicant's name, address, [sex,] <u>gender,</u>
9		height, weight, date of birth, place of birth,
10		country of citizenship, social security number,
11		alien or admission number[, and information] <u>;</u>
12	<u>(B)</u>	Information regarding the applicant's mental
13		health history <u>;</u>
14	(C)	Any aliases or other names previously used by the
15		applicant;
16	<u>(D)</u>	Information that is or may be relevant in
17		determining whether the applicant is disqualified
18		under section 134-7 from the ownership,
19		possession, or control of a firearm; and
20	<u>(E)</u>	Information that is or may be relevant in
21		determining whether the applicant lacks the

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1		essential character or temperament necessary to
2		be entrusted with a firearm as set forth in
3		subsection (e); and [shall require]
4	(2)	Require the fingerprinting and photographing of the
5		applicant by the police department of the county of
6		registration; provided that where fingerprints and a
7		photograph are already on file with the department,
8		these may be waived.
9	(c)	An applicant for a permit shall [sign]:
10	(1)	Sign a waiver at the time of application, allowing the
11		chief of police of the county issuing the permit or a
12		designee of the chief of police access to [any] all
13		records that have a bearing on the mental health of
14		the applicant[. The permit application form and the
15		waiver form shall be prescribed by the attorney
16		general and shall be uniform throughout the State.];
17		and
18	(2)	Identify any health care providers who possess or may
19		possess the records described in paragraph (1).
20	(d)	The chief of police of the respective counties [may]
21	<u>shall</u> iss	ue permits to acquire firearms to [citizens]:

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1	(1)	Citizens, nationals, or lawful permanent residents of
2		the United States of the age of twenty-one years or
3		more[, or duly] <u>;</u>
4	(2)	Duly accredited official representatives of foreign
5		nations[, or duly] <u>;</u>
6	(3)	Duly commissioned law enforcement officers of the
7		State who are aliens; provided that any law
8		enforcement officer who is the owner of a firearm and
9		who is an alien shall transfer ownership of the
10		firearm within forty-eight hours after termination of
11		employment from a law enforcement agency[. The chief
12		of police of each county may issue permits to aliens]:
13	(4)	Aliens of the age of eighteen years or more for use of
14		rifles and shotguns for a period not exceeding sixty
15		days, upon a showing that the alien has first procured
16		a hunting license under chapter 183D, part II[The
17		chief of police of each county may issue permits to
18		aliens]; and
19	(5)	Aliens of the age of twenty-one years or more for use
20		of firearms for a period not exceeding six months,

upon a showing that the alien is in training for a

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1	specific	organized	sport-shooting	contest	to	be	held
2	within t	he permit]	period.				

3 The attorney general [shall] may adopt rules, pursuant to
4 chapter 91, as to what constitutes sufficient evidence that an
5 alien is in training for a sport-shooting contest.

Notwithstanding any law to the contrary and upon joint
application, the chief of police may, upon request, issue
permits to acquire firearms jointly to spouses who otherwise
qualify to obtain permits under this section.

10 The permit application form shall be signed by the (e) 11 applicant and [by the] issuing authority. One copy of the 12 permit shall be retained by the issuing authority as a permanent 13 official record. Except for sales to dealers licensed under 14 section 134-31, [or] dealers licensed by the United States 15 Department of Justice, [or] law enforcement officers, [or where 16 a license is granted under section 134-97] or where any firearm 17 is registered pursuant to section 134-3(a), no permit shall be 18 issued to an applicant earlier than fourteen calendar days after 19 the date of the application; provided that a permit shall be 20 issued or the application denied before the [twentieth] fortieth 21 day from the date of application. Permits issued to acquire any

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pistol or revolver shall be void unless used within [ten] thirty 1 days after the date of issue. Permits to acquire a pistol or 2 revolver shall require a separate application and permit for 3 4 each transaction. Permits issued to acquire any rifle or 5 shotgun shall entitle the permittee to make subsequent purchases 6 of rifles or shotquns for a period of one year from the date of 7 issue without a separate application and permit for each 8 acquisition, subject to the disgualifications under section 134-9 7 and [subject to] revocation under section 134-13; provided 10 that if a permittee is arrested for committing a felony [or 11 any], a crime of violence, a criminal offense relating to 12 firearms, or for the illegal sale or distribution of any drug, 13 the permit shall be impounded and [shall be] surrendered to the issuing authority. The issuing authority shall perform an 14 15 inquiry on an applicant by using the International Justice and 16 Public Safety Network, including the United States Immigration 17 and Customs Enforcement query, [the] National Crime Information 18 Center, and [the] National Instant Criminal Background Check 19 System, pursuant to section 846-2.7 before any determination to 20 issue a permit or to deny an application is made. The issuing 21 authority shall not issue a permit to acquire the ownership of a

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1	<u>firearm i</u>	f an applicant is disqualified under section 134-7 from		
2	the ownership, possession, or control of a firearm, or if the			
3	issuing a	uthority determines that issuance would not be in the		
4	interest	of public health, safety, or welfare because the person		
5	lacks the	essential character or temperament necessary to be		
6	entrusted	with a firearm. In determining whether a person lacks		
7	the essen	tial character or temperament necessary to be entrusted		
8	with a fi	rearm, the issuing authority shall consider whether the		
9	person po	ses a danger of causing a self-inflicted bodily injury		
10	or unlawf	ul injury to another person, as evidenced by:		
11	(1)	Information from a health care provider indicating		
12		that the person has had suicidal or homicidal thoughts		
13		or tendencies within the preceding five years;		
14	(2)	Statements or actions by the person indicating any		
15		dangerous propensity or violent animus toward one or		
16		more individuals or groups, including groups based on		
17	race, color, national origin, ancestry, sex, gender			
18		identity, gender expression, sexual orientation, age,		
19		disability, religion, or any other characteristic, and		
20		the propensity or animus is of a nature or to an		
21		extent that would objectively indicate to a reasonable		

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1		observer that it would not be in the interest of the	
2		public health, safety, or welfare for the person to	
3		own, possess, or control a firearm or ammunition; or	
4	(3)	Other information that would lead a reasonable,	
5		objective observer to conclude that the person	
6		presents or would present a danger to the community as	
7		a result of acquiring or possessing a firearm or	
8		intends or is likely to use a firearm for an unlawful	
9		purpose or in an unlawful manner.	
10	(f)	In all cases where a pistol or revolver is acquired	
11	from anot	her person within the State, the permit shall be signed	
12	in ink by	the person to whom title to the pistol or revolver is	
13	transferr	ed and shall be delivered to the person who is	
14	transferring title to the firearm, who shall verify that the		
15	person to	whom the firearm is to be transferred is the person	
16	named in	the permit and enter on the permit in the space	
17	provided	the following information: <u>name, address, and</u>	
18	telephone	number of the person who transferred the firearm;	
19	name <u>, add</u>	ress, and telephone number of the person to whom the	
20	title to	the firearm was transferred; names of the manufacturer	
21	and impor	ter; model; type of action; caliber or gauge; and	

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serial number, as applicable. The person who is transferring
 title to the firearm shall sign the permit in ink and cause the
 permit to be delivered or sent by registered mail to the issuing
 authority within forty-eight hours after transferring the
 firearm.

6 In all cases where receipt of a firearm is had by mail, 7 express, freight, or otherwise from sources [without] outside 8 the State, the person to whom the permit has been issued shall 9 make the prescribed entries on the permit, sign the permit in 10 ink, and cause the permit to be delivered or sent by registered 11 mail to the issuing authority within forty-eight hours after 12 taking possession of the firearm.

13 In all cases where a rifle or shotgun is acquired from 14 another person within the State, the person who is transferring 15 title to the rifle or shotgun shall submit, within forty-eight 16 hours after transferring the firearm, to the authority that 17 issued the permit to acquire, the following information, in 18 writing: name, address, and telephone number of the person who 19 transferred the firearm $[\tau]$; name, address, and telephone number 20 of the person to whom the title to the firearm was transferred;

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names of the manufacturer and importer; model; type of action; 1 2 caliber or gauge; and serial number, as applicable. 3 [Effective July 1, 1995, no] No person shall be issued (q) a permit under this section for the acquisition of a [pistol or 4 revolver] firearm unless the person, [at any time prior to] 5 within the four years before the issuance of the permit, has 6 7 completed: 8 An approved hunter education course as authorized (1)under section 183D-28[7], unless the applicant seeks 9 10 to acquire a pistol or revolver, in which case the 11 applicant shall complete a training satisfying the 12 requirements of paragraph (2), (3), or (4); (2)A firearms safety or training course or class 13 14 available to the general public offered by a law 15 enforcement agency of the State or of any county; 16 (3)A firearms safety or training course offered to law 17 enforcement officers, security guards, investigators, 18 deputy sheriffs, or any division or subdivision of law 19 enforcement or security enforcement by a state or 20 county law enforcement agency; or

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1	(4)	A firearms training or safety course or class	
2		conducted by a [state certified or National Rifle	
3		Association-certified-firearms instructor] firearms	
4		instructor certified or verified by the chief of	
5		police of the respective county or a designee of the	
6		chief of police or certified by a nongovernmental	
7		organization approved for such purposes by the chief	
8		of police of the respective county or a designee of	
9		the chief of police, or conducted by a certified	
10		military firearms instructor; provided that the	
11		firearms training or safety course or class provides,	
12		at a minimum, a total of at least two hours of firing	
13		training at a firing range and a total of at least	
14		four hours of classroom instruction, which may include	
15		a video, that focuses on:	
16		(A) The safe use, handling, and storage of firearms	
17		and firearm safety in the home $[+]$, as well as a	
18		component on mental health, suicide prevention,	
19		and domestic violence issues associated with	
20		firearms and firearm violence; and	
21		(B) Education on the firearm laws of the State.	

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1 An affidavit signed by the certified or verified 2 firearms instructor who conducted or taught the course, providing the name, address, and phone number 3 4 of the instructor and attesting to the successful completion of the course by the applicant shall 5 6 constitute evidence of certified successful completion 7 under this paragraph [-]; provided that an instructor 8 shall not submit an affidavit signed by the instructor 9 for the instructor's own permit application.

10 (h) No person shall sell, give, lend, or deliver into the
11 possession of another any firearm except in accordance with this
12 chapter.

13 (i) No fee shall be charged for permits, or applications for permits, under this section, except for a single fee 14 15 chargeable by and payable to the issuing county [, for individuals applying for their first permit,] in an amount equal 16 17 to the fee charged by the Hawaii criminal justice data center pursuant to section 846-2.7. In the case of a joint 18 19 application, the fee provided for in this section may be charged 20 to each person [to whom no previous permit has been issued]. Ιf 21 an application under this section is denied, the chief of police

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1	or a designee of the chief of police shall notify the applicant
2	of the denial in writing, stating the ground or grounds for the
3	denial and informing the applicant of the right to seek review
4	of the denial through a hearing pursuant to subsection (k).
5	(j) In all cases where a permit application under this
6	section is denied because an applicant is prohibited from
7	owning, possessing, receiving, or controlling firearms under
8	federal or state law, the chief of police of the applicable
9	county shall, within ten business days from the date of denial,
10	send written notice of the denial, including the identity of the
11	applicant and the reasons for the denial, to the:
12	(1) Prosecuting attorney in the county where the permit
13	was denied;
14	(2) Attorney general;
15	(3) United States Attorney for the District of Hawaii; and
16	(4) Director of public safety.
17	If the permit to acquire was denied because the applicant
18	is subject to an order described in section 134-7(f), the chief
19	of police shall, within three business days from the date of
20	denial, send written notice of the denial to the court that
21	issued the order.

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1 When the director of public safety receives notice that an 2 applicant has been denied a permit because of a prior criminal 3 conviction, the director of public safety shall determine 4 whether the applicant is currently serving a term of probation 5 or parole, and if the applicant is serving such a term, send 6 written notice of the denial to the applicant's probation or 7 parole officer. 8 (k) If an application under this section is denied, a 9 person or entity aggrieved by the denial shall be entitled to a 10 hearing before the chief of police of the appropriate county or 11 a designee of the chief of police. A person or entity aggrieved by the denial shall submit a request for a hearing in writing to 12 13 the chief of police of the appropriate county no later than thirty days following the date of the decision or determination 14 15 notice. The hearing shall constitute a contested case hearing for purposes of chapter 91. Following the hearing and final 16 decision, an aggrieved party shall be entitled to a judicial 17 review proceeding in state circuit court in accordance with 18 19 section 91-14.

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1	(1) The permit application form and the waiver form
2	required under this section shall be prescribed by the issuing
3	authority."
4	SECTION 5. Section 134-4, Hawaii Revised Statutes, is
5	amended by amending subsection (d) to read as follows:
6	"(d) No person shall <u>intentionally</u> , knowingly, or
7	recklessly lend a firearm to any person who is prohibited from
8	ownership [or], possession, or control of a firearm under
9	section 134-7."
10	SECTION 6. Section 134-7, Hawaii Revised Statutes, is
11	amended to read as follows:
12	"§134-7 Ownership [or], possession, or control prohibited,
13	when; penalty. (a) No person who is a fugitive from justice or
14	[is a person] prohibited from possessing [firearms] <u>a firearm</u> or
15	ammunition under title 18 United States Code section 922 or any
16	other provision of federal law shall own, possess, or control
17	any firearm or ammunition [therefor].
18	(b) No person who [is-under indictment for, or has waived
19	indictment for, or has been bound over to the circuit court
20	for,] is being prosecuted for one or more charges for a felony,
21	a crime of violence, a criminal offense relating to firearms, or

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1	an illega	al sale or distribution of any drug in a court in this
2	State or	elsewhere, or who has been convicted in this State or
3	elsewhere	e of having committed a felony, [or any] <u>a</u> crime of
4	violence,	a criminal offense relating to firearms, or an illegal
5	sale <u>or d</u>	listribution of any drug shall own, possess, or control
6	any firea	rm or ammunition [therefor].
7	(c)	No person [who:] shall own, possess, or control any
8	firearm c	pr ammunition if the person:
9	(1)	Is or has been under treatment or counseling for
10		addiction to, abuse of, or dependence upon any
11		dangerous, harmful, or detrimental drug, intoxicating
12		compound as defined in section 712-1240, or
13		intoxicating liquor;
14	(2)	Has been acquitted of a crime on the grounds of mental
15		disease, disorder, or defect pursuant to section 704-
16		411[7] or any similar provision under federal law, or
17		the law of another state, a United States territory,
18		or the District of Columbia;
19	(3)	Is or has been diagnosed [as having a significant
20		behavioral, emotional, or mental disorders as defined
21		by the most-current diagnostic manual of the American

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1		Psychiatric Association or for treatment for organic	
2		brain syndromes;] with or treated for a medical,	
3	behavioral, psychological, emotional, or mental		
4		condition or disorder that causes or is likely to	
5		cause impairment in judgment, perception, or impulse	
6		control to an extent that presents an unreasonable	
7		risk to public health, safety, or welfare if the	
8		person were in possession or control of a firearm; or	
9	(4)	Has been adjudged to:	
10		(A) Meet the criteria for involuntary hospitalization	
11		under section 334-60.2; or	
12		(B) Be an "incapacitated person", as defined in	
13		section 560:5-102,	
14	[shall own, possess, or control any firearm or ammunition		
15	therefor,] unless the person [has been medically documented to	
16	be] <u>estab</u>	lishes, with appropriate medical documentation, that	
17	the person is no longer adversely affected by [the addiction,		
18	abuse, d e	pendence, mental disease, disorder, or defect.] the	
19	<u>criteria</u>	or statuses identified in this subsection.	
20	(d)	No person who is less than twenty-five years old and	
21	has been	adjudicated by the family court to have committed a	

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felony, [two or more crimes] a crime of violence, a criminal 1 2 offense relating to firearms, or an illegal sale or distribution 3 of any drug shall own, possess, or control any firearm or 4 ammunition [therefor]. 5 No minor [who:] shall own, possess, or control any (e) 6 firearm or ammunition if the minor: 7 Is or has been under treatment for addiction to any (1)8 dangerous, harmful, or detrimental drug, intoxicating 9 compound as defined in section 712-1240, or intoxicating liquor; 10 Is a fugitive from justice; or 11 (2)12 Has been determined not to have been responsible for a (3) 13 criminal act or has been committed to any institution 14 on account of a mental disease, disorder, or 15 defect [+], 16 [shall own, possess, or control any firearm or ammunition 17 therefor,] unless the minor [has been medically documented to be] establishes, with appropriate medical documentation, that 18 19 the minor is no longer adversely affected by the addiction, 20 mental disease, disorder, or defect.

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For the purposes of enforcing this section, and
 notwithstanding section 571-84 or any other law to the contrary,
 any agency within the State shall make its records relating to
 family court adjudications available to law enforcement
 officials.

6 (f) No person who has been restrained pursuant to an order of any court, including a gun violence protective order issued 7 8 pursuant to part IV, from contacting, threatening, or physically 9 abusing any person, shall possess, control, or transfer 10 ownership of any firearm or ammunition [therefor], so long as 11 the protective order, restraining order, or any extension is in 12 effect [, unless the order, for good cause shown, specifically 13 permits the possession of a firearm and ammunition]. The 14 protective order or restraining order shall specifically include 15 a statement that possession, control, or transfer of ownership 16 of a firearm or ammunition by the person named in the order is 17 prohibited. The person shall relinquish possession and control 18 of any firearm and ammunition owned by that person to the police 19 department of the appropriate county for safekeeping for the 20 duration of the order or extension thereof. At the time of 21 service of a protective order or restraining order involving

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firearms and ammunition issued by any court, a police officer 1 2 may take custody of any and all firearms and ammunition in plain 3 sight, those discovered pursuant to a consensual search, and 4 those firearms surrendered by the person restrained. If the 5 person restrained is the registered owner of a firearm and knows the location of the firearm, but refuses to surrender the 6 firearm or [refuses to] disclose the location of the firearm, 7 8 the person restrained shall be guilty of a misdemeanor. In any 9 case, when a police officer is unable to locate the firearms and 10 ammunition either registered under this chapter or known to the 11 person granted protection by the court, the police officer shall 12 apply to the court for a search warrant pursuant to chapter 803 13 for the limited purpose of seizing the firearm and ammunition. 14 [For the purposes of this subsection, good cause shall not 15 be based solely upon the consideration that the person subject 16 to restraint pursuant to an order of any court is required to 17 possess or carry firearms or ammunition during the course of the 18 person's employment. Good cause consideration may include but 19 not be limited to the protection and safety of the person to 20 whom a restraining order is granted.]

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1 (q) Any person disgualified from ownership, possession, 2 control, or the right to transfer ownership of firearms and 3 ammunition under this section shall surrender or dispose of all 4 firearms and ammunition in compliance with section 134-7.3. 5 (h) Any person who otherwise would be prohibited under 6 subsection (b) from owning, possessing, or controlling a firearm 7 and ammunition solely as a result of a conviction for a crime 8 that is not a felony, and who is not prohibited from owning, 9 possessing, or controlling a firearm or ammunition for any 10 reason under any other provision of this chapter or under title 11 18 United States Code section 922 or another provision of 12 federal law, shall not be prohibited under this section from 13 owning, possessing, or controlling a firearm and ammunition if twenty years have elapsed from the date of the conviction. 14 15 $\left[\frac{(h)}{(h)}\right]$ (i) Any person violating subsection (a) or (b) shall 16 be guilty of a class C felony; provided that any felon violating 17 subsection (b) shall be guilty of a class B felony. Any person 18 violating subsection (c), (d), (e), (f), or (q) shall be quilty 19 of a misdemeanor." 20 SECTION 7. Section 134-9, Hawaii Revised Statutes, is

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amended to read as follows:

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CD11 "§134-9 Licenses to carry. (a) [In an exceptional case, 2 when an applicant shows reason to fear injury to the applicant's 3 person or property, the] The chief of police of [the 4 appropriate] a county [may] shall grant a license to an 5 applicant [who is a citizen of the United States of the age of 6 twenty one years or more or to a duly accredited official 7 representative of a foreign nation of the age of twenty one 8 years or more] to carry a pistol or revolver and ammunition 9 [therefor] concealed on the licensee's person within [the county 10 where the license is granted. Where the urgency or the need has 11 been sufficiently indicated, the respective] the State, if the 12 applicant: 13 Satisfies each of the criteria established by or (1) 14 pursuant to subsection (d); (2) Is not prohibited under section 134-7 from the 15 ownership, possession, or control of a firearm and 16 17 ammunition; 18 (3) Is not found to be lacking the essential character or 19 temperament necessary to be entrusted with a firearm 20 as set forth in subsection (h);

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1	(4)	Is a citizen, national, or lawful permanent resident
2		of the United States or a duly accredited official
3		representative of a foreign nation;
4	(5)	Is a resident of the State; and
5	(6)	Is of the age of twenty-one years or more.
6	(b)	The chief of police of a county may grant to an
7	applicant	[of good moral character who is a citizen of the
8	United Sta	ates of the age of twenty one years or more, is engaged
9	in the pro	stection of life and property, and is not prohibited
10	under sec	tion 134 7 from the ownership or possession of a
11	<pre>firearm,]</pre>	a license to carry a pistol or revolver and ammunition
12	[therefor]	unconcealed on the <u>licensee's</u> person within the
13	county who	ere the license is granted [-] , if the applicant:
14	(1)	Sufficiently establishes the urgency or need to carry
15		a firearm unconcealed;
16	(2)	Is engaged in the protection of life and property;
17	(3)	Satisfies each of the criteria established by or
18		pursuant to subsection (d);
19	(4)	Is not prohibited under section 134-7 from the
20		ownership, possession, or control of a firearm and
21		ammunition;

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1	(5) Is not found to be lacking the essential character or
2	temperament necessary to be entrusted with a firearm
3	as set forth in subsection (h);
4	(6) Is a citizen, national, or lawful permanent resident
5	of the United States; and
6	(7) Is of the age of twenty-one years or more.
7	(c) The chief of police of the appropriate county, or [the
8	chief's] a designated representative $[\tau]$ of the chief of police,
9	shall perform an inquiry on an applicant by using the National
10	Instant Criminal Background Check System, to include a check of
11	the Immigration and Customs Enforcement databases [where] if the
12	applicant is not a citizen of the United States, before any
13	determination to grant a concealed or unconcealed license is
14	made. [Unless renewed, the license shall expire one year from
15	the date of issue.
16	(b) The chief of police of each county shall adopt
17	procedures to require-that any person-granted a-license-to-carry
18	a concealed weapon on the person shall:
19	(d) To be eligible to receive a license to carry a
20	concealed or unconcealed pistol or revolver on the licensee's
21	person, the applicant shall:

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1	(1)	[Be qualified to use the firearm in a safe manner;]	
2		Submit the appropriate carry license application, in	
3		person, to the chief of police of the appropriate	
4		county, with:	
5		(A) All fields on the application form completed and	
6		all questions answered truthfully, under penalty	
7		of law;	
8		(B) All required signatures present on the	
9		application;	
10		(C) Any required documents attached to the	
11		application; and	
12		(D) Payment of the nonrefundable license application	
13		fee required under this section;	
14	(2)	[Appear to be a suitable person to be so licensed;] Be	
15		the registered owner of the firearm or firearms for	
16		which the license to carry will be issued; provided	
17		that this paragraph shall not apply to detectives,	
18		private detectives, investigators, and guards with an	
19		active license issued pursuant to chapter 463;	

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1	(3)	Not be prohibited under section 134-7 from the
2		ownership [or], possession, or control of a firearm;
3		[and]
4	(4)	[Not have been adjudged insane or not appear to be
5		mentally deranged.] Have completed a course of
6		training as described in subsection (e) and be
7		certified as qualified to use the firearm or firearms
8		for which the license to carry will be issued in a
9		safe manner; and
10	(5)	Sign an affidavit expressly acknowledging that:
11		(A) The applicant has read and is responsible for
12		understanding and complying with the federal,
13		state, and county laws governing the permissible
14		use of firearms and associated requirements,
15		including:
16		(i) The prohibition on carrying or possessing a
17		firearm in certain locations and premises;
18		(ii) The prohibition on carrying more than one
19		firearm on the licensee's person at one
20		time;

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1	<u>(iii)</u>	The prohibition on carrying a firearm on
2		private property of another person without
3		the express authorization of the owner,
4		lessee, operator, or manager of the private
5		property;
6	<u>(iv)</u>	The requirement to maintain possession of
7		the license on the licensee's person while
8		carrying a firearm;
9	<u>(v)</u>	The requirement to disclose information
10		regarding the carrying of a firearm when
11		stopped by law enforcement;
12	<u>(vi)</u>	The provision for absolute liability for
13		injury or property damage proximately caused
14		by a legally unjustified discharge of a
15		firearm under section 663-9.5; and
16	(vii)	Laws regarding the use of deadly force for
17		self-defense or the defense of another;
18	(B) A li	cense to carry issued under this section
19	shal	l be void if a licensee becomes disqualified
20	from	the ownership, possession, or control of a

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1		firearm pursuant to section 134-7(a), (b), (d),
2		<u>or (f);</u>
3	<u>(C)</u>	The license shall be subject to revocation under
4		section 134-13 if a licensee for any other reason
5		becomes disqualified under section 134-7 from the
6		ownership, possession, or control of a firearm;
7		and
8	<u>(D)</u>	A license that is revoked or that becomes void
9		shall be returned to the chief of police of the
10		appropriate county within forty-eight hours after
11		the license is revoked or becomes void.
12	[-(c) No	person shall carry concealed or unconcealed on the
13	person a pisto	l or revolver without being licensed to do so
14	under this see	tion or in compliance with sections 134-5(c) or
15	134-25.	
16	(d) A fe	e of \$10 shall be charged for each license and
17	shall-be depos	ited in the treasury of the county in which the
18	license is gra	nted.]
19	(e) The	course of training for issuance of a license under
20	this section m	ay be any course acceptable to the licensing
21	authority that	meets all of the following criteria:

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1	(1)	The course shall include in-person instruction on
2		firearm safety; firearm handling; shooting technique;
3		safe storage; legal methods to transport firearms and
4		secure firearms in vehicles; laws governing places in
5		which persons are prohibited from carrying a firearm;
6		firearm usage in low-light situations; situational
7		awareness and conflict management; and laws governing
8		firearms, including information regarding the
9		circumstances in which deadly force may be used for
10		self-defense or the defense of another;
11	(2)	The course shall include a component on mental health
12		and mental health resources;
13	(3)	Except for the component on mental health and mental
14		health resources, the course shall be conducted by one
15		or more firearms instructors certified or verified by
16		the chief of police of the respective county or a
17		designee of the chief of police or certified by a
18		nongovernmental organization approved for those
19		purposes by the chief of police of the respective
20		county or a designee of the chief of police, or

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1		conducted by one or more certified military firearms
2		instructors;
3	(4)	The course shall require participants to demonstrate
4		their understanding of the covered topics by achieving
5		a score of at least seventy per cent on a written
6		examination; and
7	(5)	The course shall include live-fire shooting exercises
8		on a firing range and shall include a demonstration by
9		the applicant of safe handling of, and shooting
10		proficiency with, each firearm that the applicant is
11		applying to be licensed to carry.
12	(f)	Upon passing the course of training identified in
13	subsectio	n (e), the applicant shall obtain from the instructor,
14	and inclu	de as part of the applicant's application package, a
15	<u>certifica</u>	tion as to the following:
16	(1)	The applicant's name, as confirmed by reviewing the
17		applicant's government-issued photo identification;
18	(2)	The date and location of the firearm proficiency test;
19	(3)	The firearm or firearms that the applicant used in the
20		firearm proficiency test;

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1	(4)	The applicant's score; provided that an indication
2		that the applicant passed or failed, without the score
3		itself, shall be insufficient information for the
4		purposes of the application; and
5	(5)	The instructor's qualifications to administer the
6		firearm proficiency test.
7	The certi	fication of the above information, signed by the
8	firearms	instructor who conducted or taught the course,
9	providing	the name, address, and phone number of the instructor,
10	shall con	stitute evidence of successful completion of the
11	<u>course; p</u>	rovided that the instructor shall not submit a
12	<u>certifica</u>	tion signed by the instructor for the instructor's own
13	license a	pplication. The course of training for issuance of a
14	license u	nder this section shall be undertaken at the licensee's
15	expense.	
16	<u>(g)</u>	An applicant for a license under this section shall:
17	(1)	Sign a waiver at the time of application, allowing the
18		chief of police of the county issuing the license or a
19		designee of the chief of police access to any records
20		that have a bearing on the mental health of the
21		applicant; and

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1	(2)	Identify any health care providers who possess or may
2		possess the records described in paragraph (1).
3	(h)	In determining whether a person lacks the essential
4	<u>character</u>	or temperament necessary to be entrusted with a
5	firearm,	the licensing authority shall consider whether the
6	person po	ses a danger of causing a self-inflicted bodily injury
7	or unlawf	ul injury to another person, as evidenced by:
8	(1)	Information from a health care provider indicating
9		that the person has had suicidal or homicidal thoughts
10		or tendencies within the preceding five years;
11	(2)	Statements or actions by the person indicating any
12		dangerous propensity or violent animus toward one or
13		more individuals or groups, including groups based on
14		race, color, national origin, ancestry, sex, gender
15		identity, gender expression, sexual orientation, age,
16		disability, religion, or any other characteristic, and
17		the propensity or animus is of a nature or to an
18		extent that would objectively indicate to a reasonable
19		observer that it would not be in the interest of the
20		public health, safety, or welfare for the person to
21		own, possess, or control a firearm or ammunition; or

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1	(3)	Other information that would lead a reasonable,
2		objective observer to conclude that the person
3		presents or would present a danger to the community as
4		a result of carrying a firearm in public or intends or
5		is likely to use a firearm for an unlawful purpose or
6		in an unlawful manner.
7	<u>(i)</u>	A nonrefundable fee of \$150 shall be charged for each
8	license a	pplication submitted under this section. The fee shall
9	be charge	able by and payable to the appropriate county and shall
10	be used f	or expenses related to police services. The issuing
11	authority	shall waive the fee required by this subsection upon a
12	showing o	f financial hardship by the applicant.
13	<u>(j)</u>	If the applicant satisfies each of the requirements
14	for a con	cealed carry license, an application for a concealed
15	carry lic	ense submitted to the chief of police of the
16	appropria	te county under this section shall be approved within a
17	reasonabl	e time after receipt of all required application
18	materials	. If the applicant does not satisfy one or more of the
19	requireme	nts for a concealed carry license, the license shall be
20	denied wi	thin a reasonable time after receipt of the application
21	materials	. If an application is denied, the chief of police or

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1	a designee of the chief of police shall notify the applicant of
2	the denial in writing, stating the ground or grounds for the
3	denial and informing the applicant of the right to seek review
4	of the denial through a hearing pursuant to subsection (k). If
5	the chief of police does not grant or deny a submitted
6	application for a concealed carry license within one hundred
7	twenty days following the date of the application, the
8	application shall be deemed denied as of that date for purposes
9	of subsection (k).
10	(k) If an application under this section is denied, a
11	person or entity aggrieved by the denial shall be entitled to a
12	hearing before the chief of police of the appropriate county or
13	a designee of the chief of police. A person or entity aggrieved
14	by the denial shall submit a request for a hearing in writing to
15	the chief of police of the appropriate county no later than
16	thirty days following the date of the decision or determination
17	notice. The hearing shall constitute a contested case hearing
18	for purposes of chapter 91. Following the hearing and final
19	decision, an aggrieved party shall be entitled to a judicial
20	review proceeding in state circuit court in accordance with
21	section 91-14.

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1	(1)	If an application pursuant to this section is
2	approved,	the chief of police shall issue the applicant a
3	<u>license t</u>	hat contains, at minimum:
4	(1)	The licensee's name;
5	(2)	The licensee's address;
6	(3)	A photograph of the licensee taken within ninety days
7		before issuance of the license;
8	(4)	The county of issuance;
9	(5)	A notation as to whether the license permits concealed
10		or unconcealed carry;
11	(6)	The serial number of each registered firearm that the
12		licensee may carry pursuant to the license; and
13	(7)	The license expiration date.
14	The licen	se issued under this subsection shall not constitute a
15	governmen	t-issued photo identification document under federal or
16	state law	/ <u>.</u>
17	<u>(m)</u>	Unless renewed, a concealed or unconcealed license
18	shall exp	ire four years from the date of issue.
19	<u>(n)</u>	A license to carry issued under this section shall be
20	void if a	licensee becomes disqualified from the ownership,
21	possessio	on, or control of a firearm pursuant to section 134-

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1	7(a), (b), (d), or (f). If a licensee for any other reason
2	becomes disgualified under section 134-7 from the ownership,
3	possession, or control of a firearm, the license shall be
4	subject to revocation under section 134-13. A license that is
5	void or revoked shall be returned to the chief of police of the
6	appropriate county within forty-eight hours after the license
7	becomes void or is revoked.
8	(o) The chief of police of each county shall adopt
9	procedures to implement this section.
10	(p) The chief of police of each county shall establish
11	procedures and criteria for the renewal of licenses issued under
12	this section. No license renewal shall be granted if an
13	applicant for a renewed license does not satisfy, or no longer
14	satisfies, the eligibility criteria for a new license set forth
15	in subsections (a) through (d). As a precondition for the
16	renewal of licenses issued under this section, the chief of
17	police of each county may establish reasonable continuing
18	education, training, and certification requirements, including
19	requirements pertaining to the safe handling of firearms and
20	shooting proficiency. A nonrefundable fee of \$50 shall be
21	charged for each license renewal application submitted under
19 20	requirements pertaining to the safe handling of firearms and shooting proficiency. A nonrefundable fee of \$50 shall be

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1	this section. The fee shall be chargeable by and payable to the
2	appropriate county and shall be used for expenses related to
3	police services. The issuing authority shall waive the fee
4	required by this subsection upon a showing of financial hardship
5	by the applicant.
6	(q) No person carrying a firearm pursuant to a license
7	issued under this section shall intentionally, knowingly, or
8	recklessly carry more than one firearm on the licensee's person
9	at one time.
10	(r) A license issued by the chief of police of a county
11	within the State under subsection (a) to carry a pistol or
12	revolver and ammunition concealed on the licensee's person shall
13	be valid for use in each county within the State."
14	SECTION 8. Section 134-13, Hawaii Revised Statutes, is
15	amended to read as follows:
16	"§134-13 Revocation of permits[-] and licenses. (a) All
17	permits and licenses provided for under this part [may] shall be
18	revoked[, for good cause,] by the issuing authority [or] <u>, and</u>
19	may be revoked by $[the judge of]$ any court $[-]$, if the issuing
20	authority or court determines that the permit or license is
21	subject to revocation because the permit or license holder does

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1	not satisfy, or no longer satisfies, the applicable
2	qualifications or requirements associated with the permit or
3	license.
4	(b) If the issuing authority determines that a permit or
5	license is subject to revocation, the issuing authority shall
6	notify the permit or license holder of the determination in
7	writing, stating the grounds for the determination and informing
8	the permit or license holder of the right to seek a hearing
9	before the issuing authority regarding the determination before
10	revocation. Unless the permit or license holder submits a
11	request for a hearing in writing to the issuing authority no
12	later than thirty days following the date of the written notice
13	that the permit or license is subject to revocation, the permit
14	or license shall be immediately revoked by the issuing
15	authority. Any hearing regarding a determination on whether a
16	permit or license is subject to revocation shall constitute a
17	contested case hearing for purposes of chapter 91. A person or
18	entity aggrieved by a revocation under this section may apply
19	for judicial review in state circuit court in accordance with
20	section 91-14.

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(c) If a permit or license is revoked pursuant to this

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1

2	section, the former permit or license holder shall return the
3	permit or license to the issuing authority within forty-eight
4	hours following receipt of the notice of revocation."
5	SECTION 9. Section 134-17, Hawaii Revised Statutes, is
6	amended to read as follows:
7	"§134-17 Penalties. (a) If any person [gives false
8	information or offers false evidence of the person's identity in
9	complying with any of the requirements of this part, that person
10	shall be guilty of a misdemeanor, provided, however that if any
11	person intentionally gives false information or offers false
12	evidence concerning their] intentionally, knowingly, or
13	recklessly makes any materially false, fictitious, or fraudulent
14	statement or representation in connection with any of the
15	requirements of this part, that person shall be guilty of a
16	misdemeanor; provided that if any person intentionally,
17	knowingly, or recklessly makes any materially false, fictitious,
18	or fraudulent statement or representation regarding the person's
19	psychiatric or criminal history in [complying] connection with
20	any of the requirements of this part, that person shall be
21	guilty of a class C felony.

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1	[-(b)	- Any person who violates section 134-3(a) shall be
2	guilty of	-a-petty-misdemeanor.
3	(c)]	(b) Any person who violates [section]:
4	(1)	Section 134-2, 134-4, 134-10, [or] <u>134-13(c), or</u> 134-
5		15 shall be guilty of a misdemeanor[. Any person who
6		violates section];
7	(2)	Section 134-3(a) or 134-9(q) shall be guilty of a
8		petty misdemeanor; or
9	(3)	Section 134-3(b) shall be guilty of a petty
10		misdemeanor and the firearm shall be confiscated as
11		contraband and disposed of, if the firearm is not
12		registered within five days of the person receiving
13		notice of the violation."
14	SECT	ION 10. Section 134-18, Hawaii Revised Statutes, is
15	amended t	o read as follows:
16	"§13	4-18 Qualified immunity for physicians, psychologists,
17	[or] psyc	hiatrists, physician assistants, or advanced practice
18	registere	<u>d nurses</u> who provide information on permit <u>or license</u>
19	applicant	s. There shall be no civil liability for any
20	physician	, psychologist, [or] psychiatrist <u>, physician assistant,</u>
21	or advanc	ed practice registered nurse who provides information
	/	

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or renders an opinion in response to an inquiry made for 1 purposes of issuing a firearm permit under section 134-2, 2 3 issuing or renewing a license under section 134-9, or [for 4 purposes of] investigating the continuing mental health of the holder of a valid firearm permit or license; provided that the 5 6 physician, psychologist, [or] psychiatrist, physician assistant, 7 or advanced practice registered nurse acted without malice." 8 SECTION 11. Section 707-716, Hawaii Revised Statutes, is 9 amended by amending subsection (2) to read as follows: 10 "(2) Terroristic threatening in the first degree is a 11 class C felony [-]; provided that terroristic threatening in the 12 first degree is a class B felony if committed with a firearm as 13 defined in section 134-1, whether the firearm was loaded or not, 14 and whether operable or not, or a simulated firearm, while in 15 one of the locations or premises listed in section 134-A(a)." 16 SECTION 12. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows: 17 18 "(b) Criminal history record checks may be conducted by: 19 (1) The department of health or its designee on operators 20 of adult foster homes for individuals with 21 developmental disabilities or developmental

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1 disabilities domiciliary homes and their employees, as 2 provided by section 321-15.2;

3 (2) The department of health or its designee on 4 prospective employees, persons seeking to serve as 5 providers, or subcontractors in positions that place 6 them in direct contact with clients when providing 7 non-witnessed direct mental health or health care 8 services as provided by section 321-171.5;

9 (3)The department of health or its designee on all 10 applicants for licensure or certification for, 11 operators for, prospective employees, adult 12 volunteers, and all adults, except adults in care, at 13 healthcare facilities as defined in section 321-15.2; 14 (4)The department of education on employees, prospective 15 employees, and teacher trainees in any public school 16 in positions that necessitate close proximity to 17 children as provided by section 302A-601.5; 18 The counties on employees and prospective employees (5)

19 who may be in positions that place them in close 20 proximity to children in recreation or child care 21 programs and services;

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1	(6)	The county liquor commissions on applicants for liquor
2		licenses as provided by section 281-53.5;
3	(7)	The county liquor commissions on employees and
4		prospective employees involved in liquor
5		administration, law enforcement, and liquor control
6		investigations;
7	(8)	The department of human services on operators and
8		employees of child caring institutions, child placing
. 9		organizations, and foster boarding homes as provided
10		by section 346-17;
11	(9)	The department of human services on prospective
12		adoptive parents as established under section
13		346-19.7;
14	(10)	The department of human services or its designee on
15		applicants to operate child care facilities, household
16		members of the applicant, prospective employees of the
17		applicant, and new employees and household members of
18		the provider after registration or licensure as
19		provided by section 346-154, and persons subject to
20		section 346-152.5;

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S.B. NO. ¹²³⁰ S.D. 2 H.D. 1 C.D. 1

- (11) The department of human services on persons exempt
 pursuant to section 346-152 to be eligible to provide
 child care and receive child care subsidies as
 provided by section 346-152.5;
- 5 (12) The department of health on operators and employees of
 6 home and community-based case management agencies and
 7 operators and other adults, except for adults in care,
 8 residing in community care foster family homes as
 9 provided by section 321-15.2;
- 10 (13) The department of human services on staff members of
 11 the Hawaii youth correctional facility as provided by
 12 section 352-5.5;

13 (14) The department of human services on employees,

14 prospective employees, and volunteers of contracted 15 providers and subcontractors in positions that place 16 them in close proximity to youth when providing 17 services on behalf of the office or the Hawaii youth 18 correctional facility as provided by section 352D-4.3; 19 (15) The judiciary on employees and applicants at detention 20 and shelter facilities as provided by section 571-34;

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S.B. NO. ¹²³⁰ S.D. 2 H.D. 1 C.D. 1

1 (16) The department of public safety on employees and 2 prospective employees who are directly involved with 3 the treatment and care of persons committed to a 4 correctional facility or who possess police powers 5 including the power of arrest as provided by section 6 353C-5;

7 (17) The board of private detectives and guards on
8 applicants for private detective or private guard
9 licensure as provided by section 463-9;

10 (18)Private schools and designated organizations on employees and prospective employees who may be in 11 12 positions that necessitate close proximity to 13 children; provided that private schools and designated 14 organizations receive only indications of the states from which the national criminal history record 15 information was provided pursuant to section 302C-1; 16 The public library system on employees and prospective 17 (19) employees whose positions place them in close 18 19 proximity to children as provided by section 20 302A-601.5;

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1	(20)	The State or any of its branches, political
2		subdivisions, or agencies on applicants and employees
3		holding a position that has the same type of contact
4		with children, vulnerable adults, or persons committed
5		to a correctional facility as other public employees
6		who hold positions that are authorized by law to
7		require criminal history record checks as a condition
8		of employment as provided by section 78-2.7;
9	(21)	The department of health on licensed adult day care
10		center operators, employees, new employees,
11		subcontracted service providers and their employees,
12		and adult volunteers as provided by section 321-15.2;
13	(22)	The department of human services on purchase of
14		service contracted and subcontracted service providers
15		and their employees serving clients of the adult
16		protective and community services branch, as provided
17		by section 346-97;
18	(23)	The department of human services on foster grandparent
19		program, senior companion program, and respite
20		companion program participants as provided by section
21		346-97;

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1 The department of human services on contracted and (24)2 subcontracted service providers and their current and 3 prospective employees that provide home and community-4 based services under section 1915(c) of the Social 5 Security Act, title 42 United States Code section 6 1396n(c), or under any other applicable section or 7 sections of the Social Security Act for the purposes 8 of providing home and community-based services, as 9 provided by section 346-97;

10 (25) The department of commerce and consumer affairs on
11 proposed directors and executive officers of a bank,
12 savings bank, savings and loan association, trust
13 company, and depository financial services loan
14 company as provided by section 412:3-201;

15 (26) The department of commerce and consumer affairs on
16 proposed directors and executive officers of a
17 nondepository financial services loan company as
18 provided by section 412:3-301;

19 (27) The department of commerce and consumer affairs on the20 original chartering applicants and proposed executive

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1 officers of a credit union as provided by section 2 412:10-103; 3 (28)The department of commerce and consumer affairs on: 4 Each principal of every non-corporate applicant (A) 5 for a money transmitter license; 6 (B) Each person who upon approval of an application 7 by a corporate applicant for a money transmitter 8 license will be a principal of the licensee; and 9 (C) Each person who upon approval of an application 10 requesting approval of a proposed change in 11 control of licensee will be a principal of the 12 licensee, 13 as provided by sections 489D-9 and 489D-15; 14 (29)The department of commerce and consumer affairs on 15 applicants for licensure and persons licensed under 16 title 24; 17 (30)The Hawaii health systems corporation on: 18 (A) Employees; 19 (B) Applicants seeking employment; 20 Current or prospective members of the corporation (C) 21 board or regional system board; or

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1		(D) Current or prospective volunteers, providers, or
2		contractors,
3		in any of the corporation's health facilities as
4		provided by section 323F-5.5;
5	(31)	The department of commerce and consumer affairs on:
6		(A) An applicant for a mortgage loan originator
7		license, or license renewal; and
8		(B) Each control person, executive officer, director,
9		general partner, and managing member of an
10		applicant for a mortgage loan originator company
11		license or license renewal,
12		as provided by chapter 454F;
13	(32)	The state public charter school commission or public
14		charter schools on employees, teacher trainees,
15		prospective employees, and prospective teacher
16		trainees in any public charter school for any position
17		that places them in close proximity to children, as
18		provided in section 302D-33;
19	(33)	The counties on prospective employees who work with
20		children, vulnerable adults, or senior citizens in
21		community-based programs;

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1	(34)	The counties on prospective employees for fire
2		department positions that involve contact with
3		children or vulnerable adults;
4	(35)	The counties on prospective employees for emergency
5		medical services positions that involve contact with
6		children or vulnerable adults;
7	(36)	The counties on prospective employees for emergency
8		management positions and community volunteers whose
9		responsibilities involve planning and executing
10		homeland security measures including viewing,
11		handling, and engaging in law enforcement or
12		classified meetings and assisting vulnerable citizens
13		during emergencies or crises;
14	(37)	The State and counties on employees, prospective
15		employees, volunteers, and contractors whose position
16		responsibilities require unescorted access to secured
17		areas and equipment related to a traffic management
18		center;
19	(38)	The State and counties on employees and prospective
20		employees whose positions involve the handling or use
21		of firearms for other than law enforcement purposes;

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 (39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to 	
3 information technology operation whose position	
4 responsibilities provide them with access to	
5 proprietary, confidential, or sensitive information;	
6 (40) The department of commerce and consumer affairs on:	
7 (A) Applicants for real estate appraiser licensure of	r
8 certification as provided by chapter 466K;	
9 (B) Each person who owns more than ten per cent of a	n
10 appraisal management company who is applying for	
11 registration as an appraisal management company,	
12 as provided by section 466L-7; and	
13 (C) Each of the controlling persons of an applicant	
14 for registration as an appraisal management	
15 company, as provided by section 466L-7;	
16 (41) The department of health or its designee on all	
17 license applicants, licensees, employees, contractors	,
18 and prospective employees of medical cannabis	
19 dispensaries, and individuals permitted to enter and	
20 remain in medical cannabis dispensary facilities as	

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1		provided under sections 329D-15(a)(4) and
2		329D-16(a)(3);
3	(42)	The department of commerce and consumer affairs on
4		applicants for nurse licensure or license renewal,
5		reactivation, or restoration as provided by sections
6		457-7, 457-8, 457-8.5, and 457-9;
7	(43)	The county police departments on applicants for
8		permits to acquire firearms pursuant to section 134-2
9		[and], on individuals registering their firearms
10		pursuant to section $134-3[+]$, and on applicants for
11		new or renewed licenses to carry a pistol or revolver
12		and ammunition pursuant to section 134-9;
13	(44)	The department of commerce and consumer affairs on:
14		(A) Each of the controlling persons of the applicant
15		for licensure as an escrow depository, and each
16		of the officers, directors, and principals who
17		will be in charge of the escrow depository's
18		activities upon licensure; and
19		(B) Each of the controlling persons of an applicant
20		for proposed change in control of an escrow
21		depository licensee, and each of the officers,

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1		directors, and principals who will be in charge
2		of the licensee's activities upon approval of the
3		application,
4		as provided by chapter 449;
5	(45)	The department of taxation on current or prospective
6		employees or contractors who have access to federal
7		tax information in order to comply with requirements
8		of federal law, regulation, or procedure, as provided
9		by section 231-1.6;
10	(46)	The department of labor and industrial relations on
11		current or prospective employees or contractors who
12		have access to federal tax information in order to
13		comply with requirements of federal law, regulation,
14		or procedure, as provided by section 383-110;
15	(47)	The department of human services on current or
16		prospective employees or contractors who have access
17		to federal tax information in order to comply with
18		requirements of federal law, regulation, or procedure,
19		as provided by section 346-2.5;
20	(48)	The child support enforcement agency on current or
21		prospective employees, or contractors who have access

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1 to federal tax information in order to comply with 2 federal law, regulation, or procedure, as provided by 3 section 576D-11.5; 4 The department of the attorney general on current or (49)5 prospective employees or employees or agents of 6 contractors who have access to federal tax information 7 to comply with requirements of federal law, 8 regulation, or procedure, as provided by section 28-9 17; 10 [+] (50) [+] The department of commerce and consumer affairs on each control person, executive officer, director, 11 12 general partner, and managing member of an installment 13 loan licensee, or an applicant for an installment loan 14 license, as provided in chapter 480J; 15 [+] (51) [+] The University of Hawaii on current and prospective 16 employees and contractors whose duties include 17 ensuring the security of campus facilities and 18 persons; and 19 [+](52)[+]Any other organization, entity, or the State, its 20 branches, political subdivisions, or agencies as may 21 be authorized by state law."

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S.D. 2

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SECTION 13. Act 30, Session Laws of Hawaii 2022, is 1 2 amended by amending section 5 to read as follows: 3 "SECTION 5. This Act shall take effect upon its approval [+ provided that on June 30, 2025, section 2 of this Act shall be 4 5 repealed and section 134-3, Hawaii Revised Statutes, shall be 6 reenacted in the form in which it read on the day before the 7 effective date of this Act]." 8 SECTION 14. Every provision in this Act and every 9 application of each provision in this Act is severable from each 10 other. If any application of any provision in this Act to any 11 person or group of persons or circumstances is determined by any 12 court to be invalid, the remainder of this Act and the 13 application of the Act's provisions to all other persons and 14 circumstances shall not be affected. All constitutionally valid 15 applications of this Act shall be severed from any applications 16 that a court determines to be invalid or unenforceable, leaving 17 the valid applications in force, because it is the legislature's 18 intent that all valid applications shall remain in force. 19 SECTION 15. This Act shall be construed to be enforceable 20 up to but no further than the maximum possible extent consistent 21 with federal law and constitutional requirements.

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1	SECT	ION 16. In codifying the new sections added by section
2	2 of this	Act, the revisor of statutes shall substitute
3	appropria	te section numbers for the letters used in designating
4	the new s	ections in this Act.
5	SECT	ION 17. Statutory material to be repealed is bracketed
6	and stric	ken. New statutory material is underscored.
7	SECT	ION 18. This Act shall take effect on July 1, 2023;
8	provided	that:
9	(1)	Sections 4 and 7 shall take effect on January 1, 2024;
10		and
11	(2)	The amendments made to section 846-2.7(b), Hawaii
12		Revised Statutes, by section 12 of this Act shall not
13		be repealed when section 28 of Act 278, Session Laws
14		of Hawaii 2022, takes effect on January 1, 2024.

APPROVED this 2nd day of June , 2023

GOVERNOR OF THE STATE OF HAWAI'I



1230 S.D. 2 H.D. 1

C.D. 1

S.B. No. 1230, S.D. 2, H.D. 1, C.D. 1

THE SENATE OF THE STATE OF HAWAI'I

Date: May 2, 2023 Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate

of the Thirty-Second Legislature of the State of Hawai'i, Regular Session of 2023.

Marn. L. . President of the Senate

Quet

Clerk of the Senate

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SB No. 1230, SD 2, HD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2023 Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2023.



Scott K. Saiki Speaker House of Representatives

this the

Brian L. Takeshita Chief Clerk House of Representatives

An Act passed by the General Assembly of the Province of New-Jersey at Trenton in 1746, being the Nineteenth Year of His Majesty's Reign.

C H A P. LXXXIV.

An ACT for better settling and regulating the Militia of this Colony of New-Jersey, for the Repelling Invasions and Suppressing Insurrections and Rebellions.

Sect. 1. W HEREAS the Security of this Colo-Preamble. ny, and Prefervation of His Majefty's Government over it, greatly depends upon the Militia being put into fuch Methods as may make the fame most useful for the Defence thereof, especially at this G 4 Time,

Digitized from Best Copy Available EXHIBIT 2 (McLean)

The Nineteenth

Time, when His Majefty hath a just War against both brance and Spain THEREFORE for the better Defence of this Colony, and the Honour of His Majefry.

Captains to in their Dil-tricks &c.

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. . . .

BEIT ENACTED by the Governor, Council, and General Affembly, and by the Authority of the mike Lints of fame, That every Captain within this Colony, that already the Men with- is, or hereafter shall be appointed, shall make a true and perfect Lift of all the Men that now do, or hereafter that dwell, within the Diffricts or Divisions of which they are or shall be Captains, between the Age of Sixteen and Fifvy Years (except the Gentlemen of His Majesty's Council, the Representatives of the General Assembly, Ministers of the Gofpel, the Civil Officers of the Government, and all Field Officers and Captains, that hererofore have, now do, or hereafter shall bear such Commissions, Physicians, Schoolmasters, Millers, Ferrymen, Bought white Servants, and Slaves) every one of which to lifted, thall be fufficiently arorms, dec. of med with one good Musket or Fuzee well fixed, a Sword * or Bayonet, a Cartouch-Box or Powder-Horn, three Charges of Powder, and three fizeable Bullets; who shall appear in the Field fo armed twice a Year, Diz. The first Monday in Time of their April, and the fecond Monday in October (except the County of Cape-May, which shall thus appear the third Jue day in April, and the third Tue/day in October) at the Places appointed by their respective Captains or superior Officers, and continue in Arms but one Day at each Time, besides at otherefuch Times when they may be called together by an Order in Writing, under the Hand of the Captain-General, or Commander in Chief for the Time being, at fuch Places within each respective County as shall be by him appointed, performation be raught the Use of their Arms. PROVIDED How AYS, That fuch Calling together in Writing, as aforefaid, shall not exceed once in a Year, and faid Perfons to be kept in Arms but one Day at fuch Time, except in cale of Alarms.-

3. BE IT FURTHER ENACTED by the Muthority aforefaid, That every Perion to lifted, that doth appear at the Times and Places abovefaid, shall be, and are hereby subjected to the Commands of their proper Officers, and upon Difobedience it Thall and may be law-Officer's how ful for the Captain or Commanding Officer to fine faid Offender or Offenders, any Sum not lets than One Shilling, nor above Ten Shillings; and in Cafe of Delay or Refufal to

Of GEORGE II.

pay fuch Fine or Fines, then the faid Captain, or Commanding-Officer, may make out his Warrant to one of his Serjeants or Corporals, commanding him to take to his Affiftance one or more of the Soldiers under his Command, if Occasion should require, and take the Body of the faid Offender or Offenders, and deliver him or them to the Gaoler of the faid County, who is hereby required and commanded to take the faid Offender or Offenders into his Cuftody, and keep him or them in close Gaol for fuch Time as shall be expressed in the Captain's Warrant, not exceeding three Days; and at the Expiration of faid Time, or on Payment of the faid Fine or Fines, then the faid Offender or Offenders to be ditcharged, paying to the Gaoler One Shilling for his Fees, and no more.

4. AND BEITFURT HERENACTED by the Authority aforefaid, That no Officer shall beat or abufe any of the Soldiers whilst under Arms, on any fuch Days Officers and Soldiers to beof Training as aforelaid: But if any Soldier shall during have well when that. Time use any reproachful or abusive Language to- under Arms. wards any of his inperior Officers, or shall quarrel himfelf, or promote any Quarrel amongst his Fellow-Soldiers, or appear in Arms difguited in Liquor, it shall and may be lawful for the Captain or Commanding Officer, to difarm fuch Soldier at the Head of his Company, and to fet a Centinel over him during the Time of the Company's being in Arms, and no longer, or to fine him in Manner and Form aforefaid, as the faid Captain or Commanding Officer in his Differention shall think proper.

5. BEIT FURTHER ENACTED by the Authority aforefaid, That every of the Persons aforefaid, Penalties on apthat appears at the Times and Places aforefaid, without pearing without Arms. &cc. the Arms and Ammunition aforefaid, shall forfeit and pay to their respective Captain, or Commanding Officer as followeth, viz. For want of a Musket or Fuzee, Iwo Shillings; if not well fixed One Shilling; for want of three Chargcs of Powder, and three fizeable Bullets, One Shilling; for want of a Sword or Bayonet, One Shilling : Which faid Sums of Money, shall be applied by faid Captain, to the Purchaing Drums and Colours for his Company.

6. BE IT FURTHER ENACTED by the Power of the Authority aforefaid, That it shall and may be lawful for the Captain Gene-Captain General, or Commander in Chief for the Time be- ral in Cale of Invation, &c. ing, in Cafe of any Invalion, Infurrection, or Rebellion, to suit fo many of the Perfons aforefaid together, for repelling the

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the Force of the faid Enemy, or quelling the faid Infurrection or Rebellion, or order such Detachments for the common Defence as he shall think fit, to follow and parfue the faid Enemy into any of the neighbouring Governments for the Repelling or taking them Prifoners and Prefervation of His Majesty's Subjects and Government.

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7. AND BE IT FURTHER ENACTED by tains, &c. in the Authority aforefaid, That it shall and may be lawful, Cafe or lavail and fuch Captains or other commanding Officers that live near fuch Places where an Enemy may come, are hereby required and commanded on any Defcent or Invation of an Enemy, or on their Landing, or Danger there it, to call all, or fo many of their respective Companies together as shall be thought neceffary to expel the faid Enemy, and Endwith attack them; or otherwife to do the best that has in their Power, to diffrefs, ftop, and hinder them in their mtended Invalion, or Plundering. And faid Contains and Commanding Officers are hereby further required and commanded, as toon as poffible, to tend Notice of tuch D feent or Invation, to the Governor or Commander in Chief for the Time being.

8. AND BEIT FURTHER ENACTED In Time of Invilion, Sie all by the Authority aforefaid, That in Times of any Ingui-Marrial Law on, Infurrection, Rebellion, or Alarm, as aforefaid, all the Officers and Perfons to enlifted, as aforefaid, that shall be commanded to their Arms, by Order of the Captain General, or Commander in Chief, or other Officer or Officers, during the Time or Times of fuch Invalion, Infurrection, Rebellion, or Alarm, are hereby made Subject to the Pains and Penalties of the Martial Law, fo that the Punishment do not extend to the taking of Life or Member.

Covernor may cary Watches,

appoint Mili- by the Authority aforefaid, That when the Governor, or Commander in Chief for the Time being, in Time of Danger shall think fit to direct a Watch to be kept in any Place or Places within this Colony, the Colonel, Lieuteuant-Colonel, Major or other commanding Officer in each refpective County where fuch Watch shall be appointed to be kept, to whom fuch Directions shall be fignified, shall iffue out his Orders to the feveral Captains under his Command, to appoint such and so many Men to appear with their Arms, at fuch Times and Places as fuch Colonel, or commanding Officer, fhall appoint; which Watch to: appointed, fhall be equally releived by Order of the commanding

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manding Officer of faid Company, and fo equally through all the Companies of the faid County. And every Person or Persons neglecting or refusing to appear himfelf, or to tend Penalty on Per-fons neglecting for neglecting to watch during the Time to watch when and at the Place appointed, shall forfeit the Sum of Ten appointed. Shillings for each Offence; and every Perfon that shall leave the faid Watch until he is relieved by fome other Perfon appointed to watch in his Room, shall forfeit Forty Shillings; which Forfeitures shall be recovered before any Justice of the Peace of the County where faid Offence or Offences is or are committed, with Cofts of Suit; one Half to the Informer who shall profecute the same to Effect, the other Half to be paid to the Captain for the Uses hereafter mentioned, PROVIDED ALWAYS, That no Perfon Time of conor Perfons shail be obliged to continue longer on the Watch tinuing on the than Twenty four Hours at one Time, any Thing in this Act to the contrary notwithstanding.

10. AND fuch Watch, upon the Approach of an Ene- watch to make my, or otherwife, shall make fuch Signals, and give fuch Signals, &c. Alarms, as he shall be directed by the Officer appointing him; and every Officer or Soldier, upon hearing fuch Alarms, and feeing fuch Signals, shall obey fuch Orders for the repeating the fame or calling together, or marching his Regiment, Troop, or Company, as he shall receive from his Officer, or Commanding Officer, in fuch Cafe.

AND BE IT FURTHER ENACTED IÌ. by the Authority aforefaid, That if any Person be ap- Penalty on repointed to be Serjeant, Corporal, or Drummer, and shall futing to terve refuie faid Office, or neglect or refuse to do any of the Corporate, &c. Duties required of them by this Act, he thall forfeit for each Offence the Sum of Twenty Shillings, to be recovered before any Juffice of the Peace within the County where faid Offence or Offences are committed, one Half to the Informer who shall profecute the fame to Effect, the other Half to be paid to the Captain for the Use hereafter mentioned. PROVIDED ALWAYS that none be appointed Serjeants, Corporals, or Drummers, but such as have or shall appear in Arms as aforetaid. PROVIDED ALSO, that no Perfon be fined but once for the Refufal of either of faid Offices.

AND BEIT FURTHER ENACTED Every Ferfon enlitted to be 12. by the Authority aforefaid, That every Perfon lifted as a always providforefaid, within this Colony, and who hath, or shall ap-ed with Arms, ΗÅ pear

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pear in Arms as aforefaid, shall always be provided with one good lufficient Musket or Fuzee, well fixed, a "Cartouch-Box or Powder-Horn, one Pound of Powder, twenty-four fizeable Bullets, three Flints, and a Sword or Bayonet in his Houfe or Place of Abode: And as often as any of the faid Perfons fhall be deficient in keeping the Arms and Stores aforefaid, he shall forfeit and pay to the Captain of the Company where fuch Offence is committed, the Sum of Four Penalty on De-Shillings for the Use hereafter appointed. And each respective Captain within this Colony, is hereby empowered and required to order and appoint their Serjeants to examine the fame once a Year.

13. AND BE IT FURTHER ENACTED Penalty on Non by the Authority aforefaid, That every Perfon fo lifted that shall not appear at the Times and Places aforefaid; to be taught the Use of their Arms, shall forfeit and pay the Sum of lour Shillings for each of the faid Days Absence to the Captain of the Company to which they belong, except in Cafes of Sickness or other reasonable Excuse, to be allowed by the Captain, or Commanding Officer for the Time being, of their respective Companies to which they belong.

14. A ND if any Person or Persons shall neglect or re-Forfeitures fuse to pay each of their respective Forfeitures aforesaid, how to be re- the faid Captain, or Commanding Officer, is hereby required and commanded, to iffue out his Warrant to one of his Serjeants or Corporals, to make Diffreis upon every fuch Defaulter's Goods and Chattels, fo neglecting or refufing to pay as aforesaid. PROVIDED such Distress-be made in a reasonable Manner, and but once a Year for all the Defaults committed that Year before the Time of fuch Diffrefs; and fhall expose the faid Goods to fale by publick Vendue; and after Sale thereof, pay the Forfeitures to the Captains, as aforefaid, and return the Overplus, if any be, to the Owner thereof, after deducting One Shilling for his Trouble for each Diffres, which he is hereby allowed PROVIDED ALWAYS, That no fuch to take. Diffress be made on the Arms and Ammunition the Persons lo lifted are obliged to provide themfelves with by this Act.

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15. AND BEIT ENACTED by the Authority aforefaid, That all the Fines and Forfeitures (except those aforefaid for purchasing Drums and Colours) shall be applied by the Captain, or Commanding Officer of each respective Companý

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pany, for providing the Arms and Ammunition required by this Act, for fuch Perfons to lifted that shall be adjudged not to be able to provide themfelves with the Arms and Ammunition aforefaid, in Manner hereafter mentioned. PRO-VIDED ALWAYS, that it shall and may be lawful for the faid Captains or Commanding Officers, to retain in their Hands live per Cent. out of the Money fo levied and applied.

16. AND BE IT FURTHER ENACTED by the Authority aforefaid, That the Captain, Lieutenant, Perfons unable and Enfign of each respective Company, or any two of Aims, exemptthem, fhall meet together at fuch. Time and Place as faid &c. Captain, or the Commanding Officer for the Time being, fhall appoint, within the Township or Diffrict wherein he is Captain or Commanding Officer, and then, and there, adjudge which of faid Perfons to lifted, are not able to provide themfelves with the Arms and Ammunition aforefaid. All which faid Perfons shall be, and are hereby exempted from the Fines and Forfeitures aforefaid, for not appearing at the Times and Places aforefaid, until fuch Time that they are provided for with Arms and Ammunition, or until fuch Time that the faid Captain, Lieutenant, and Enlign, or any two of them, shall judge them able to provide Arms for themfelves.

17. AND to prevent the faid Arms being fiezed by Arms &ce how an Enemy, or Persons disaffected to the Government, BE to be authitut-IT ENACTED by the Authority aforefaid, That the ed ac. in Arms and Ammunition aforefaid, that shall be purchased as aforefaid, shall be distributed by each Captain, or Commanding Officer of each respective Company, fo as there be lodged but two of fuch Muskets or Fuzees, and but one Pound of fuch Powder, and twenty-four Bullets, in one House, in the Cuffody or Care of some of the principal Freeholders within faid Captain's Diffrict or Division. AND upon Alarms or Muftering Days, the faid Arms shall be delivered to fuch Perfons to whom they were to be lent, as aforefaid, with fuch a Quantity of Ammunition as is required of others to bring into the Field; and as foon as the faid Alarm or Mustering Day is over, the Captain shall order the said Arms to be returned to the Persons that had them in Keeping; with the Ammunition aforefaid only allowing so much to be deducted as the faid Captain Mail permit to be espended.

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18. AND BE IT FURTHER ENACTED Parents & Maf- by the Authority aforefaid, That where young Men that ters, to pay the Fines of Sous or dwell with their Parents or Mafters, and lifted as aforefaid, shall neglect or refuse to do the Duties required of them by this Act, then, and in that Cafe, their Fines and Forfeitures shall and may be levied out of their Parents or Masters Estate, any Law or Custom to the contrary in any wife notwithstanding: UNLESS the Captain, Licutenant, and Enfign, or any two of them, as aforefaid, fhall adjudge the faid Parents or Mafters not to be able to furnish the Son or Apprentice with the Arms and Ammunition required by this Act; then, and in that Cafe, the faid young Men shall have such Arms and Ammunition lent them, as the Per-Ions aforefaid have, and be also exempted from the Fines and Penalties for not appearing at the Times and Places aforefaid, until provided as before directed.

un egimented excufed from Duty.

19. AND WHEREAS feveral Perfons have, or **v**oluntiers in hereafter may lift themfelves as Voluntiers in unregimented Companies not Companies, and under pretence thereof, may fay, that they are excused from doing the Duties required of them by this Act; which Practice, if admitted of, will much leffen the Number and Regulation of the Militia of this Colony, For Remedy whereof,

> BE IT ENACTED by the Authority aforefaid, That every Perfon or Perfons that already hath, or hereafter shall list him or themselves into faid unregimented Companies, shall be, and are hereby made Subject to the Commands of their proper Officers, and shall meet at the Times and Places appointed by this Act, to be taught the Use of their Arms, and provide themselves with such like Arms and Ammunition, as is required of others to provide, and do every other Matter, Duty, and Thing, required by this Act of others that ierve in Regiments, under the fame Pains and Penalties; any Law, Cuftom, or Ulage to the contrary, in any wife notwithftanding.

Foor Soldiers in Troops of Horie.

20. BE IT FURTHER ENACTED by may lift to ferve the Authority aforefaid, That if the Governor, or Commander in Chief for the Time being; shall think fit to grant Commissions for the Command of any Troops of Horse in this Colony, it shall and may be lawful for so many of the Perfons inlifted by the feveral Captains aforefaid, to lift themfelves to ferve in faid Troop, or Troops of Horfe, being able to provide themfelves with the Troopers Accoutrements

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trements hereafter mentioned. And when the Commanding Officers of faid Troop are ready, and shall exercise faid Troop, then, and not before, the fuid Perfons fo lifted in faid Troop, shall be, and are hereby exempted from their Service in the Foot Companies.

21. BEITFURTHERENACTED by the Authority aforefaid, I hat faid Troopers, being fo inlifted, Troopers under are hereby fabjected to the Commands of their proper Of- the Sec. as Foot ficers, and, upon Difubedience, shall be under the fame Fines and Penalties that the other Perfons ferving on Foot are: And also the faid Troopers shall be under the same Fines; Penalties, Forfeitures, and Payments, for their not appearing at fuch Times and Places aforefaid, as the Foot-Men are by Virtue of this Act.

22. AND BE IT FURTHER ENACTED by the Authority aforefaid, That every Perfon to inlifted Troovers have to ferve in a Troop, shall be provided with a good Horfe, to be provided a good Saddle and Bridle, Holfters and Cafe of Pittols, well fitted, Sword or Cutlafs, Cartouch Box, and three Charges of Powder and Bail, and shall constantly appear to armed, at the Time: and Places appointed for Mufter and Exercife; and shall keep at his Place of Abode, befides the Arms and Ammunition abovefaid, a well fixed Carbine, with Bolt, Swivel, and Sling, half a Pound of Powder, and Twelve fizeable Bullets, and bring the fame into the Field, when fpecially required, which the Captain, or Commanding Officer shall find one of his Serjeants to examine into once a Year.

23. AND BE IT ENACTED by the Authority aforefaid, That each, and every of faid Perfons fo lifted in a Penalties on De-Troop, that shall be deficient in Keeping the Arms and faulters. Stores aforefaid, at the Place of his Abode; shall forfeit and pay as follows, viz. For Want of a Carbine, Two Shillings; if not well fixed, One Shilling; for Want of a Bolt, Swivel, and Sling, One Shilling; for Want of Half a Pound of Powder, and Twelve fizeable Bullets, One Shilling. And every one of the faid Troopers, that shall appear at the Places before appointed without the Arms and Accoutrements required, as aforefaid, he shall forfeit and pay as follows, viz. for Want of a good Horfe, Two Shillings, for Want of a good Saddle and Bridle, One Shilling; for Want of a Cafe of Piftols, One Shilling; for Want of three Charges I A of

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of Powder, and three fizeable Bollets, One Shilling. All which Fines and Forfeitures shall be paid to the Captain, as aforefaid, to be applied to purchasing Armsand Ammunition as aforefaid, for the Ufe aforefaid, and to be levied and accounted for in Manner aforefaid.

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24. AND BEIT FURTHER ENACTED Captains, &cc. by the Authority aforefaid, That each Captain, or Command-the Fines they ing Officer of every Company in this Colony, shall account for all fuch Fines and Forfeitures to by him to be received, before any Juffice of the Peace, and the two Freeholders chosen in the faid Township or District wherein he is Captain or Commanding Officer, by Virtue of an Act, entitled, An Att for Raising of Money, for Building and Repairing of Gaols and Court-Houses, at fuch Time and Place as the faid Juffice of the Peace shall appoint. And if upon fuch Accounting it shall appear, that any Captain or Commanding Officer shall not have expended and laid out all fuch Fines and Forfeitures (except those before excepted, for Drums and Colours) in Purchafing Arms and Ammunition aforefaid; then if faid Sum shall appear to be Five Pounds, or under, it shall, and may be lawful, (in cafe of Refufal or Neglect of the faid Captain or Commanding Officer, to pay the fame to the faid Juffice and Freeholders) for the faid Juffice of the Peace, and he is hereby required and commanded, to iffue his Warrant to any Constable, commanding him to make Diftrefs upon the faid Captain's or Commanding Officers Goods and Chattels, and expose the same to Sale, by Publick Venduc; and out of the Money arifing by fuch Sale, he shall pay to the faid Justice of the Peace and faid Two Freeholders, to much Money as the faid Captain, or Commanding Officer, is found not to have laid out, returning the Overplus to the Owner, if any be, after deducting the lawful Fees, for the Warrant, Diffress, and Sale. AND if faid Sum exceed *Five Pounds*, then it fhall and may be lawful for the faid Juffice and Freeholders for the Time being, in their Names, to fue the faid Captain or Commanding Officer, in any Court where the fame is cognizable, by Action of Debt, to be recovered with Cofts of Suit, and applied by the faid Juffice and Freeholders, to the Purchasing the Arms and Ammunition aforefaid.

25. AND BE IT FURTHER ENACTED devalty on Re- by the Authority aforefaid, That if any Captain or Com-Sufal or Nemanding Officer, shall refuse or neglect to Account as aforefaid,

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faid, he shall forfeit Five Pounds for every fuch Neglect or Refufal, with full Cofts of Suit, to be recovered by Action of Debt, by any Perfon that will fue for the fame, before any Justice of the Peace; the one Half to fuch Perion or Persons that shall profecute the same to Effect, the other Half to be applied for Purchasing the Arms and Ammunition aforefaid.

26. AND BE IT FURTHER ENACTED by the Authority aforefaid, That no Innholder, or any o-ther Perfon or Perfons whatfoever, without Leave from fell ftrong Lithe Captain or Commanding Officer for the Time being, quor near the thall prefume to fell any ftrong Liquor, to any of the Per- tering. fons to lifted, in fuch Days or Times that they are obliged to appear in Arms, at the Place of Muftering or Training, or within a Mile thereof, until after they are difmiffed for that Day; and every Perfon or Perfons fo felling ftrong Liquor, contrary to the Directions of this Act, shall forfeit the Sum of Three Pounds, to be recovered by any Person Penalty. that will fue for the fame, before any Juffice of the Peace; the one Half to fuch Perfon as will profecute the fame to Effect, the other Half to be applied for Purchasing the Arms and Ammunition aforefaid.

27. AND BE IT FURTHER ENACTED by the Authority aforefaid, That no Summons, Warrant, No Writ, &c. Writ, or other Process (unless at the Suit of the King) shall to be forwed be ferved upon any Officer or Soldier on the Day or Days Soldier on the of fuch Training and appearing in Arms as aforefaid, but ing, &c. that all fuch Persons shall be free from Arrest, and have Liberty and Privilege of going and returning to their respective Places of Abode, without Let, Suit, or Hindrance on those Days.

28. AND BE IT FURTHER ENACTED by the Authority aforefaid, That in Cafe there shall be Ferry-men to Occasion for the faid Officers and Soldiers to pass or repass Ferriage of any River, or Place where a Ferry or Ferrries are kept, Mullering Days ingoing to, or returning from the Place of Training or Appearing in Arms, as aforefaid, the Ferry-men, Owners, or Keepers of all fuch Ferries, are to take and receive of all tuch Officers and Soldiers only Half Ferriage, for fuch carrying over and bringing back, all fuch Officers, Soldiers, and their Horses. A N D in Case any Ferry-man, Owner or Keeper of fuch Ferry or Ferries, shall neglect to attend, or refuse carrying or bringing back all such Officers or Soldiers.

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Penalty on Re-Soldiers, or their Horfes, as aforefaid, the faid Ferry-man, fufal or Ne-Owner, or Keeper of fuch Ferry or Ferries, fhall forfeit and pay the Sum of *Three Pounds* Proclamation Money, to be recovered by the Captain or Commanding Officer of fuch Company, in any Court in this Colony where the fame is cognizable, and when recovered, to be applied to the Purchafing of Arms and Ammunition, as aforefaid.

Limitation of this Act.

29. AND BEIT FURTHER ENACTED by the Authority aforefaid, That this Act shall continue and be in Force for one Year after the Publication hereof, and from thence, to the End of the next Session of General Affembly, and no longer.

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N. B. This Act is continued by foveral Acts of Affembly to this Time.

BACKGROUNDS OF SELECTIVE SERVICE

Military Obligation: THE AMERICAN TRADITION

A Compilation of the Enactments of Compulsion From the Earliest Settlements of the Original Thirteen Colonies in 1607 Through the Articles of Confederation 1789

> SPECIAL MONOGRAPH NO. 1 VOLUME II PART 3. DELAWARE ENACTMENTS

THE SELECTIVE SERVICE SYSTEM

1947

EXHIBIT 3 (McLean)

CLEARANCE COMMITTEE

BRIG. GEN. CARLTON S. DARGUSCH, Chairman

COL. VICTOR J. O'KELLIHER	LT. COL. ARTHUR BOONE
COL. LEWIS F. KOSCH	LT. COL. IRVING HART
COL. WILLIAM HART	MR. KENNETH H. McGILL

PREPARED AND COMPILED BY Lt. Col. Arthur Vollmer

GOVERNMENT PRINTING OFFICE

WASHINGTON : 1947

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AN ACT for establishing a Militia in this Government

HEREAS the Subjects of the french King and their Savage Indian Allies have Contrary to the faith of the Most Solemn Treaties encroached upon and invaded his Majesty's Dominions on this Continent and have in the Most Cruel and Barbarous Manner Attacked and Murdered Great Numbers of his Majesty's Liege Subjects Inhabiting near the Fortiers of the Neighbouring Provinces and laid Waste a great Extent of Country. AND WHEREAS the Representatives of the free men of the Counties of Newcastle, Kent and Sussex on Delaware being Moved by a sense of Duty to his Most Excellent Majesty and being Concerned for the safety and security of their Constituents think themselves indispensably obliged-in this time of Danger to put-this Government into a Posture of Defence and make due Provision by Law that the Inhabitants may be trained and Exercised in the Art of War whereby they may not only be enabled to Assert the Just Rights and Vindicate the Honour of his Majestys Crown but also to defend themselves and their lives and Properties and Preserve the Many Invaluable Rights and Privileges that they enjoy under their Present Constitution and Government. They therefore pray that it may be enacted. And BE IT ENACTED by the Honourable ROBERT HUNTER MORRIS Esquire with his Majestys Royal Approbation Lieutenant Governor and Commander in Chief of the Counties of Newcastle kent and Sussex on Delaware and Province of Pennsylvania under the Honourable THOMAS PENN and RICHARD PENN Esquires true and Absolute Proprietaries of the Counties and Province Aforesaid by and with the Advice and Consent of the Representatives of the Freemen of the Said Counties in General Assembly met and by the Authority of the Same, That every Male Person residing in this Government above Seventeen and under fifty years of Age (Except bought Servants or Servants Adjudged to serve his Creditors) shall on or before the first day of May next inlist himself or be inlisted by his Parent or Master with the Captain or Officer that shall be appointed and Commissionated by the Governor and Commander in Chief for the time being in every Hundred or District within this Government where such Person shall live or sojourn under the Penalty of five shillings and the further Penalty of Ten Shillings for every three Months he shall remain not Inlisted in manner aforesaid and in Case any dispute Shall Arise about the age of any Person the same shall be determined by the Commanding Officer before whom such dispute shall happen by the oath or Affirmation of the Person whose age is in Question or the oath or Affirmation of his Parent or some other Credible Witness, which oath or Affirmation the said Officer is hereby Impowered to Administer and to determine Accordingly.

631 Del.—Assembly, Pub. Archives Comm., Dover, Del.; Act 1756, typescript, pp. 1-6.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That every such Male Person (except such as in the Judgment of the Captain or other Commanding Officer of the Hundred or district in which he resides be Adjudged incapable by reason of his Poverty shall on or before the fifteenth day of May next provide himself with one well fixed Musket or fuzee with a Worm and priming wire one Cartouch Box with Nine Charges of Gun powder and Ball suitable therein and three good flints to be Approved of by the Commanding Officer of the respective Company to which he belongs, and shall keep such Arms and Ammunition by him, in good Order and fit for Service at all times during the Continuance of this Act under the Penalty of Twenty Shillings for want of a well fixed Musket or fuzee with a worm and priming wire and Two Shillings and Six Pence for the want of every Cartouch Box and two Shillings for the want of Nine Charges of Gun Powder and Ball and three flints or any of them.

AND BE IT FURTHER ENACTED by the Authority Aforesaid, That every such male person shall and are hereby Required to attend in their Proper Persons with the Arms, Amunition and Accoutrements aforesaid in Good Order and fit for Service at the respective Places of Meeting in each Hundred that shall be for that purpose Appointed by the Commanding Officer under whom they are inlisted Six times in every year That is to say on the last friday in the Months of May, July, September, October, March and April in the County of Newcastle and the Last Saturday in each of the said Months in the Counties of Kent and Sussex each day at the Hour of Twelve in Order to be taught and instructed in the Military Exercise and shall Continue under arms any time not exceeding Four Hours and Shall yeild due Obedience unto the Orders and Commands of their respective Officers, and every Person refuseing or neglecting to Appear on the Days and Times Aforesaid Armed in Manner aforesaid (unless he renders such a reasonable Excuse to the Said Commanding Officer as he shall allow and Approve of) or shall refuse or Neglect to Yield Obedience to the Orders and Commands of his Said Officers shall for every such default forfeit and Pay the Sum of five Shillings.

AND BE IT FURTHER ENACTED by the Authority Aforesaid That the Colonel of each respective Regiment within this Government or in Case of his Death or Absence the next Commanding Officer shall and May (if Occasion requires) once in every year direct the whole Regiment under his Command to meet at such Place as he shall appoint as Near the Center of each County as Conveniently may be in Order for a General Review of the Same and every Male Person in the said County under Fifty and above Seventeen Years of Age are hereby strictly required and enjoined to meet at the Place so Appointed with the Arms, Accoutrements and Ammunition above Mentioned in Good Order and then and there shall yield due obedience to the Orders of Such Colonel or Commanding Officer, and every Person refuseing or neglecting to Attend in Manner aforesaid (unless a reasonable Excuse shall be made to and allow'd of by such Officer) or shall refuse or neglect to yield Obedience to the Commands of such Officer Shall for every Such Default pay the sum of Seven Shillings and Six pence.

AND BE IT FURTHER ENACTED by the Authority Aforesaid that once in every year the Captains or in their Absence the next Commanding Officer of every Respective Company shall deliver to the Colonel or in his Absence to the next Commanding Officer of the Regiment for each County a muster Roll under his hand Containing the Names of all the Persons belonging to and enlisted in his Company under the Penalty of Three Pounds for Such Neglect And the said

Colonel or next Commanding Officer shall within Two Months next after the receipt of Such Roll send a Copy thereof under his hand to the Governor or Commander in Chief of this Government for the time being under the Penalty of Five Pounds.

AND BE IT FURTHER ENACTED by the Authority aforesaid That the Commander in Chief of this Government for the time being may and shall make and Establish Such Articles and Rules for the Regulating and Better Governing of the Militia of this Government while under Arms or in actual Service as he shall judge meet and expedient. PROVIDED ALWAYS that no Punishment to be inflicted by the said Articles or rules for the Breach thereof shall be otherwise than by fine not Exceeding Five Pounds or Imprisonment not Exceeding ten days and all Captains or other Commanding Officers are hereby required Publickly to read Such Rules and Articles so Made at the Head of his Company when and as often as they shall Meet to be Exercised in the Manner Above directed and every Persons inlisted shall yield due Obedience to and shall strictly Observe the Rules laid down in such articles under the Pain of incurring the Penalty's therein prescribed for the Breach thereof.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That the fireing of four Muskets successively and distinctly and the Beating of a Drum or the fireing of Two Great Guns at four Minutes distance of Time and the Beating of a Drum shall be the Signals of and be deemed and taken to be an Alarm and the Commanding Officer of each Company who shall first have notice of an Alarm shall forthwith raise the Company under his Command and also send Immediate Notice and Intelligence thereof to the Commanding Officer of the next Hundred or District who shall in like Manner cause notice to be given to the next Commanding Officer and so on 'till general notice be given throughout the whole County and the Captains or other Commanding Officer of each respective Company shall march with his Company to such Place of Rendezvous as Shall be Appointed by the Colonel of his Regiment shall and are hereby impowered on such Occasions to impress Horses and Carriages as the service may require under the Penalty of Thirty Pounds for each and every such default or neglect and being degraded and thereafter rendered incapable of holding or exerciesing any Office Civil or Military within this Government; and every Lieutenant or Ensign upon such alarm neglecting or refuseing to join his respective Company and to do the duties of his Office shall forfeit and pay, the Lieutenant the sum of Twenty Pounds, and the Ensign the sum of ten Pounds and be also degraded and thereafter rendered incapable of Holding or exercising any Office Civil or Military within this Government.

AND BE IT FURTHER ENACTED by the Authority aforesaid that upon every such Alarm every person within this Government above the Age of Seventeen years and under the age of fifty and every Officer under the degree of a Captain shall and is hereby required Immediately to repair with the Arms and Accoutrements Aforesaid to the habitation of the Captain of the Hundred in which he resides or the Company in which he is inlisted unless some other place shall be appointed for that Purpose thereto Receive such Orders and March to such Place as he shall Appoint, and shall obey all such Commands as the said Captain or next Commanding Officer shall give and shall not depart from his Colours without leave of the said Officer first had and Obtained under the Penalty of five Pounds for each and every such Default and Offience.

AND BE IT FURTHER ENACTED by the authority aforesaid that if any field Officer of the respective Regiments in this Government in the time of an

alarm Invasion or Insurrection shall Neglect or refuse to do the duty of his Office such field Officer so Offending shall forfeit and pay for such offence. that is to say, a Colonel the sum of one Hundred Pounds, a Lieutenant Colonel the sum of Eighty Pounds and a Major the sum of Sixty Pounds and moreover shall be Cashiered and ever after rendered incapable of holding or exercising any Office Civil or Military within this Government and if any Person or persons except an Officer or some person by him impowered and directed shall Presume to make the signals of an alarm in Manner aforesaid within this Government he or they shall for such Offence forfeit and pay the sum of ten Pounds and for the Preventing any false alarms being made.

BE IT ENACTED by the authority aforesaid that from and after the first day of May next no person or persons shall presume to fire any small arms or guns from two Houres After Sun set until one Hour before sun rise unless in case of Invasion Desent or Insurrection or other Lawful Occasion under the Penalty of Twenty Shillings for every such Offence and that no Captain, Master or Commander of any Ship or other Vesel within any Port or harbour in this Government shall fire or suffer to be fired any Great Guns or small Arms on Board such Ship or other Vesel Within the times aforesaid under the like Penalty of Twenty Shillings.

AND BE IT FURTHER ENACTED by the authority aforesaid that if any person or Persons either Officers or Soldiers shall be wounded or disabled upon an Invasion or in any Military Service under this Act he or they shall be taken Care of Supported and Maintained according to his Rank and Dignity at the Publick Charge of the County to which he or they Belong during the time of his or their Disability.

AND BE IT FURTHER ENACTED by the Authority aforesaid that no person or Persons by this Act directed and required to meet and Muster at the Days and times aforesaid shall be liable to be arrested or taken by any sheriff, Constable or other Officer in any Civil Action.,-whatsoever on the day of such meeting or in any reasonable time either in going to Continuing at or returning from such place or places of Meeting but every such arrest shall be ipso facto Void and the officer making the same shall be liable to an Action of Trespass for false Imprisonment at the Suit of the Party so Arrested Contrary to the Directions of this Act and the Said Party shall be forthwith set at liberty and discharged from the Custody of such Officer by order of any two Justices of the Peace of the County where such Arrest is made and the arms, Ammunition and Accoutrements aforesaid of every person required by this Act to provide and keep the same for Military Service shall be and are hereby declared to be exempt and priviliged from all distress, Executions, Extents, Attachments or other Process whatsoever and any Civil Officer destraining siezing, Attaching, or taking the same in Execution shall forfeit and pay the sum of Twenty Shillings to the Partie Grieved and any Sale thereof by him shall be Null and Void.

AND BE IT FURTHER ENACTED by the authority Aforesaid that no Captain or other Officer shall Appoint any place of Meeting for his Company (town Companys only Excepted) within the Distance of half a mile of any Inn or Tavern under the Penalty of Forty Shillings for every such Offence and that no person or persons shall presume to keep a Booth or tent or expose to sale at or Bring on any Pretence whatsoever any strong Liquor to such place of Meeting under the Penalty or Forty shillings for every such offence.

AND BE IT FURTHER ENACTED by the Authority aforesaid that the Several Treasurers of the respective Counties in this Government shall at the

Public Expence provide for each Company in the said Counties not already furnished or provided therewith one good Drum a pair of Colours and two Halberts, which expence and Cost is hereby ordered to be raised and Levy'd by the Levy Courts of the Several Counties at the usual time of Laying the Levy's and raised in the manner as other County rates and Levys are.

AND BE IT ENACTED by the Authority aforesaid that each Captain shall nominate and appoint a proper and Capable person out of his Company to be his Drummer and in Consideration of such Service he shall be and is hereby declared to be exempted from providing himself with the arms and accoutrements required of every other person by this Act.

AND BE IT FURTHER ENACTED by the Authority aforesaid That all Supream Judges, all Justices of the Peace, Prothonitarys, Registers, Lawyers, Physicians, Surgeons all Persons who have Acted as Commissioned Officers under any former Militia Law of this Government, one Miller to every Grist Mill and every keeper of a Publick Goal within this Government Shall be and are hereby declared to be free and exempt from actual Military duty or service whatsoever except on a General alarm or in the time of Actual Invasion at which times they shall appear and do duty in the same manner as other persons are Directed and required by this Act under the Like Penalty's imposed herein on other Offenders.

PROVIDED ALWAYS that nothing herein Contained shall be deemed or Construed to exempt such persons from Providing and keeping at all times by them fit for service such Arms ammunition and Accoutrements as others are required to do under the Penalty for forfeiting and paying for every such offence the sums imposed on other Delinquents and all ministers of the Gospel as well Quakers as others are hereby exempted freed and discharged from all and every the Duties and services required of others by this Act.

AND BE IT FURTHER ENACTED by the authority Aforesaid That the several fines and forfeitures mentioned in this Act due from any Person under the Degree of a Commissioned Officer that do not exceed the Sum of Twenty Shillings shall be paid by the Person or persons offending to the Captain of the Company of the Hundred or District in which such person lives within ten days after the Commission of such offence and shall be applied by the said Captain towards the Purchasing Arms Ammunition and accoutrements for such persons in the said Company as shall not (in the Judgment of the said Captain) be of ability to purchase the same and in Case of nonpayment of the said fines and forfeitures within the time aforesaid the same shall be recovered by Distress and sale of the offenders Goods and Chattles by Warrant under the hand and Seal of any one Justice of the Peace of the County wherein such fine or forfieture arises and in Case no goods or Chattles can be found then by Imprisonment of the Body of the said Offender untill payment made of the said fine and the said Captain shall settle an Account once in every year with the Colonel of the Regiment to which he belongs shewing what fines he hath received and how he hath disposed of the Same and all such fines and forfietures as exceeding the sum of Twenty Shillings that shall not be paid to the Captain within the time of aforesaid shall be recovered by Warrant under the hands and seals of any three Justices of the Peace of the County in which the offence is Comitted and be disposed of in the Manner above directed and all fines by this Act imposed on any Commissioned Officer under the degree of a Colonel for a Breach or neglect of his duty shall be paid within the time above mentioned to Colonel of the Regiment to which such Officer doth belong to be recovered

by the said Colonel in any Court of Record within this Government by Action of Debt, Bill plaint or Information wherein no Essoin, Protection or wager of Law shall be allow'd nor any more than one Imparlance and shall be applied by the said Colonel to the Purchasing of Arms, Ammunition and Accoutrements for such Company or Companies as may stand most in need of the Same and from the time of such Conviction Such Officer shall be and is hereby declared to be Incapable thence forth from holding, enjoying or exercising any office Civil or Military within this Government and each respective Colonel shall annually account with the Assembly of this Government for all fines by him recovered and applied in Manner Aforesaid and all fines by this Act Imposed on a Colonel for a Breach or Neglect of his Duty to be paid by him within the time aforesaid to the County Treasurer for the time being of the County in which he resides to be recovered in the manner and form last above Mentioned and applied by the Said Treasurer to the Purchasing of arms Ammunition and Accoutrements for such Company or Companys as the Lieutenant Colonel and Major of the said Regiment shall direct and appoint and the said Treasurer shall annually account with the Assembly of this Government for such fines so recovered and Applied.

AND BE IT FURTHER ENACTED by the Authority aforesaid that if any Justice or Justices of the Peace within this Government shall refuse or Neglect to issue Warrants in Manner aforesaid on Application to him or them for that [use] made by the Proper Officer or if any Colonel or Captain or other Commanding Officer shall thro' favour [or] partiality neglect or refuse to recover and receive the fines and forfietures by this Act imposed on persons Offending against the same or any part thereof and shall be thereof Convicted by the Testimony of two Credible Witnesses or the Confession of the Partie Offending before the Justices of the Court of Quarter Sessions for the County where such offence shall be Committed who are hereby Impowered and required in a summary way to hear and Determine the same he or they so Offending shall forfiet and pay the sum of four pounds to be Levyed with Costs by Process Issuing out of the said Court and such forfieture shall be applied to the use of the Poor of the County respectively.

AND BE IT FURTHER ENACTED by the authority Aforesaid that if any suit or Action shall be brought against an Officer Civil or Military for doing the duty enjoined or required of him or them by this act he or they may plead the General issue and give this Act in Evidence an if the Plaintiff in such suit shall discontinue his Action be non suited or a Verdict shall Pass against him or Judgment be given against him on Demurrer, he shall pay to the Defendant Treble Costs.

——— ENACTED by the Authority aforesaid that this AND BE IT -Act shall continue and be in force for the Term of one Year and from thence to the end of the next Sessions of Assembly and No longer.

Sign'd by Order of the House Newcastle March 24th 1756 I assent to this Bill enacting the same and order it to be enrolled

ROB[‡] H. MORRIS I DO hereby Certifie that the above and foregoing Seven Sheets is a true Copy Compared with the Original at Newcastle WITNESS my hand and Seal this Thirtieth day of March Annoq. Domini 1756.

733966 O - 47 - 2

RICH[¢]. M; WILLIAM.

BACKGROUNDS OF SELECTIVE SERVICE

Military Obligation: THE AMERICAN TRADITION

A Compilation of the Enactments of Compulsion From the Earliest Settlements of the Original Thirteen Colonies in 1607 Through the Articles of Confederation 1789

> SPECIAL MONOGRAPH NO. 1 VOLUME II PART 5. MARYLAND ENACTMENTS

THE SELECTIVE SERVICE SYSTEM 1947

EXHIBIT 4 (McLean)

CLEARANCE COMMITTEE

BRIG. GEN. CARLTON S. DARGUSCH, Chairman

COL. VICTOR J. O'KELLIHER	LT. COL. ARTHUR BOONE
COL. LEWIS F. KOSCH	LT. COL. IRVING HART
COL. WILLIAM HART	MR. KENNETH H. McGILL

PREPARED AND COMPILED BY

Lt. Col. Arthur Vollmer

GOVERNMENT PRINTING OFFICE

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Assembly Proceedings, Feb. 23-May 22, 1756. 450

L.H.J. An Act for regulating the Militia of the Province of Maryland.

Liber No. 48 May 22

Defence and Security of this Province that the Militia thereof be p. 208 duly regulated and well Armed as well to repell the hostile Attempt of foreign Invaders as to quell and Suppress any intestine Commotions Rebellions or Insurrections which may happen.

Whereas in this Time of Immiment Danger it is requisite for the

Be it therefore Enacted by the Right honourable the Lord Proprietary by and with the Advice and Consent of his Lordships Governor and the Upper and Lower Houses of Assembly and the Authority of the Same that every Male Inhabitant of this Province (Papists, the Persons commonly called Neutralls, Servants, and Slaves excepted) who shall be from the Age of Sixteen Years to the Age of Sixty Years and able to bear Arms at the Expiration of Ten days after the Publication of this Act in the County wherein he shall reside shall inlist with the Captain or next Commanding Officer of the Troop of Horse or Company of Foot in the District or Place where such Person shall reside by writing his name or making his Mark (as he shall be able) in a Roll to be Entituled and kept for that Purpose within Ten Days from and after the Publication of this Act as aforesaid under the Penalty of forty Shillings Current Money and the Same Penalty for every Thirty days Neglect or Omission thereafter and all Captains within this Province are hereby directed and commanded to take due Care to Inlist accordingly all such Persons as aforesaid and in Case of dispute whether any Person ought to inlist in respect of his Age the Same Shall be determined by the Officer before whom Such Dispute Shall happen by the Oath of the Person whose Age shall be in Question or the Oath or Affirmation (if a Quaker) of his Parent or some other credible Witness which Oath or Affirmation the Said Officer is hereby authorized to Administer.

And Be it further Enacted by the Authority aforesaid that all and every Male Person and Persons (except as above excepted) who shall attain his or their Age of Sixteen Years or come into and Settle in this Province after the Expiration of the aforesaid Ten Days from and after the Publication of this Act and be of the Age aforesaid Shall within Ten days after his or their attaining their Said of Sixteen Years or Twenty Days after his or their Arrival within this Province inlist in the manner aforesaid under the Penalty of Forty Shilling Current Money and the Same Penalty for every Thirty days Neglect or Omission hereafter so to inlist as aforesaid.

And be it Enacted by the Authority aforesaid that the Colonels or Commanding Officers of all Regiments Troops and Company's shall in Ten days after the Publication of this Act in their respective Counties and once at least in every Two Months thereafter issue

367. Md.—General Assembly (Lower House), Annapolis; Arch . . . Vol. 52, Pleasants, 1935; Act, May 22, 1756, pp. 450-474.

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their Warrants to their inferiour Officers directing them to make L.H.J. diligent Inquiry in their respective Districts whether all Persons May 22 have inlisted according to the Directions of this Act and to return the Names of all Defaulters in that behalf to the end that they may be punished according to this Act and the Colonel or Commanding Officer Neglecting his Duty herein shall forfeit and pay the Sum of Twenty Pounds Current Money for every Neglect and the inferiour Officer charged with the Execution of such Warrant for every Neglect of his Duty herein shall forfeit and pay the Sum of five Pounds Current Money And be it Enacted by the Authority aforesaid that all and every Person and Persons to be inlisted according to the Directions of this Act Shall take the following Oath to wit "I do swear that I will be faithful and bear true Allegiance to his Majesty King George the Second and him I will defend to the utmost of my Power against all Treasons traiterous Conspiracies and Attempts whatsoever and I will do my best Endeavour to disclose and make known to the Governor or Commander in Chief for the Time being of the Province of Maryland whilst I shall reside n. 200 in the Said Province all Treasons and traiterous Conspiracies which I shall know to be against his Said Majesty or his Successors and I do further swear that I will to the utmost of my Power defend Support and Maintain his said Majesty's Dominion in and over the Said Province and also defend Support and maintain the Peace of the said Province against all Invasions Rebellions and Insurrections whatsoever and all these things I do plainly and Sincerely Swear according to these express words by me Spoken and according to the plain and common Sense and understanding of the Same words without any Equivocation mental Evasion or Secret Reservation whatsoever so help me God" And shall also repeat and Subscribe the Test before a Magistrate of his County which Said Oath any Magistrate who shall be required by the Captain or Commanding Officer of any Troop or Company) is hereby Obliged to Administer to every Person who shall inlist as aforesaid under the Penalty of One hundred Pounds Current Money in Case of neglect so to do And if any Person inlisted as aforesaid being required to take the Oath aforesaid and repeat and Subscribe the Test aforesaid shall refuse or wilfully neglect to do the Same then and in Such Case the Magistrate aforesaid is required to Committ Such Person so neglecting or refusing to the County Goal by his Warrant to be directed to the Sheriff of that County and the said Sheriff is hereby required and directed to receive and take into his Custody and Strictly to confine Such Person so as a foresaid To him committed untill Such Person Shall take the Oath aforesaid and repeat and Subscribe the Test aforesaid and pay his Fees or pay the Sum of One hundred Pounds Current Money to Such Sheriff together with his Fees and if any Person who shall be so committed and discharged out of

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L. H. J. Liber No. 48 May 22

Custody upon Payment of the aforesaid Sum of One hundred Pounds Current Money and Fees aforesaid Shall Presume to have or keep in his Possession or in his House or upon his Plantation or elsewhere any Fire-Arms or Ammunition Such Person Shall forfeit and pay the further Sum of One hundred pounds Current Money

And be it Enacted by the authority aforesaid that in Ten days after the Publication of this Act the Colonel or Commanding Officer of every Regiment Troop or Company in the Militia of this Province shall issue his Warrant to his inferiour Officers directing them to make deligent Search and Enquiry in their respective District what Arms and Ammunition shall be therein and return what Number of Arms and what Quantitiy of Ammunition they Shall on such Search and Enquiry find or discover and the Condition and kind of such Arms and Ammunition and who shall be possessed thereof distinctly in Writing under the Penalty of Twenty Pounds Current Money upon the Colonel or Commanding Officer aforesaid neglecting his duty in this Behalf and the Penalty of Five Pounds Current Money on the Inferiour Officer charged with the Execution of Such Warrant who shall neglect within five days after receipt of such Warrant to comply with his Duty herein and all and every Person and Persons shall on Demand produce his or their Arms and Ammunition to the Said Officers charged with the Execution of Such Warrants under the Penalty of Five Pounds Current Money for his or their every wilfull neglect or refusal so to do And Whereas on many Occasions Arms Ammunition and military Accoutrements of different Kinds have been delivered out of the public Magazines of this Province and are now dispersed among the Inhabitants and have been Sold or Sent from one to another and it is represented that the Locks have been taken of from many of the Said Arms and put to private Use therefore for discovering the Said Arms Ammunition and Military Accoutrements and Locks and rendering of Service towards Arming the Militia of this Province in this Time of common Danger Be it Enacted by the Authority aforesaid p. 300 that the Captain of every Troop or Company of Militia shall within Ten Days after the Publication of this Act issue his Warrant to his Several Corporals to make diligent Inquiry within their Limits for all Arms military Accoutrements and Locks belonging to the Public and the Said Corporals are hereby required as soon as may be after receit of such Warrant to repair to the Habitation of every Housekeeper within their respective Limits and demand of him Such Arms Ammunition Military Accoutrements and Locks as he hath in his Possession belonging to the Public and immediately on Such Demand Such Person shall deliver the Same to the Said Corporals And the Said Corporals shall give Receits for all Such Arms Am-

munition military Accoutrements and Locks as Shall be delivered

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to them and Shall bring them from Time to Time to the next Muster L. H. J. Liber No. 48 after the Receit thereof and deliver them to the Commanding Officer who shall be there present, who shall give the Said Corporal a a Receit for the Same and Shall forthwith deliver them to the Colonel or Commanding Officer of the County, who shall give the Said Officer a proper Receit for the Same and Such and so much of the Said Arms Ammunition and military Accoutrements as are fit for Service Shall by the Said Colonel or Commanding Officer of the County be delivered to Such Persons of the Militia as are by this Act deemed unable to provide the Same. And Such Arms and Military Accoutrements so delivered to him as Shall be unfit for Use the Said Colonel or Commanding Officer of the County Shall have mended and made fit for Use as soon as Possible and delivered out as aforesaid and his reasonable Charge for the Same shall be allowed in next County Levy.

And be it further Enacted by the Authority aforesaid that every Person of whom any Arms Ammunition military Accoutrements or Locks belonging to the Publick Shall be demanded as aforesaid refusing to deliver the Same as before directed immediately on Such Demand Shall forfeit and pay treble the Value of Such Arms Ammunition military Accoutrements and Locks with Costs to be recovered in a Summary Way before any Magistrate of the County wherein Such Person Shall reside And in Case any Justice of the Peace Shall by any means be informed or Suspect that any Person hath in his or her Possession any arms Ammunition military Accoutrements or Locks belonging to the Publick after such demand made by the Corporal as aforesaid he shall issue his Warrant immediately to Such Corporal or his Successor to Seize and take Such Arms Ammunition military Accoutrements and Locks and bring them together with Such Person before him and in Case it Shall appear that the Same do belong to the Publick the Said Person Shall forfeit and pay Treble the Value thereof and moreover the Said Justice shall order the Said Corporal to keep Safe deliver them up as before directed and Shall give Judgment against Such person to pay Such Corporal two Shillings and Six pence Current Money And if any Dispute Shall arise at any Time whether any Arms Ammunition military Accoutrements or Locks do belong to the Publick or not the Onus probandi shall lie on the Person in whose Possession the Same Shall be

And be it further Enacted by the Authority aforesaid that every Colonel or Commanding Officer of the County and every other Officer above the Degree of a Captain who shall neglect his Duty by this Branch of this Act shall forfeit and pay the Sum of Twenty Pounds Current Money for every Such Neglect every Captain or Commission Officer under the Degree of a Captain the Sum of Five p. 301 Pounds and every Corporal the Sum of two Pounds ten Shillings,

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And be it further Enacted that all Arms Gunpowder and Ammunition of what kind soever any Papist or reputed Papist within this Province hath or shall have in his House or Houses or elsewhere shall be taken from Such Papist or reputed Papist by Warrant under the hand of one Justice of the Peace for the County wherein such Papist or reputed Papist shall be Resident and that the said Arms and Ammunition so taken Shall be kept in Such Place as the Said Justice shall appoint.

And be it further Enacted that if any Such Papist or reputed Papist having or which Shall have any Armes Gunpowder and Ammunition or any of them shall refuse to declare or manifest the Same to the Said Justice of the Peace or to any other Person Authorized by the Warrant of the Said Justice to take and Seize the same then every Such Person so Offending shall forfeit and lose the Said Armour Gunpowder and Ammunition and Shall also be imprisoned by Warrant of or from the Said Justice for the Space of three Months without Bail or Mainprize.

And be it further Enacted by the Authority aforesaid that the Captain or Commanding Officer of every Troop or Company shall deliver to the Colonel or Commanding Officer of his County in Twenty days after the Publication of this Act a true and compleat Roll under his hand containing the Names of all the Persons belonging to and inlisted as aforesaid in his Troop or Company and their respective Ages distinguishing therein Such as shall be provided with Arms from such as Shall not under the Penalty of Ten Pounds in Case of Neglect or Omission thereof And the Said Colonel or Commanding Officer of the County Shall forthwith after the Receipt of Such Roll deliver or Send the Same (keeping a Copy thereof) to the Governor or Commander in Chief for the Time being under the Penalty of Twenty Pounds Current Money in Case of neglect or Omission thereof

And be it Enacted by the Authority aforesaid That the Captain or Commanding Officer of every Troop or Company shall besides the general Roll herein before mentioned make a particular Roll containing the Names of all Persons inlisted as aforesaid in the Troop or Company who Shall be from the Age of Eighteen to the Age of Thirty five Years and in Such Roll insert the Names of Such Persons in Such Order as shall be determined by Ballot or lott for that Purpose to be taken or drawn by the Said Persons in Twenty Days after the Publication of this Act and forthwith thereafter return a true Copy of such Roll to the Clerk of the County wherein he shall reside to be recorded by such Clerk who is hereby directed and required to record the Same without Fee or Reward under the Penalty of Twenty Pounds Current Money on the Captain or Commanding Officer aforesaid or Clerk of a County who shall neglect

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or omit to do the Same. Provided always that in Case any of the L.H.J. Persons aforesaid of the Militia from the Age of Eighteen to the May 22 Age of thirty five Years Shall on covenient Notice for that Purpose given either by a Personal Service of Such Notice or leaving the Same in Writing at his usual Place of Habitation refuse or neglect to take or draw Such Ballott or Lott as aforesaid then and in Such Case the Names of Such persons so refusing or Neglecting shall be inserted in such Roll before the name of Every Person who shall take or draw Such Ballott or Lott as aforesaid in Such Manner and order as the Said Captain or Commanding Officer shall think Proper And be it Enacted by the Authority aforesaid that after the Colonels or Commanding Officers aforesaid shall have received any Arms belonging to the Publick they shall distribute the same to and among Such Persons under their Command as Shall need or want the Same every Such Person giving a Receipt for such Arms p. 302 and Paying or Securing to be paid in Nine Months after the Delivery of Such Arms the first Cost thereof to the Said Colonels or Commanding Officers unless Such Person will Swear that his whole Estate real and Personal is not of the Value of forty Pounds Sterling in which Case a Receipt only shall be taken from such Person And the Colonels or Commanding Officers aforesaid are hereby required and directed to take all the Receipts aforesaid in a Book by them for that Purpose to be kept to the End that it always may appear who have been provided with Arms and how the Said Colonels and Commanding Officers have distributed the Arms received by them for the Purpose aforesaid

And be Enacted by the authority aforesaid that after the Decease of Such Person to whom Arms Shall be delivered on his Receipt only as aforesaid or Incapacity from Age Infirmity or otherwise to Serve in the Militia the Person into whose Possession the Arms of Such Person as aforesaid Shall come or he Shall deliver the Said Arms respectively to the Commanding Officer of Such deceased or incapapacitated Person under the Penalty of Five pounds Current Money on Failure thereof for the Space of Twenty days after the Incapacity or decease of Such Person.

And be it Enacted by the Authority aforesaid that every Colonel or Commanding Officer to whom Arms shall be delivered as aforesaid shall again deliver the Same to Such Person or Persons under his command as may want them and have not an Estate as aforesaid of the Value of forty pounds Sterling and shall once every Three Months at least transmit an Account of the Same to the Governor or Commander in Cheif for the Time being distinguishing from whom and at what Time he received the Same and to whom by him delivered again and the Colonel or Commanding Officer for Default of his Duty by this Clause required Shall forfeit and pay

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prieter thereof.

L.H.J. the Full Value of Such Arms and also the further Sum of Twenty Pounds Current Money And be it Enacted by the Authority aforesaid That no Arms whatsoever which shall be used by any Officer or private person of the Militia as the Proper Arms of Such Officer or private Person Shall be liable to the Satisfaction of any Debt whatsoever or be Seized or taken by or upon any manner of Distress writ of Execution or any Process whatsoever (except that of Attachment upon the Actual running away or absconding of Such Officer or private Person who shall find his Arms at his own proper Cost and Expence) and every Distress Seisure Execution or Process (except as aforesaid) made or Served upon Such Arms Shall be deemed to be void and the Person Serving or Executing the Same liable to the Suit of the Party Aggrieved wherein treble Damages and Costs shall be recovered and moreover Such Arms shall be Seized by the Order of the Commanding Officer of the Person to whom such Arms Shall belong for the Use of the Owner or Pro-

> And be it Enacted by the Authority aforesaid that it Shall and may be lawful for the Colonel or Commanding Officer aforesaid upon Notice or Information that any Person who shall receive Arms upon his Receipt only without paying or Securing to be paid as aforesaid the first Cost thereof hath Sold or otherwise disposed thereof to Seise or Order Such Arms to be Seised whether in or out of the County and the Person who shall receive Such Arms upon Such Sale or Disposition Shall forfeit and pay the Sum of Ten Pounds Current Money and the Person Selling or disposing thereof shall forfeit and pay the like Sum of Ten Pounds Current Money.

And be it also Enacted by the Authority aforesaid that if any Person to whom Arms Shall be delivered as a foresaid on his Receipt p. 303 only without his paying or Securing to be paid the first Cost thereof as aforesaid Shall abscond and carry away his Said Arms Such Person shall forfeit and pay the Sum of Five Pounds Current Money. And be it Enacted by the Authority aforesaid that all and every the Officers and private Men (being inlisted as aforesaid) of the Militia of this Province Shall form into Regiments Troops or Companys as the Governor or Commander in Chief for the Time being shall order and appoint under the Penalty of Forty Shillings Current Money upon each Person who shall refuse or Neglect to do the Same in pursuance of Such Order or Appointment and the same Penalty for every Thirty days Neglect thereafter. Provided always that the Troops of Horse in Each County Shall not exceed the Number of two or consist of more than thirty Six Troopers each (excluding Officers) And that no person shall be compellable to enter into any Troop of Horse who hath not a visible Estate of Five hundred Pounds Current Money to be adjudged in Case of Dispute by a Majority of the ffield Officers of the County.

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And be it Enacted by the Authority aforesaid that as much Gun- L.H.J. powder and lead as can conveniently be spared Shall be taken out Liber N May 22 of the Publick Magazine and transmitted in due proportions and as the Same may be needed first to the Colonels and Commanding Officers of the Frontier Counties of this Province then to the Colonels and Commanding Officers of the other Counties respectively to be distributed by them in just and equal Proportions to and among the Persons under their Command so as that no more than one pound of Gun powder and three pounds of Lead be delivered to any one Person and in Case that after such Distribution any Surplus shall remain the Said Colonels or Commanding Officers are hereby required to retain and keep the Same in their Possession to be disposed of as herein after directed And be it further Enacted that if any private Man of the Militia of this Province shall in the Course of his Duty by the Command of his Superiour Officer expend any part of the Quantity of Powder and Lead by this Act directed to be brought by every Person to the Place of Muster it Shall and may be lawful for such Superiour Officer and he is hereby required to deliver to such Person a certificate of the Number of Charges so expended directed to the Colonels and Commanding Officers of the County in which Such Person resides and such Colonels and Commanding Officers or any of them in whose hands any Surplus shall be as aforesaid shall immediately on such Certificates being produced deliver to Such Person the Quantity of Gunpowder and Lead therein Mentioned. Provided always that no Gunpowder shall at any Time be expended in training unless by the Order and Direction of the Colonel or Commanding Officer of the County.

And be it further Enacted by the Authority aforesaid that in Forty days after the Publication of this Act the Several Companies in each Regiment and the Troop of Horse shall meet at Such Place or Places in their respective Counties as Shall be appointed by the Colonels or Commanding Officers of the Said Counties to be then and there formed into Regiments Troops or Companys in Such Manner and under Such Officers as the Governor or Commander in Chief for the Time being Shall Order appoint or direct and every Troop and Company Shall thereafter be exercised and trained by their respective Captains or Next Commanding Officer once in every Thirty days or oftner if directed by the Colonel or Commanding Officer of the County except between the fifth day of November and the tenth of February during which Time they shall be exercised and trained at such times only as the Said Colonel or Commanding Officer shall appoint and direct and every Person of the Militia (inlisted as aforesaid) who shall fail to attend at the Place to be appointed as aforesaid for the Purpose aforesaid Shall forfeit and pay the Sum of Five Pounds Current Money and shall nevertheless be trained and exercised in the Company or Troop to which he shall

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L. H. J. be nominated or appointed in the Same Manner and under the same Liber No. 48 May 22 p. 304 appointment

> And be it further Enacted by the Authority aforesaid that Once in Six Months from and after the Publication of this Act if command be given for that purpose by the Governor or Commander in Chief for the Time being and command be given by the Colonels or Commanding Officers of the Respective Counties the Several Companies in each Regiment and the Troops of Horse and foot Companies shall meet at such Place or Places in their respective Counties as shall be appointed to be there trained and exercised by the Field Officers of their respective Countys And be it Enacted by the Authority aforesaid that every Person to be inlisted as aforesaid and provided with proper and Suitable Arms to be determined by his Commanding Officer and to whom his proportion of Gunpowder and Lead Shall be delivered as aforesaid shall appear at Muster when duly warned so to do with his Arms in good Order and nine Charges of Gun-powder and nine Sizeable Bulletts under the Penalty of Ten Shillings for every Neglect or Omission thereof And be it also Enacted by the authority aforesaid that every Person inlisted as aforesaid and to whom Powder and Lead shall have been delivered as aforesaid Shall at all Times after Such Delivery have at his Habitation or place of abode one pound of good Gun-powder and three pound of Sizeable Bulletts or such Quantitys as were delivered to him under the Penalty of Twenty Shillings Current Money for Neglecting to have the Same and also the further Penalty of Five Shillings Current Money Week thereafter that Such Person shall neglect to have the Same and if any Such Person shall on demand at any Time between Sun Rise and Sun Sett neglect or wilfully refuse to show his Captain or other Person Sent by him his Arms and Ammunition aforesaid the Person so neglecting or refusing shall be deemed to be unprovided therewith and Shall forfeit accordingly.

> And be it Enacted by the Authority aforesaid that every Trooper whilst on Duty Shall be provided with a good Serviceable Horse with a good Saddle a pair of good Pistols a good Sword or Hanger half a pound of Gun-powder and twelve Sizeable Bulletts and a Carbine well fixed with a good Belt Swivel and Buckett [sic] under the Penalty of fforty Shillings Current Money for his wilfull neglect thereof And be it Enacted by the Authority aforesaid that the Colonel or Commanding Officer who shall fail or omit to order out and Muster the Militia as by this Act is directed shall forfeit the Sum of Twenty Pounds Current Money and every other Officer who shall fail or omit to do his duty at any training or Muster by this Act directed shall forfeit the Sum of Five Pounds Current Money

And be it further Enacted by the Authority aforesaid that the Clerk or some other Officer of every Troop or Company shall by Order of the Captain or Commanding Officer of Such Company that Shall be present on every Muster day as soon as such Troop or Company Shall be drawn up and before they proceed to exercise read distinctly and with an audible Voice at the head of Such Troop or Company the Several Clauses in this Act relative to the Duty of every private Man of the Militia whilst under Arms or in exercise or on the Days of training or in Actual Service under Penalty of the Sum of Five Pounds Current Money to every Captain or Commanding Officer who shall not give Such Order And fforty Shillings Current Money to the Clerk or other Officer who shall not immediately obey the Same

And be it Enacted by the Authority aforesaid that no private Person of the Militia inlisted as aforesaid being thereunto appointed by his Captain shall refuse or neglect to Serve as a Serieant or Corporal under the Penalty of fforty Shillings Current Money and in Case any Serjeant or Corporal shall refuse or neglect to warn p. 305 the People to Appear under Arms when Ordered so to do by his proper Officer he shall forfeit for every Such Neglect or Refusal the Sum of Forty Shillings Current Money. And be it Enacted by the Authority aforesaid that no Commissioned or non Commissioned Officer in the Foot or Horse Shall be Subject or liable to Serve in the Office of Constable any Law usage or Custom to the Contrary notwithstanding And be it Enacted by the Authority aforesaid that no Person Officer or Private Man of the Militia Shall be Subject to any arrest Either Mesne Process or on Execution or in any other manner for any civil Matter in his Attendance at going to or returning from Muster or whilst imployed in any Duty or Service by this Act directed or required And be it Enacted by the Authority aforesaid that all Persons belonging to the Militia Shall at Muster and whilst on Duty execute and perform all their proper Services and Obey the just Orders of their Respective Officers on pain of forfeiting not exceeding the Sum of Forty Shillings Current Money for every Neglect or Omission or being put under arrest according to the Ouality of the Offender or nature of his Offence. And be it further Enacted by the Authority aforesaid that if any Officer or private Man of the Militia shall at any Time whilst under Arms or upon Duty abuse or take Revenge or Endeavour to take revenge for any Matter or thing done by his Commanding Officer in Pursuance of his Duty by Virtue of this Act such Officer Shall forfeit and pay not exceednig five pounds Current Money and every private Person shall forfeit and pay not exceeding the Sum of forty Shillings Current Money and be compelled under pain of Three days Imprisonment to acknowledge his Offence at the Head of the Company Troop or Regiment to which he Shall belong And be it Enacted

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L. H. J. Liber No. 48 May 22 by the Authority aforesaid that any Person of the Militia who shall get drunk on any Muster-day before or at Muster shall forfeit the Sum of Ten Shillings Current Money and any Person who shall presume to vend Sell or Dispose of any Strong Liquor at any Place of training or at any other Place within Five Miles of any Place of training to any Person belonging to the Militia on any Muster day except between the Time of Discharge from such Training for that day and the Sun sitting thereof Such Person so vending selling or disposing of Such Strong Liquors Shall forfeit and pay the Sum of Five Pounds Current Money And no Person other than a licenced Ordinary Keeper shall vend Sell or dispose of any Strong Liquors to any Person whatever at such Time and Place aforesaid even between the Hours aforesaid under the Penalty of Five Pounds Current Money for every Such Offence and it Shall and may be

lawfull for the Commanding Officer of the Party at such Muster and he is hereby directed and required to order the Strong Liquors of the Person so offending to be Siezed and Destroyed Provided always that nothing herein contained shall be construed to extend to any Merchant or licenced Ordinary-Keeper who shall vend Sell or Dispose of any Strong Liquors in his or her House the same not being to any Person of the Militia or any for the Use of Such Person And Be it further Enacted by the Authority aforesaid That every Papist above the Age of fourteen Years or any other Person refusing to take the Oaths appointed by Law to be taken to the Government which the Commanding Officer present shall administer and repeat the Test and Subscribe the same and the Oath of abjuration who shall be found at any Place and of Training or within View thereof, during the Time of Exercise Shall forfeit and pay Fifty Shillings Current Money and Shall by any Commission Officer then present be ordered to Depart and in Case such Papist or other Person shall not immediately on such Order depart out of View of such Place or after departing shall return again that day he shall forfeit and pay the further Sum of Five Pounds Current Money p. 306 and be committed by a Magistrate and in Case no Magistrate Shall be present by the Commanding Officer present to the Custody of the Sheriff there to remain untill he shall give Sufficient Security for his good Behaviour for three Months and that he shall not be found at or within View of any Place of Training in the Time of Exercise till the Expiration of the Time aforesaid and if any Negroe or Mullatto Slave, except the Necessary Attendants of any Person who Shall be there and except any Slave who shall be found working on his Masters Plantation or passing by upon Some lawful Occasion Shall be found at any Place and day of Training or within View thereof after the hour appointed for meeting the Commanding Officer present shall order such Negro or Mullatto Slave to be whipped on his or her bare Back untill the Blood Shall appear with

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any Number of Stripes not exceeding thirty nine and if Such Slave L.H.J. Liber No. 48 Shall be again found at any time and Place of Training as aforesaid May 22 he or she Shall be whipped as aforesaid every Such time by order of the Commanding Officer who shall be present with any Number of Stripes not exceeding Forty nine. And Be it further Enacted by the Authority aforesaid That if any of the late Inhabitants of Nova Scotia commonly called French Neutrals shall be found at any day and Place of training or within View thereof they Shall be Immediately Order by the Commanding Officer present to depart and if they Shall not without delay comply with Such Order the said Commanding Officer is hereby required to Order such person to be put under Arrest and carried away and detained out of View of the Said Place of Training untill Sun Set that day And Be it further Enacted that every Commission Officer who Shall know of any Papist or any other Person who hath refused to take the Oaths afores.^d and repeat the Test and Subscribe the Same and the Oath of Abjuration as afores.^d or any late Inhabitant of Nova Scotia or French Neutral or Negro or Mullatto Slave being at any day and place of training as aforesaid and Shall not behave to Order and direct about them respectively as in and by the three last preceding Clauses of this Act is directed Such Commission Officer shall forfeit and pay if above the Degree of a Captain Twenty Pounds Current Money, and if a Captain or below that Degree Five Pounds current money. And Be it further Enacted by the Authority aforesaid that all Doubts or Disputes of or concerning Precedence or Rank shall be Settled and Determined by the Governor or Commander in Chief for the Time being or his Order or Appointment And be it Enacted by the Authority aforesaid that in Case of Alarm every Person belonging to the Militia of this Province upon Notice thereof in any Manner shall immediately repair with with his proper Arms or the best he has and with Nine Charges of Gun-powder and nine Sizeable Bulletts at the least to his Colours or Parade under the Penalty of Five pounds Current Money upon every private Man who shall Neglect the Same which Parade shall be understood to be the Habitation of his Captain or Comanding Officer unless it Shall be otherwise ordered or appointed

And Be it further Enacted by the Authority aforesaid that in Case of any Alarm Invasion Rebellion or Insurrection all Officers of the Militia Shall have full Power and Authority in their respective Stations and they are hereby enjoined required directed and Commanded forthwith to raise the Militia under their Command and to dispatch immediate Intelligence to their Commanding Officers informing them in what Manner they intend to Act or proceed and the Said Commanding Officers are hereby required and Commanded p. 307 to Send forward the Said Intelligence to the Commanding Officers

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L.H.J. of the Next adjacent Counties And the Officers aforesaid Shall in the mean time keep the Militia under their Command under Arms and every Commanding Officer of a County upon any Alarm or receiving Intelligence of any Invasion Rebellion or Insurrection Shall forthwith Dispatch an Express to the Governor or Commander in Chief for the Time being with a full Account thereof and shall therewith Signify how and in what manner he intend to Act or proceed and the Commanding Officer of every County with the Consent and Approbation of the Governor or Commander in Chief for the time being hath hereby full Power and Authority in the Time of actual Invasion Insurrection or Rebellion to impress Boats and Hands Horses Arms and Ammunition as the Service may require and shall draw together the Militia of the County and March them in Such place and places within this Province, as he Shall judge most Convenient for opposing the Enemy, or quelling or Suppressing any Rebellion, or Insurrection, and to Such Place and Places, within this Province, as shall be appointed or directed by the Governor or Commander in Chief, for the Time being And, every Field Officer who shall wilfully Neglect or refuse to perform his Duty herein required in the Time of Actual Invasion. Insurrection, or Rebellion, Shall forfeit the Sum of Two hundred pounds Current Money; and every Captain and other Commissioned Officer. for his neglect or Refusal to perform his Duty at such Time as aforesaid, Shall forfeit the Sum of One Hundred pounds Current Money, and every non-commissioned Officer and private Man of the Militia for his Neglect or Refusal to perform his Duty at such time as aforesaid. Shall forfeit the Sum of Ten Pounds Current Money. And be it further Enacted by the Authority aforesaid, That the respective Captains, and in Default of them, the Next Commanding Officers of the several and respective Companies, within the Counties nearest to any Place invaded, or where any Rebellion or Insurrection Shall happen, shall call together and Assemble their Companies, and forthwith March them, and Use their utmost Endeavours to oppose and drive off the Enemy, or quell or Suppress Such Rebellion, or Insurrection, If they Shall judge their Force to be Sufficient for that Purpose; nevertheless, the Said Captains or Commanding Officers, as aforesaid, Shall dispatch Such Express as aforesaid.

And Be it Enacted by the Authority aforesaid, That within Twenty Days after the Publication of this Act, every Master or Owner of every Indian, Negro Mullatto or other Slave, above the Age of Sixteen Years shall deliver or cause to be delivered, to the Captains of the Companies in the respective Distrects wherein they Shall reside, a true List of all Such Slaves belonging to them, on pain of forfeiting the Sum of Twenty Shillings Current Money for Neglect thereof; from which List every Captain shall make three compleat

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Lists of the whole Number of Slaves returned to him, distinguishing L.H.J. therein the Sexes, Names, and numbers of the Slaves, belonging to Each Person, and Shall forthwith transmit one List to the Governor or Commander in Chief, for the Time being, one other List to the Colonel or Commanding Officer of the County, and retain the other List in his own Possession, under the Penalty of Five pounds Current Money in Case of Neglect or Refusal: and in Case of any Alarm, Invasion, Rebellion, or Insurrection, shall (if necessary) unless it shall be otherwise provided by his Commanding Officer appoint and leave a Detachment from his Company, to keep Guard in and preserve the Peace of his District.

And be it Enacted by the Authority aforesaid, That if any Negro, Indian, Mullatto, or other Slave, above the Age of Sixteen Years, Shall in the Time of actual Invasion, Rebellion or Insurrection, be found at the Distance of Two Miles or more from his or her Habitation or the Plantation to which Such Slave Shall belong without the leave or licence of his or her Owner or Overseer Such Slave, Shall be adjudged to be punished by whipping with any any Number p. 308 of Stripes not exceeding thirty nine; on the bare back, by any Magistrate before whom Such Slave shall be carried manner aforesaid to arrest and take up such Slave in Order to his or her Examination and in Case Such Slave shall oppose or endeavour to escape from the Person having Such power as aforesaid to arrest Such Slave as aforesaid it shall and may be lawfull for any Magistrate and he is hereby required to issue his warrant on Complaint to him made to apprehend such Slave and upon Such Slave being brought before him to cause Such Slave to be punished by whipping on the bare back with any Number of Stripes not exceeding thirty nine as by the Said Magistrate Shall be adjudged any Law Usage or Custom to the Contrary notwithstanding And be it Enacted by the Authority Aforesaid, that it shall and may be Lawfull for any Colonel or Commanding Officer of any Regiment, Troop, Company, or Detachment, in the Time of actual Service in the time of Invasion Insurrection or Rebellion by and with the Consent and Approbation of the Governor or Commander in Chief, for the Time being, to impress and take up, or by warrant under his Hand, to Order to be impressed and taken up, necessary Provision, Sloops, Boats, or other Vessels, for the Transportation of the Militia over Rivers or Creeks or the main Bay of Chesapeak, within this Province; together with the Rigging, Tackle, Furniture, and Apparel, belonging thereunto, and also Carts, Waggons, Draught-Horses, and Oxen, and other Conveniences for the Land-Carriage of Provision, Arms, and Ammunition, from Place to place, within this Province; and Likewise any manner of Tools. Utensils, or Instruments, which Shall or may be wanted, and also to impress or take up, or order to be impressed or taken as aforesaid, fit and able persons to go in Sloops,

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Boats, and other Vessels, aforesaid; and also Labourers, pioneers, L. H. J. Liber No. 48 and Artificers, who shall be thought usefull in the Service. Provided May 22 always, that it Shall not be lawfull to take up or impress all or any of the Articles afores.^d without giving a Receipt for the Same. expressing therein the use or Service for which the Same Shall be impressed, or taken up, and a Certificate for what use or Service Such Labourers, Pioneers, or Artificers, shall be impressed, on pain of being Liable to the Action of the Party Aggrieved.

> And be it Enacted by the Authority aforesaid, that no Officer of the Militia of this Province, Shall Surrender or resign any Commission which hereafter may be Granted, unless his Surrender or Resignation on Account of Sickness, or other Incapacity, Shall be accepted by the Governor or Commander in Chief, for the Time being or shall refuse or neglect to Qualify himself to act under this Law, on pain of being inlisted as a Private Man, and as such liable to the like Services and Penalties; and all Commissions granted to any Persons, which do or shall not confine them to any Corps in the County or Place wherein they shall reside. Shall be and are hereby declared to be null and Void, and no Officer Shall hereafter presume to act as Such, unless he hath or shall, before any Act done by him, as an Officer, take the Oaths to the Government as before directed, and Subscribe the Oath of Abjuration and repeat and Subscribe the Test, on pain of forfeiting the Sum of One hundred Pounds Current Money.

And be it Enacted by the Authority aforesaid that all Officers and private Men of the Militia after they Shall be deemed to be provided with proper and Suitable Arms Shall as often as directed by the Colonel or Commanding Officer of the County in their Attendance at Devine Service at their Parish Churches or Chapels bring with p. 300 them their proper Arms in good Order with the same Quantity of Ammunition as is required at Muster by this Act under the Penalty of Ten shillings Current Money for their failure or neglect thereof.

And be it further Enacted by the Authority aforesaid, that in Case a Detachment only shall be Ordered by the Governor or Commander in Chief from the Militia of any County, to act within this Province, in Conjunction with a Detachment from the Militia of another County, Such Detachment shall consist of the Persons whose names shall be inserted in the Roll, to be returned as aforesaid to the Clerk of the County Court; and the Persons to serve on Such Detachment, shall Serve in the Order in which their Names shall be set down or inserted in Such Roll Successively, and be subject to the Command of Such Officer or Officers as Shall, on Such Service be appointed for that Purpose by the Governor or Commander in Chief for the Time being which Said Commanding Officer shall be of the Militia of this Province and the Colonel or Commanding Officer of the Regiment, Company, or Troop, to which the Persons liable to

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serve on such Detachment as aforesaid shall belong, are hereby L.H.J. authorized and required to impress and take up, or order to be im-May 22 presed and taken up, proper and Suitable Arms for the Use of the Persons to Serve on Such Detachment; and all and every Person and Persons liable to serve on such Detachment, to be ordered as aforesaid, who shall neglect or refuse so to do, or to find an able Sufficient and well Armed Man to Serve in his Place or stead shall forfeit and pay the sum of Twenty pounds Current Money for every Neglect or Refusal.

And Whereas upon certain Emergencies in time of Invasion Insurrection or Rebellion it may be necessary to keep Military Watch and Ward: Be it therefore Enacted by the Authority aforesaid that upon the Order or Direction of the Governor or Commander in Chief for the time being for the keeping of Military Watch and Ward every Person of the Militia of this Province Inlisted as aforesaid who shall be warned by his Commanding Officer, or by his Order under his hand, upon Such Service, Shall Serve on Such Watch, or find a Sufficient and well armed Man in his Room, under the Penalty of Five Pounds Current Money for every Neglect or Refusal; and Commissioned Officers who shall be directed by their Commanding Officer, shall keep such Watch in Person under the Penalty of Ten Pounds Current for every Default or Neglect thereof; but Captains shall not be obliged to Serve in Such Military Watch, unless the Said Watch Shall consist of a Captains Guard, and upon all Sudden Emergencies in time of Invasion, Insurrection, or Rebellion, upon which a Military Watch may be immediately necessary, the Same may be appointed by each Captain, and the Captain appointing the Same shall Send immediate Intilligence thereof to his Commanding Officer and of the Reasons why he appointed Such Watch and the Said Commanding Officer is hereby directed to dispatch immediate Intelligence thereof to the Governor or Commander in Chief for the time being unless upon Enquiry he shall think Such Watch to be unnecessary in which Case Such Commanding Officer Shall and may direct the Same to cease. And Defaulters in this Case Shall be liable to the Same Penalties as in the Case of a Military Watch established by Order of the Governor or Commander in Chief.

And Be it further Enacted by the Authority aforesaid that any Centry upon Guard, who shall Challenge any Person or Persons three times distinctly, and the Person or Persons so Challenged, shall refuse to give an Account of him or themselves, may lawfully fire upon Such Person or Persons so Challenged, without being Impeached on Prosecuted for the Same any Law, Custom or Usage, to the Contrary Notwithstanding.

And Be it Enacted by the Authority aforesaid That in Case any Person, who Shall Serve upon Such Military Watch as aforesaid.

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L. H. J. shall leave his Post or station, or shall demean himself in a Turbu-Liber No. 48 May 22 p. 310 Commanding Officer, it Shall and may be Lawful for the Officer Commanding on such Watch, to put Such Person under Arrest, over and above the Penalty abovementioned; for any time; not exceeding the Space of Three Days.

> And Be it further Enacted by the Authority aforesaid, that during the time any Persons of the Militia Shall be in Actual Service, within this Province, or shall keep Military Watch as aforesaid, they shall be supported and Paid in Manner following, to wit, To every Major General Twenty Shillings per day, To every Chief Colonel of Foot Seventeen Shillings and Six pence per Day, To every Lieutenant Colonel of Foot fifteen Shillings per Day: To every Major of Foot fourteen Shillings per Day: To every Captain of Foot twelve Shillings and Six pence per Day: To every Lieutenant of Foot Six Shillings and eight pence per Day: To every Ensign five Shillings per Day. To every Serjeant two Shillings per Day: To every Corporal of Foot One Shilling and eight pence per Day: To every Drummer of Foot One Shilling and eight pence per Day: To each private Soldier one shilling and Six pence per Day: To a Surgeon Eight Shillings and Six Pence per Day, and Medicines to be found: To a press Master four Shillings per Day: To every Colonel of Horse nineteen Shillings per Day; every Lieutenant Colonel of Horse eighteen Shillings per Day: a Major of Horse Sixteen Shillings per Day: a Captain of Horse fourteen Shillings per Day: a Lieutenant of Horse Seven Shillings and Six Pence per Day a Cornet Six Shillings per Day: a Quarter Master five Shillings per Day: a Corporal two Shillings and Six Pence per Day: a Trumpeter two Shillings and Six Pence per Day: a private Trooper two Shillings per Day.

> Provided, that if they shall be Discharged again in two days no Pay shall be Allowed.

And Be it Enacted by the Authority aforesaid that the Provisions and all and every the Matters, Articles, and things, which shall be taken up and Impressed by Virtue of this Act, and the Pay aforesaid of the Militia, shall be paid for, discharged and defrayed by the Money which Shall or may Arise, or Accrue in Virtue of or by the Execution of this Act; and in Case that after the Application of Such Monies to the Purposes aforesaid there shall happen or be any Deficiency, the Same shall be Provided for by the Consent of the Freemen of this Province by their representatives in general Assembly.

And Whereas in the time of Actual Service in the time of invasion Rebellion or Insurrection it is necessary that the Officers and Private Men of the Militia of this Province be held to a more Strict

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Discipline than at other times might be Expedient. Be it there- L. H. J. fore Enacted by the Authority aforesaid That if any Officer or Private Man of the Militia of this Province, in the Time of Actual Service within this Province in the time of Invasion, Rebellion, or Insurrection shall wittingly and willingly excite Cause or Join in any Mutiny or Sedition in any Company Troop Regiment Party Guard or Detachment of the Militia of this Province or shall shamefully leave desert or fly from his Station or Post without the Order or Direction of his Proper Officer or other good Sufficient reasonable Cause, or shall wittingly hold Correspondance with any Rebel or Enemy or give any Rebel or Enemy Advice or Intelligence by Letter, Message, Signs or Tokens in any manner or way whatsoever, the Person or Persons so Offending being thereof Convicted in due form of Law shall and are hereby declared felons and shall Suffer Death as in Cases of felony without Bennefit of Clergy.

And Be it further Enacted that if any Person in the Time aforesaid Shall Strike or Use any Violence to his Superior Officer or shall wilfully refuse to obey his Just Order, Such Person So D. 311 Offending shall Suffer Such Punishment by fine or Imprisonment (the Said fine not to exceed the Sum of five Pounds Current Money and such Imprisonment not to exceed the Space of Seven Days) as shall be Adjudged by a Court Martial for that purpose to be constituted and appointed by the Commission of the Governor or Commander in Chief for the time being under the Seal of this Province out of the County wherein the Offender shall reside not under the Degree of a Captain, the Said Court Martial to consist of the Number of twelve and no more besides the President, and Such Court shall have full Power and Authority to Administer an Oath to every Witness to Discover the Truth in order to the Examination and Tryal of any of the Offences determinable before such Court, and the Sentance of the Majority of the Members of Such Court shall be Immediately Executed, Provided always, that in all Tryals to be had before any Court Martial to be appointed and held as aforesaid in Virtue of this Act, every Judge before any Proceedings shall be had, shall take the following Oath to wit, I do swear that I will well and truly Try and Determine according to Evidence on the Subject of my Present Enquiry to the best of my knowledge and Judgment according to the Intent and Meaning of an Act of Assembly of the Province of Maryland Entituled an Act for Regulating the Militia of the Province of Maryland, without Partiality Malice Favour or Affection and that I will not at any time, upon any Account whatsoever disclose or discover [my] own Vote or Opinion or the Vote or opinion of any Other member of this Court Martial unless required to give Evidence thereof as a Witness by a Court of Justice in a due Course of Law so help me God Provide also, that no Officer or Private Person aforesaid being once Acquitted by a

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L. H. J. Court Martial for any Offence under this Act, Shall be liable to be Liber No. 48 May 22 Tried a Second time for the same Offence.

> And Be it Enacted by the Authority aforesaid, That it shall and may be lawful for the Commanding Officer of any Person Guilty of the Offence aforesaid to Commit Such Person and have him Safe kept, so as that he may be brought to his Trial for any of the said Offences. And Be it Enacted by the Authority aforesaid. That if it shall happen that any Trooper's Horse shall be killed by an Enemy in Actual Service, then the Said Troper to be Paid for the Said Horse by the Publick. Provided always that nothing in this Act Contained, shall oblige or Compell any of the People Called Quakers or any of the Congregation called, Unitas Fratrum, or United Bretheren who from Religious or Conscientious Scruples are averse to the Bearing of Arms and Performing Military Service to Inlist or do Duty in the Militia of this Province; And provdied also and be it further Enacted that no thing in this Act contained shall be construed to extend to any Member of the Upper or Lower Houses of Assembly Except such as shall take Military Commissions under this Act to any Person in Holy Orders and Provided also, that any Number of the Upper or Lower House of Assembly Taking a Military Commission as aforesaid, the Clerks and other Officers of the Upper and Lower Houses of Assembly shall be Exempt from all Duties and Services during the Sitting of the Assembly.

And Provided also that nothing in this Act contained shall extend to the Justices of the Provincial or County Courts Attorneys at Law, Sheriffs or other Ministers and Officers belonging to any of the Said Court during the time that Such Courts shall Sit, And Provided also that nothing in this Act contained shall extend to Goalers, Ferrymen, Millers, Mariners, Watermen, usually employed in any Craft, Persons employed in Furnaces or Iron Works, Physicians, Surgeons, and Apothecaries, Except in time of actual Invasion, Rebellion, or Insurrection, when all and every the Said Persons in this Clause mentioned, being of the Militia, Goalers and Ferrymen Excepted, shall be liable to the Same Duty and Service as if this Proviso

p. 312 had not been herein inserted except Such Physicians, Surgeons, and Apothecaries, who in Ten Days after the Publication of this Act, Shall give in their Names in writing to the Colonel or Commanding Officers of the Counties, wherein they shall reside, and engage to attend in their Profession with Proper Medicines and Instruments, upon any part of the Militia whilst in actual Service as they shall be directed by the Said Colonels or Commanding Officers; and Such Physicians, Surgeons, and Apothecaries, who shall engage as aforesaid shall be and are hereby exempted from all Service in the Militia whatsoever, But in Case any Physician Surgeon, or Apothecary, shall engage as aforesaid, and upon receiving the direction of the Colonel or Commanding Officer aforesaid, shall wilfully refuse

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or neglect to do and perform his Duty, according to his Said Engagement, in Such Case Such Physician, Surgeon or Apothecaries, shall forfeit and pay the Sum of Twenty Pounds Current Money, and be liable thereafter to the Performance of all every Military Service and Duty whatsoever, any Law usage or Custom to the contrary notwithstanding.

And Whereas all and every Person and Persons of the Militia of this Province are as aforesaid, not only liable to the Duties and Services required by this Act, but also if able to find, at their own proper Cost and Charge, Suitable Arms; and it would prove an unequal Tax if the Persons above exempted from the Services of the Militia, who are able Should be discharged also from the Burthen and Expence of finding Arms.

Be it therefore Enacted by the Authority aforesaid, that all and every the Persons, whose Real and Personal Estate is of the Value of forty Pounds Sterling, to be determined as aforesaid) before exempted from Services of the Militia, and all Men above the Age of Sixty Years of the Ability aforesaid, shall each of them find one good and Sufficient Firelock, with a Bayonet, and deliver the Same to the Colonel or Commanding Officer of the County wherein he shall reside, or pay to the Said Colonel or Commanding Officer the Sum of Three Pounds Current Money in lieu thereof, in Six Months after the Publication of this Act, on Pain that every Person aforesaid of such ability as aforesaid, who shall neglect or omit to find and deliver Such Arms as aforesaid, or pay Such Sum of Money as aforesaid in lieu thereof, Shall be Subject and liable to every Service and Duty of the Militia; any Proviso, Clause, or thing herein contained, or any Law, Custom, or Usage, to the Contrary, Notwithstanding.

And Be it further Enacted by the Authority aforesaid that the Arms which shall be delivered to the Colonels or Commanding Officers aforesaid in manner aforesaid shall be distributed among such Persons as shall need the Same, and not of the Ability aforesaid to Purchase his Arms. And be it Enacted by the Authority aforesaid that in Case the Several Fines, Penalties, and Forfeitures, in this Act mentioned and not triable or determinable before a Court Martial, as afores.^d Shall not be paid upon the Demand or Order of the Commanding Officer of the Person incurring the Same into the Hands of the Sheriff of the County wherein the Offender shall reside; and in Case any other Person, not of the Militia, shall incur any Fine, penalty, or Forfeiture, under this Act, and on Demand or Order of the Colonel Commanding Officer of the County wherein Such Person Shall reside, Shall omit to pay the Same into the Hands of the Sheriff as aforesaid, the Same Shall be recovered. and all Offences under this Act shall be Adjudged and levied in the Manner following, to wit, all Such Fines, Penalties, Offences, and

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L. H. J. Forfeitures, as shall be incurred or committed by any Person of Liber No. 48 May 22 the Militia, under the Degree of a Commissioned Officer, shall be

Adjudged and determined by the Captain or Commanding Officer p. 313 of the Company or Troop to which Such Person Shall belong and two other the most discreet Persons belonging to the Said Company or Troop, or the Majority of them, which said two Persons shall be elected and Chosen by the Majority of each Company or Troop at the Next day of Training after such Company or Troop shall be formed and in Case of Default of Such Election or Choice, the Commissioned Officers of each Troop or Company shall constitute a Court, to try, ajudge and determine the Matters aforesaid: and in Case of such Choice or Election as aforesaid, and Vacancy by Death or otherwise of Such Persons, or either of them, to be chosen or Elected as aforesaid, Such Vacancy Shall be filled up and Supplied by a new Choice or Election as aforesaid; and in Case that the said Persons, or either of them, to be elected as aforesaid, shall be charged with or accused of any Matter or Thing incurring a Fine, Penalty or Forfeiture under this Act, then and in Such Case the Place of Such person or persons pro hâc Vice shall be Supplied by one or Two Commissioned Officers of the Same Troop or Company, as the Case may require, The Said Commissioned Officers, to be appointed by the Captain of the Troop or Company, And in Case the Commissioned Officer, under the Rank of a Colonel or Commanding Officer of a County, Shall in any Matter, not triable before such Court Martial, to be appointed by the Governor or Commander in Chief for the time as aforesaid, offend against this Act. Such Officer shall be tried by the Appointment of the Colonel or Commanding Officer of the County wherein Such Offender shall reside, before a Court Martial to consist of five, or three at the least, of the Commissioned Officers of the Said County who shall determine by the Majority of the Voices of such Court, and in Case any Colonel or Commanding Officer of a county shall be Charged with or accused of any Offence against this Act, then and in Such Case the Colonel or Commanding Officer, and Two Field Officers of the Next Adjacent County or Counties to be appointed by the Governor or Commander in Chief, or the Major part of them, shall adjudge and Determine Such Offense.

And be it further Enacted by the Authority aforesaid, that no Person whatsoever shall behave in a disorderly or turbulent Manner, or use any Menacing Words, Signs or Gestures in the Presence of any Court, Appointed by this Act, during the Sitting of Such Court, or in any Manner disturb the Proceedings of any Such Court, on pain of Imprisonment, by Order or Sentence of Such Court, not exceeding Three days and if any Commissioned Officer shall be convicted of having behaved in any Manner unbecoming the Character of an Officer, tho his Offence be not Specified in this Act,

The Lower House.

Such Commissioned Officer may be degraded and compelled to Serve L. H. J. Liber No. 48 May 22

Provided always, that it Shall and may be lawfull for the Persons appointed by or in Pursuance of this Act, to adjudge or determine upon any Matter or thing whatsoever in this Act, to admit the reasonable Excuse of any person tryed before them, and thereupon to acquit Such Person by their Determination; any thing in this Act to the Contrary notwithstanding, and that before any Tryal, Adjudication or Determination of or upon any Matter or thing in this Act mentioned, all and every the Judges to be Appointed by or in Pursuance of this Act, Shall take the Oath above prescribed and directed to be taken by Such Persons as Shall be appointed to Constitute a Court Martial, in Virtue of a Commission for that Purpose from the Governor or Commander in Chief.

And be it Enacted by the Authority aforesaid that all Fines Penalties and Forfeitures aforesaid Shall be levied by the Sheriff of the County wherein the Offender shall dwell, upon the Warrant of the Persons appointed by, or in Pursuance of this Act, to Adjudge and Determine as aforesaid; and the Sheriff to whom such War- D. 314 rant shall as aforesaid be directed. Shall make a Return of the Same to the Said Persons, by delivering them a Copy thereof, with an Indorsement Signed by the Sheriff, Signifying how and in what Manner he hath executed the Same: And the Said Sheriff is hereby directed to levy, by Distress and Sale of the Goods of the Offender, the Fine. Penalty or Forfeiture, mentioned in Such Warrant and also the Established by Law in Such Cases for Executing Such Warrant, and in Case no Goods of the Offender can be found, on which to levy the Fine, Penalty, a forfeiture aforesaid the Body of the Offender shall be taken and kept in Safe Custody, as in the Case of an Execution by Capias ad Satisfaciendum upon a Judgment in a Court of Law and in Case any Person not belonging to the Militia shall incur any Fine, Penalty, or Forfeiture under this Act then and in Such Case it shall and may be lawfull for any Single Magistrate in the County where the Offender shall reside upon Information or Complaint against such Offender to issue his Warrant to bring Such Offender before him and upon due Proof to give Judgment against Such Offender for the Penalty in this Act Mentioned and by Warrant to direct the Sheriff to levy the Same, in Manner aforesaid; and the said Sheriff in the execution of the Said Warrant Shall demean himself in the Same Manner as before is directed by this Act.

And be it Enacted by the Authority aforesaid, that all and every the Sum and Sums of Money, which Shall be received, levied and raised in or by Virtue of this Act, shall be applied to the Support of the Militia of this Province, and the defraying the Charges and expences which the Services directed by this Act shall require and

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L.H.J. the Sheriff of each County is hereby directed once in every Six Months or oftner if required to deliver an Account to the Governor or Commander in Chief for the Time being and another to the Treasurer of each respective Shore of this Province to whom the Said Sheriff shall pay all Such Sum and Sums of Money as he shall receive in Virtue of this Act and the Said Treasurers are hereby required and directed to pay to the Order of the Governor or Commander in Chief for the Purposes aforesaid from Time to Time Such Sum and Sums of Money as they shall receive as aforesaid and the Said Treasurers are hereby required and directed to lay an Account before the General Assembly of this Province every Session of the disposition of the said Money.

And be it Enacted by the Authority aforesaid, that all and every Sum and Sums of Money, which shall be received by any Officer of the Militia, in Virtue of this Act. Shall be forthwith paid Such Officer into the Hands of the Sheriff of the County wherein Such Offender shall reside: which Said Sheriff is herbey required and directed to render Accounts and Pay the Same to the Treasurers as before directed, which Said Treasurers are hereby required and directed to render Accounts and pay Such Money as before directed, and in Case any Officer who shall receive any Sum of Money as aforesaid shall depart this Life without Payment thereof into the Hands of the Sheriff as aforesaid the Executor or Administrator of Such Officer shall be liable to the Payment thereof before any other Debt whether on Judgment or otherwise any Law Usage or Custom notwithstanding. And every Officer who shall receive Money as aforesaid in Virtue of this Act, shall transmit an Account thereof, once in every Six Months, to the Governor or Commander in Chief for the Time being, and pay the Same as aforesaid, on pain of forfeiting double the Sum of Money by him Received on default of such Payment, and also of being degraded and compelled to Serve as a Private Man in the Militia of his County.

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And be it Enacted by the Authority aforesaid, that if any Sum or Sums of Money to be levied or raised in Virtue of this Act, shall be unapplied to the Uses and Purposes in this Act Mentioned and directed, Such Sum or Sums of Money so unapplied, shall be applied to such Uses and Purposes as shall be directed by the next General Assembly thereafter.

And be in Enacted by the Authority aforesaid; that the Office Bonds of all Sheriffs shall be deemed to be liable to make good all and every the Sum and Sums of Money, which they shall receive in Virtue of or by Direction of this Act. And be it Enacted by the authority aforesaid that if any Person or Persons, Shall be Sued or impleaded for any matter or thing lawfully done, or Commanded to be done, in the Execution or by Virtue of this Act, he or they shall or may plead the General Issue, and give this Act in Evidence

The Lower House.

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and if the Plaintiff shall discontinue his Action, or be non-suited, L.H.J. or a Verdict or Judgment shall pass against him he shall pay the Liber No. 48 May 22 Defendant Treble Costs,

And be it Enacted, that if any Person shall be founded or disabled in any Military Service, in Virtue of this Act, so as to be incapable of Supporting himself, and shall produce a Certificate from his Commanding Officer of his good behaviour in Such Service to the Justices of the County Court, of the County where he last resided, he shall be Supported, during Such his disability at the Publick Charge of this Province.

And be it further Enacted by the Authority aforesaid that Jonas Green Printer to this Province shall and he is hereby Obliged and required within Twenty Days after the End of this present Session of Assembly to deliver to the Sheriff of Ann Arundel County to be by him conveyed in the Same Manner as Public Letters for his Lordships Service are Copies of this Act for the Sheriff and each representative and Field Officer within the several and respective Counties in this Province under the Penalty of Twenty Pounds Current Money to be recovered by Action of Debt Bill Plaint or Information wherein no Essoin Protection or Wager of Law or more than one Imparlance to be allowed one half of which Forfeiture to be paid to the Sheriff of the County where the Same Shall be incurred and by him paid to the Treasurer of the Wester Shore who shall pay the Same to the Order of Governor or Commander in Chief for the Purposes aforesaid the other half to the Informer or him her or them that will Sue for the Same. And be it also Enacted that the Several and respective Sheriffs within this Province shall within Five Days after their having respectively received the Copies of this Act, to them directed to be Sent by the Printer, deliver to every Delegate and Field Officer in their respective Counties one of the Said Copies of this Act. and one Copy thereof such Sheriffs respectively are to keep, and within Five Davs the Same Act to Publish, in all the most Public Places in their Several and Respective Counties, to the End that the People in every County within this Province may be well informed thereof And in Case any Such Sheriff shall omit or neglect his Duty herein enjoined he shall forfeit and pay the Sum of Twenty Pounds Current Money one half thereof to the Informer or him her or them that will Sue for the Same the other Half to be paid to Coroners of the County where such Forfeiture shall happen by them to be paid to the Treasurer of the respective Shore where the Same Forfeitures Shall happen who shall pay the Same to the Order of the Governor or Commander in Chief for the Purposes aforesaid, To be recovered in any Court of Record within this Province by Action of Debt Bill Plaint or Information wherein no Essoin Protection or Wager of Law or more than one Imparlance to be allowed Provided Always

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L.H.J. and be it further Enacted by the Authority aforesaid that nothing Liber No. 48 May 22 herein contained shall extend or be construed to extend to take away or prejudice any Right or Claim which the People of this Prov-

p. 316 ince have or Ought to have to any Moneys heretofore or now levied

by the Right Honourable the Lord Proprietary of this Province under Colour as they apprehend of an Act of Assembly made in the Year Seventeen hundred and four Entituled An Act for the Settlement of an Annual Revenue upon her Majesty's Governor within this Province.

And be it Enacted by the Authority aforesaid that all Laws heretofore made regulating or in any Manner relating to the Militia of this Province and every Matter Article or Clause in any Such Laws contained and all Military Commissions heretofore Granted under any former Law be and are hereby Utterly repealed and made Void.

And be it Enacted by the Authority aforesaid that this Act and all the Matters and Articles herein Contained shall continue in Force untill the Tenth February which Shall be in the Year of our Lord one Thousand Seven hundred and Fifty Seven and no Longer.

Richard Lee and William Goldsborough, Esquires, from the Upper House, acquaint M.^r Speaker, That the Governor requires the Members of the Lower House to attend him immediately in the Upper House.

M.^r Speaker left the Chair, and, with the other Members of the Lower House, went to the Upper House, and there presented to his Excellency the several Ingrossed Bills, viz.^t

[The list of bills is printed in the Upper House Journal, pages 296-7.]

p. 317 All which his Excellency passed into Laws in the usual Manner; and made the following Speech:

Gentlemen of the Lower House of Assembly,

As you seemed to be persuaded at the Opening of this Session, that a well-armed and well-regulated Militia, would, at this Season, be our best Security, and were pleased to tell me, that a proper Law for that Purpose should be one great Object of your Deliberations, I confess I was a little surprized at your sending me such a Message as you did this Morning, before you have performed what you gave me such Room to hope and expect; however, as you have intimated, that by putting an End to this Session, I shall do a Thing not less agreeable to your Wishes, than I did in convening you, I will not press you to take that Affair into Consideration till your next Meeting, but shall content myself at present with recommending it particularly to those Gentlemen of each House, that are Commanders and Officers, to have the Militia in their respective Counties, duly Mustered and Exercised, agreeable to our present Laws, which

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BACKGROUNDS OF SELECTIVE SERVICE

Military Obligation:

THE AMERICAN TRADITION

A Compilation of the Enactments of Compulsion From the Earliest Settlements of the Original Thirteen Colonies in 1607 Through the Articles of Confederation 1789

> SPECIAL MONOGRAPH NO. 1 VOLUME II PART 11. PENNSYLVANIA ENACTMENTS

THE SELECTIVE SERVICE SYSTEM

1947

EXHIBIT 5 (McLean)

CLEARANCE COMMITTEE

BRIG. GEN. CARLTON S. DARGUSCH, Chairman

COL. VICTOR J. O'KELLIHER	LT. COL. ARTHUR BOONE
COL. LEWIS F. KOSCH	LT. COL. IRVING HART
COL. WILLIAM HART	MR. KENNETH H. McGILL

PREPARED AND COMPILED BY Lt. Col. Arthur Vollmer

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See also original p. 146

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therefrom arising shall be appropriated towards paying for the lands to be purchased and the new court house and prison to be built in the said place so as aforesaid to be provided.

[Section IV.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That for the defraying the remainder of the expenses and charge of purchasing the land, building and erecting the said court house and prison, it shall and may be lawful for the commissioners and assessors of said county, or a majority of them, to assess and levy so much money as the said trustees, or any four of them, shall judge necessary for paying the remainder aforesaid, of purchasing the land and finishing the said court house and prison, and they are hereby required so to do.

Passed March 20, 1780. See the Acts of Assembly passed March 22, 1784, Chapter 1081; March 30, 1785, Chapter 1152; March 18, 1786, Chapter 1215; September 25, 1786, Chapter 1247; September 26, 1789, Chapter 1443; March 12, 1800, Chapter 2125. Recorded L. B. No. 1, p. 373, &c.

CHAPTER CMII.

AN ACT FOR THE REGULATION OF THE MILITIA OF THE COMMON-WEALTH OF PENNSYLVANIA.

(Section I, P. L.) Whereas a militia law founded upon just and equitable principles hath been ever regarded as the best security of liberty, and the most effectual means of drawing forth and exerting the natural strength of a state:

(Section II, P. L.) And whereas a well regulated militia is the only safe and constitutional method of defending a free state, as the necessity of keeping up a standing army, especially in times of peace, is thereby superceded:

(Section III, P. L.) And whereas the militia law of this commonwealth enacted by the general assembly the seventeenth day of March, one thousand seven hundred and seventy-seven,

142. Pa.—General Assembly, Philadelphia; Statutes, Mitchell and Flanders, Vol. X, 1904; Act, Mar. 20, 1780, pp. 144–173, Ch. CMII.

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from a change of circumstances and other causes, hath become insufficient to answer the purposes aforesaid, which renders it highly necessary that a new law should be enacted:

Therefore:

[Section I.] (Section IV, P. L.) Be it enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same. That the president in council or, in his absence, the vice-president in council, of this commonwealth shall appoint and commissionate one reputable freeholder in the city of Philadelphia, and one in each county within this state to serve as lieutenants of the militia for the said city and counties respectively; and, also, any number of persons not exceeding two for the said city, and in the several counties any number not exceeding the number of battalions now or to be hereafter formed, to serve as sub-lieutenants in the said city and counties respectively, who, besides the powers which are given him and them by this act, shall have the title and rank which the president in council or, in his absence, the vicepresident in council shall confer, which said lieutenant or, in his absence or incapacity, two or more sub-lieutenants shall have full power and authority to do and perform all and singular the duties required of the said lieutenants by this act.

[Section II.] (Section V, P. L.) And be it enacted by the authority aforesaid, That the lieutenants and sub-lieutenants, before they enter upon the execution of their offices, respectively, shall give bond to the treasurer of the county in which they severally reside, in the name of the president or commander-in-chief of the state, with one sufficient surety in the sum of twenty thousand pounds, conditioned for the faithful accounting for and paying all the moneys which shall come to their hands by virtue of this act when thereunto lawfully required. And that the public bonds given or to be given by the treasurer of the state or county treasurers for the due discharge of their respective offices shall be deemed to extend to the faithful performance of the trust hereby committed to them respectively.

[Section III.] (Section VI, P. L.) And be it further enacted

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by the authority aforesaid, That the said lieutenant or sublieutenants (once in every year) shall issue his or their warrants to the captain or commanding officer for the time being of each company of the several battalions in the said city and counties respectively, or to some other suitable person, commanding him, in the name of the commonwealth, to deliver to him or them, the said lieutenant or sub-lieutenants, within ten days from and after the date of the said warrants (unless the lieutenant or sub-lieutenants shall judge a longer time to be necessary, which he or they are hereby empowered to grant) on oath or affirmation, which any of them is hereby empowered to administer, a true and exact list of the names and surnames of each and every male white person inhabiting or residing within his township, borough, ward or district, between the ages of eighteen and fifty-three (delegates in Congress, members of the supreme executive council, members of the general assembly, judges of the supreme court, attorney-general for the state, the judges of the admiralty, treasurer of the state, sheriffs, gaolers and keepers of workhouses, ministers of the gospel of every denomination, professors and teachers in the university, postmasters and postriders belonging to the general post-office, menial servants of ambassadors or ministers and consuls from foreign courts and of delegates in Congress from other states registered with the secretary of the supreme executive council of this state and servants purchased bona fide and for a valuable consideration only excepted).

[Section IV.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the lieutenant and sub-lieutenants aforesaid shall, within five days after they shall receive the lists aforesaid, if they see cause, alter the present divisions of the city and counties respectively and divide them into new districts, each district to contain not less than four hundred and forty nor more than one thousand, officers and privates included, at the discretion of the said lieutenants and sub-lieutenants, and then sub-divide the said districts into eight parts as nearly equal as may be, paying due regard in each division to the convenience of the inhabitants: Provided always, That

two-thirds of the lieutenants met for the above purpose agree to such division, and that each person be annexed to the numerical class to which he formerly belonged.

[Section V.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the militia of the Northern Liberties of the city of Philadelphia, the district of Southwark and the township of Moyamensing and Passyunk be and they hereby are united to the city of Philadelphia, to act in conjunction with the militia of the said city, and distinct from the rest of the county of Philadelphia, that they draw lots for rank in battalion and be joined in brigade and act in every other matter that respects the militia law as if they were inhabitants of the said city, and to be under the direction of the lieutenant and sub-lieutenants of the city.

[Section VI.] (Section IX, P. L.) And be it further enacted by the authority aforesaid. That the lieutenant and sub-lieutenants of the city of Philadelphia and districts annexed, shall, out of the several battalions of the said city and districts annexed, take such a number as will compose eight companies to form one battalion of artillery, to be officered and arrayed as follows, that is to say, one lieutenant-colonel, one major, eight captains, eight captain lieutenants, eight first lieutenants, sixteen second lieutenants, the senior to bear the standard and the junior to do the duty of conductor; paymaster, adjutant and quartermaster to be taken from the line; one surgeon, one sergeant major, fife major, drum major, eight clerks, thirty-two sergeants, forty-eight bombadiers, fortyeight gunners, eight drummers, eight fifers and four hundred matrosses, and both the officers and privates of the said battalion shall be subject to the same fines and penalties for any omission of duty as the infantry: Provided, nevertheless, That the persons composing the artillery heretofore formed may be permitted to continue as a part of the said battalion of artillery and the officers shall be elected in the same manner as is directed by this act for the election of officers of the infantry.

[Section VII.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That the several captains of the artillery battalion shall determine their rank by lot, and be

numbered from one to eight in numerical order, and be subject to be drawn forth into actual service in rotation by companies, according to their number in rank, number one in rank with the first class of the militia and so on, until all shall take their tour, or otherwise as the commander-in-chief of the militia shall direct.

(Section XI, P. L.) And whereas it is expedient to embody such a number of light horse as will be useful when the militia is called into actual service:

Therefore:

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[Section VIII.] (Section XII, P. L.) Be it further enacted by the authority aforesaid, That each of the lieutenants of the several counties of this state may form a corps of light horse not to exceed six privates for each battalion of infantry in each county, to be taken distributively out of each, in case volunteers offer; otherwise, at large throughout the county. And the light horse shall be officered as light horse usually are, and shall be subject to appear upon muster days, and shall turn out in classes as other militia; and in case any person who shall be admitted into the said light horse shall fail of providing himself with a suitable horse, weapons and furniture, such person shall be liable to be called out and serve in the foot militia.

[Section IX.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the troop of light horse in the city of Philadelphia shall be limited to the number of fifty, exclusive of officers, the vacancies thereof to be filled in the manner heretofore practiced; and the said troops shall be liable to appear on muster days, and to be called out into service as other militia, and the light horse of this state, when in actual service, shall be subject to the same rules and regulations as the foot militia and to like fines and penalties for neglect of meeting on muster days or turning out on their tour when thereunto called, such fines and penalties to be appropriated as the fines and penalties for like offenses in other cases.

[Section X.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if any light horseman shall be elected or appointed a commissioned officer in any battalion

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of infantry of his proper city or county, and on notice given him in writing by the lieutenant shall accept thereof, his place in the said light horse shall be vacated and any light horseman who shall be absent more than four months from his city or county shall vacate his place in the troop to which he belonged. 149

[Section XI.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That the lieutenant or sub-lieutenant shall appraise the horse of each person serving as a light horseman, immediately before every time of going into actual service, and enter the same in a book, and in case such horse shall be killed or die in actual service or be taken by the enemy, otherwise than by neglect he shall be paid the value of such appraisement by an order to be drawn by the lieutenant or any two sub-lieutenants on the militia fund in the hands of the treasurer for that purpose.

[Section XII.] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the said lieutenants shall give public notice by advertisements at ten or more of the most public places in the said districts respectively, of the said divisions being made, and appointing a certain day for each district, not less that [sic] [than] ten days after the said notice, and requiring the male white inhabitants between the ages aforesaid residing in the said divisions respectively to meet at a certain place as near the centre of the said division as may be, and then and there, between the hours of ten in the morning and six in the afternoon of the said day, to elect, by ballot, two field officers, That is to say, one lieutenant, colonel and one major, and the inhabitants of the said subdivisions respectively shall elect by ballot, as aforesaid, on the same or some other day as soon as convenient, one captain, one lieutenant and one ensign, previous to which said election the said inhabitants shall elect two freeholders to preside as judges thereof, and all and each of these officers respectively shall be such persons as have taken the oath of allegiance and abjuration agreeable to the laws of this state; and each captain shall appoint a suitable person for clerk in his company; and the said lieutenant or sub-lieutenant shall attend and superintend each and every of the said battalion elections, and

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shall cause the lieutenant-colonels so elected in the city and counties respectively to meet together as soon as may be, and cast lots for rank of the battalions and the rank of the officers in each battalion shall be determined by the lot drawn by their respective lieutenant-colonels, and the captains so elected in the sub-divisions shall meet and cast lots for their rank in the battalion to which they belong, and the rank of the subaltern officers in each company shall be determined by the lot drawn by their respective captains. And the said lieutenants shall, within ten days, or as soon as may be, having regard to their local situation, transmit proper certificates to the president of the supreme executive council of the names of the persons so as aforesaid elected, and their rank, both of battalion and companies in the several battalions, in order that commissions may be forthwith granted to them agreeable to the said certificates, and elections for officers in the light horse shall be made in like manner as elections for officers in the infantry.

[Section XIII.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That if any battalion, troop or company shall neglect or refuse to elect their officers as aforesaid, then, in such case, it shall and may be lawful for the lieutenant, with the advice and consent of two or more of the sub-lieutenants of the city of Philadelphia, and of such county where such neglect or refusal shall be, to nominate one reputable person to the supreme executive council in the room of each officer so neglected to be chosen, and the said council, approving thereof, shall commission the said person, which shall be as effectual to all intents and purposes as if the said officers had been elected as before directed, and the said lieutenant shall, as soon as may be, acquaint the parties so neglecting or refusing with the appointments so as aforesaid made. And the said several and respective officers elected or appointed as aforesaid shall serve respectively as officers of the militia for the space of three years, at the end of which time the lieutenant of the city and counties respectively, in the manner hereinbefore directed, shall cause a new election to be held in

the said city and counties respectively, but nothing herein contained shall be construed to render any of the former officers incapable of being re-elected.

[Section XIV.] (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the commissioned officers of each company shall appoint three sergeants, three corporals, one drummer and fifer for their respective companies, and all persons who have heretofore been officers in the militia under the late law, if not re-elected, shall deliver up their arms, accoutrements, drums, fifes and colors if paid for by the public, to the lieutenant or sub-lieutenant of the city or county aforesaid; and the lieutenant of the city of Philadelphia and the lieutenant of the counties respectively are hereby authorized to purchase such drums, fifes and colors as may be afterwards wanted to supply the companies in the city and counties respectively.

[Section XV.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the field officers of each battalion in this state shall constitute and appoint, in their respective battalion, one chaplain, one quartermaster, one surgeon, one adjutant, one quartermaster sergeant, one sergeant major, one drum and fife major; and the lieutenants and sub-lieutenants of the city and counties respectively shall, at their discretion, furnish and procure proper carriages for the battalion or drafts of the militia when it shall be necessary.

[Section XVI.] (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the lieutenant or sublieutenants of the city and counties respectively shall pay such wages as shall be necessary to one adjutant, one quartermaster sergeant and one drummer and fifer for every day that the service may require them, out of the moneys arising from fir.es, on the said adjutant, quartermaster sergeant, drummer and fifer producing a certificate of the service so performed from the commanding officer of the said battalion or company.

(Section XXI, P. L.) And whereas the sums allowed by the late militia law for a drummer and fifer have been insufficient and many officers have been obliged to pay considerably more:

[Section XVII.] (Section XXII, P. L.) Be it therefore en-

acted by the authority aforesaid, That the lieutenants shall and hereby are required to pay unto such captains or commanding officers of companies such reasonable sums as they have expended for drummers and fifers on their producing an account of such costs properly certified.

[Section XVIII.] (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That the commissioned officers of each company of militia shall nominate and appoint one discreet person who shall be called the almoner, residing in the district or sub-division out of which their company is formed, provided such almoner is above the age of fifty-three years, to take proper care of the families of such poor militiamen, within their respective districts, as are in actual service in their own turn and to grant them such support as their necessities may require, provided such support do not exceed half the price of daily labor as the same shall be ascertained as hereinafter is directed, and the said officers of the company, or any two of them, shall make out a certificate of their nomination and appointment, directed to the lieutenant of the city or lieutenant or sub-lieutenants of the county to which the company belongeth; which certificates shall enable the said almoner thereby appointed to draw from time to time on the said lieutenant or sub-lieutenant for such sum or sums of money as shall be necessary for the purpose aforesaid, and he shall render an account of the moneys by him drawn to the said lieutenants.

[Section XIX.] (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That every sub-lieutenant of the said city and several counties shall, once in every three months, render an account to his proper lieutenant of all moneys received by him and of his expenditures by virtue of this act, and settle and pay to him the balance of the same, and the lieutenant of the said city and each county respectively shall make out complete accounts of all the moneys received by him and of his expenditures and return the same to the supreme executive council once in every six months, and each lieutenant and sub-lieutenant is hereby empowered to employ one clerk the better to complete the same, and on

failure of accounting as aforesaid each lieutenant and sub-lieutenant shall forfeit and pay for every such neglect the sum of ten thousand pounds, to be applied as other fines are directed to be applied by this act.

[Section XX.] (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That the precedence of the officers of the city of Philadelphia and of the several counties in this commonwealth shall be determined as follows, That is to say, when the commissions are of equal rank and date the officers of the city of Philadelphia and districts annexed shall take rank or precedence of all other officers of equal rank in this state and next to them the officers of the county of Philadelphia and so on, according to the seniority of the counties respectively.

[Section XXI.] (Section XXVI, P. L.) And be it further enacted by the authority aforesaid, That the whole of the militia so enrolled as aforesaid shall be subject to be exercised in companies under their respective officers as followeth, That is to say, in the city of Philadelphia and districts annexed in companies on the two last Mondays in the month of April and in battalion on the two first Mondays in the month of May; and the first battalion shall muster in battalion on the third Monday in May, the second battalion on the Tuesday following, the third battalion on the Wednesday, and so on till the whole number of battalions shall have mustered according to their numerical rank on any or every day of the week (Saturday and Sunday excepted) until the whole number of battalions shall have mustered in the aforesaid manner; and on the day following, should it not happen to be Saturday or Sunday, the whole number of battalions belonging to the city of Philadelphia and districts annexed shall meet in brigade and the militia of the city of Philadelphia and districts annexed shall meet to exercise in companies the two last Mondays in the month of August and in battalion on the two first Mondays in the month of September, and the first battalion on the second Monday in the month of October, the second battalion on the Tuesday following, and the third battalion on the Wednesday and so on until the whole number of battalions according to their

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rank have mustered, except as before excepted. And then, on the day following (with the foregoing exceptions) the whole battalions shall meet in brigade. And in each and every county in the following manner, That is to say, in companies the two last Mondays in the month of April, and the two first Mondays in the month of May, and shall begin their mustering in battalion in the following manner to wit, the first battalion shall meet in battalion on the third Monday of the said month, the second battalion on the Tuesday following, the third battalion on the Wednesday, and so on according to the rank of battalions in the aforesaid manner mustering each day in the week (Saturday and Sunday excepted) and until the whole number of battalions belonging to each county shall have mustered in this manner; and in companies the two first Mondays in the month of October, and the two first Mondays in the month of November; and the first battalion in battalion on the third Monday in the month of November, the second battalion on the Tuesday following, the third battalion on the Wednesday and in this manner until the whole number of battalions belonging to each county according to their ranks severally shall have mustered on any day it may happen (except on a Saturday or Sunday as before excepted). And on each of the said days every militiaman so enrolled shall duly attend with his arms and accoutrements in good order; and a sergeant, or the clerk of each company, shall, at the end of one hour after the time appointed for the meeting of the company or battalion, call over the muster roll of the company, noting those who are absent and on that day shall make return in writing to the captain or commanding officer then present of such absentees, and all persons so absent at the time of calling over the roll or who shall depart from the parade before duly discharged shall be liable to the fines hereafter mentioned.

[Section XXII.] (Section XXVII, P. L.) And be it further enacted by the authority aforesaid, That if any commissioned officer shall neglect or refuse to attend on any of the days appointed for exercise in companies as aforesaid (unless prevented by sickness or some other unavoidable accident) such commissioned officer shall forfeit and pay the price of three

days' labor; and any non-commissioned officer or private and all enrolled persons so refusing or neglecting (except as before excepted) shall forfeit and pay the price of one and a half days' labor, and on a brigade or battalion day a field officer shall forfeit and pay the price of six days' labor, and a commissioned officer under that rank the price of four days' labor, and a non-commissioned officer or private and all enrolled persons refusing to meet and exercise the price of two days' labor (excepting as before excepted), the said prices to be ascertained as hereafter directed. The names and surnames of all which person so incurring the said fines and penalties (except such as may have paid the same into the hands of the captain or commanding officer of the company) shall be duly returned by the captain or commanding officer of each company under his hand, together with such fines as he has received to the lieutenant-colonels or commanding officers of the battalions resp

tively on each field day, which said lieutenant-colonel or commanding officer of battalion shall, on receipt of such fines and returns, forthwith transmit the same to the lieutenant or one of the sub-lieutenants of the county; and also a duplicate thereof to the treasurer of the county, and the said lieutenant or sub-lieutenant shall immediately after the said returns are respectively made to him cause the same to be recovered by issuing his warrant to the sheriff, constable or other fit person that he can procure to levy the aforesaid fines by distress and sale of the offender's goods and chattels, together with five per centum for collecting where no distress is necessary to be made, and seven and a half per centum in case of distress and sale, in full for his trouble for levying, selling and collecting (unless the offender show cause of absence by sickness or otherwise, and can produce a certificate from the captain or commanding officer of the company, who may give such certificate if he verily believes the offender ought to be excused from paying the said fines), but if no such goods and chattels can be found, then to seize and take the body of such offender, and commit him to the common gaol or some other place of close confinement for the space of ten days for each fine, unless he sooner pay the same. And the lieutenant shall twice in

each year transmit the said fines, when collected, into the hands of the county treasurer, who shall pay the same into the hands of the state treasurer, to be kept as a fund, subject to such drafts as may be made upon him from time to time by the lieutenant or at least two sub-lieutenants for the use of the militia of that county. But if the funds of any county, by the generality of their turning out, should be insufficient to answer the drafts for the support of persons serving or suffering in the militia, in that case the executive council shall be empowered to draw on the funds of such other counties whose surplus may be most enabled to bear it.

[Section XXIII.] (Section XXVIII, P. L.) And be it further enacted by the authority aforesaid, That the treasurer of each county and the state treasurer shall keep all the moneys arising from fines by the militia law separate from all other moneys, and keep separate books to enter the same for the purposes hereinafter mentioned.

[Section XXIV.] (Section XXIX, P. L.) And be it enacted by the authority aforesaid, That whenever it may be necessary to call into actual service any part of the militia, in case of a rebellion or invasion of this or any of the adjoining states, then it shall and may be lawful for the president or vicepresident in council to order into actual service such part of the militia, by classes, of the city of Philadelphia or any of the county or counties as the exigency may require: Provided, That the part so called doth not exceed four classes of the militia of the county or counties so called out: And provided also. That such counties shall not be again called upon to furnish any more militia until an equal number of classes of the militia of the other counties respectively be first called, unless the danger of an invasion from Indians or others should make it necessary to keep in reserve the militia of such county or counties for their own immediate defense.

(Section XXX, P. L.) And to the end that the militia, when called by classes, shall be properly officered, the following order is hereby directed and enjoined, That is to say:

For the first draft, the captain of the first company, the lieutenant of the second and the ensign of the fourth.

Second draft, the captain of the second company, the lieutenant of the first and the ensign of the third.

Third draft, the captain of the third company, the lieutenant of the fourth and the ensign of the second.

Fourth draft, the fourth captain, the lieutenant of the third company and the ensign of the first.

Fifth draft, the fifth captain, the lieutenant of the sixth company and the ensign of the eighth.

Sixth draft, the sixth captain, the lieutenant of the fifth company and the ensign of the seventh.

Seventh draft, the captain of the seventh company, the lieutenant of the eighth and the ensign of the sixth.

Eighth draft, the captain of the eighth company, the lieutenant of the seventh and the ensign of the fifth.

Non-commissioned officers to take tour of duty with the commissioned officers.

And the field officers of battalions in the city of Philadelphia and in each county of this state shall be divided in like manner, and each class to be considered as a detachment from different corps liable to serve two months and no longer, and to be relieved by the class next in numerical order, the relief to arrive at least two days before the expiration of the term of the class to be relieved, but nothing herein contained shall prevent the supreme executive council from employing or calling out part of any class or any company or companies, battalion or battalions without respect to this rule whenever the exigency is too sudden to allow the assembling of the scattered militia which compose the particular classes and the service of the persons so called out, shall be accounted as part of their tour of duty and the militia in actual service shall receive the same pay and rations as continental troops, their pay to commence two days before marching, and receive pay and rations at the rate of fifteen miles per day on their return home.

(Section XXXI, P. L.) And whereas the militia, when called into actual service, are not entitled to any bounty, such as clothing at the public expense and, therefore, their reward is not equal to that of the regular troops:

[Section XXV.] (Section XXXII, P. L.) Be it therefore en-

acted by the authority aforesaid, That when the militia, or any detachment thereof, are called out on duty each non-commissioned officer and private shall receive such a sum as, including the continental pay, will amount to the price of common labor for the time of service given, to be drawn from the treasury by the paymasters of the militia from time to time appointed; and the officers, whose duty it may be are hereby required to make out separate pay rolls of the said bounty and that all commissioned officers shall, over and above the pay established from time [to time] by the honorable Congress, receive the same bounty which a private shall receive.

[Section XXVI.] (Section XXXIII, P. L.) And be it further enacted by the authority aforesaid, That at each quarter sessions of the peace of the city and in the several counties throughout the state the price of common labor then current in the said city and counties respectively shall be inquired into and ascertained, and the justices, or a majority of them, attending the said courts are hereby required to fix and determine what is the average price of common labor at that time by the day, which price so determined by the said justices shall be considered as a rate by which all fines shall be determined for neglects or omissions of militia duty during and from that time to the end of the next quarter sessions of the peace, and the said justices are hereby required to make out a certificate of the price so determined for the lieutenants of the said city and counties respectively under their hands and seals.

[Section XXVII.] (Section XXXIV, P. L.) And be it further enacted by the authority aforesaid, That when any class or classes of the militia shall be called to perform any tour of duty, the lieutenant or sub-lieutenants shall cause each and every person so called to be notified of such call at least three days before the time of assembling the said militia by a written or printed notice being delivered to him personally or left at his house or usual place of abode by some officer or other fit person employed for that purpose by the commanding officer of said company, and any person refusing or neglecting to perform such tour of duty shall pay, for each and every day he shall so neglect or refuse the price of one day's labor, and in case

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he shall be possessed of such estate as is hereinafter mentioned, shall pay such additional sum as by this act is further directed.

[Section XXVIII.] (Section XXXV, P. L.) And be it further enacted by the authority aforesaid, That the master or mistress of any apprentice and the father or mother of any minor liable to serve in the militia who shall refuse or neglect to attend as aforesaid, such minor being in the service of his father or mother, master or mistress, they shall be respectively accountable for the fine or fines so incurred by such minor or apprentice.

[Section XXIX.] (Section XXXVI, P. L.) And be it further enacted by the authority aforesaid, That no mariner or seaman shall be subject to the fines and penalties of this act for not performing militia duties if such mariner or seaman is in actual employ by being shipped for a voyage or absent at sea.

[Section XXX.] (Section XXXVII, P. L.) And be it further enacted by the authority aforesaid, That the militia of this state whilst in the actual service of the United States shall be subject to the same rules and regulations as the federal army: Provided, That upon any transgression or offense of a militiaman, whether officer or private, against the rules and regulations of the federal army the cause shall be tried and determined by a court martial of the militia of this state, and that it shall be in the power of the president of the supreme executive council, or in case of his absence, of the commanding officer of the militia to mitigate, suspend or pardon any punishment to which any militiaman may be sentenced by a general courtmartial.

[Section XXXI.] (Section XXXVIII, P. L.) And be it further enacted by the authority aforesaid, That if any delinquent shall neglect or refuse to pay the fine for an omission of performing his tour of militia duty, within five days after the appeal [hereinafter mentioned] it shall and may be lawful for the lieutenant or any sub-lieutenant to issue his warrant to the sheriff, or any constable or other fit person that he can procure, to levy the said fine, by distress and sale of the offender's goods and chattels, lands and tenements, together with

seven and a half per centum and the charges of keeping the distress, in full for his trouble for levying, selling and collectting; which said distress and sale shall be made according to the directions of the law for levying and selling goods and chattels distrained for rent; but if no such goods and chattels, lands and tenements can be found, then to seize and take the body of such offender and commit him to the common gaol or some other place of close confinement for the space of four months, unless he sooner pays the said fine, and no process shall issue to stay the execution of such warrant unless in case of the seizure of real estates.

(Section XXXIX, P. L.) Provided always, That if any person shall think himself aggrieved in the seizure of his lands and tenements he may enter an appeal before the justices to the next court of common pleas for said county, and on the party giving sufficient security within six days next after any lands and tenements shall be seized or distrained as aforesaid to prosecute such appeal with effect, the justices shall receive the same and stay further process, and the said justices shall return every such appeal on the first day of the next term, and the court shall direct a trial by a jury of the country as in cases of debt, whose verdict shall be final and conclusive; and, except in extraordinary cases, of which the court shall judge, all such appeals shall be tried at the term to which such returns shall be made.

(Section XL, P. L.) Provided also, That in case real estate be sold as aforesaid, such sale shall be made by the sheriff of the county, who shall make a sufficient deed for the same and put the purchaser into possession thereof.

[Section XXXII.] (Section XLI, P. L.) And be it further enacted by the authority aforesaid, That no militiaman shall withdraw himself from the company to which he belongs under the penalty of the value of twenty days' labor, to be sued for and recovered by the commanding officer of the company from which he shall so withdraw himself before any justice of the peace by action of debt: Provided nevertheless, That persons removing out of the bounds of one battalion or company to another, shall apply to the commanding officer of the company

to which he did belong who shall give him a discharge, certifying the class to which he belongs, and whether he hath served his tour of duty or not, which certificate the said militiaman shall produce to the captain or commanding officer of the company in whose bounds he next settles within ten days after his settlement under penalty of the value of thirty days' labor to be recovered and applied as aforesaid; and the captain or commanding officer is hereby required to enroll him in the class specified in the said certificate.

[Section XXXIII.] (Section XLII, P. L.) And be it enacted by the authority aforesaid, That in all cases of doubt respecting the age of any person enrolled or intended to be enrolled in the militia, the party questioned shall prove his age to the satisfaction of the officers of the company within the bounds of which he may reside, or a majority of them.

(Section XLIII, P. L.) And whereas it is just and reasonable that those who have considerable property should pay for the protection of that property when they do not give their service in facing danger in the field or bearing any of the necessary fatigues attending a military life; and to compel all persons to give their personal service or some equivalent therefore in some proportion to such property:

[Section XXXIV.] (Section XLIV, P. L.) Be it therefore enacted by the authority aforesaid, That all and every person and persons who are in and by this act required to perform a tour of duty, and have an estate shall pay for neglecting to perform the said tour of duty, in addition to the fine of the price of one day's labor as aforesaid the sum of fifteen shillings in every hundred pounds on all his rateable property and occupation in the manner directed to be ascertained by an act of assembly passed the third day of April, one thousand seven hundred and seventy-nine, entitled "An act to raise the supplies for the year one thousand seven hundred and seventy-nine,"¹ and as may be directed to be taken by every yearly or other state tax in future.

(Section XLV, P. L.) And in order that the lieutenant of each county may have the amount of the whole estate of each person

¹ Chapter 840.

residing in said county, although the said estate or estates may be situate in some other county or counties, that he, the said lieutenant, may be able, where the case requires it, to levy for the interest on the whole wheresoever lying within this state:

[Section XXXV.] (Section XLVI, P. L.) Be it further enacted by the authority aforesaid, That the assessors of each and every county finding any kind of taxable estate within said county belonging to persons resident in some other county within the state shall and are hereby required to make out a list of the amount of the valuation of such estate or estates, placing the same opposite the name of such proprietor, and once in every year send such lists to the lieutenant of the county where the owner of such estate may reside.

[Section XXXVI.] (Section XLVII, P. L.) And be it further enacted by the authority aforesaid, That the lieutenant of the city of Philadelphia and of the several counties of this state shall have and receive the value of one and an half bushels of wheat per day, and the sub-lieutenants for the said city and counties shall have and receive the value of one and a quarter bushels of wheat per day each, as the same shall be declared from time to time by the general assembly, for their trouble, and for every day in which they shall be employed in doing and performing the respective duties required by this act, which said sum or sums shall be respectively paid unto them out of the fines incurred by this act.

[Section XXXVII.] (Section XLVIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for any person called to do a tour of militia duty to find a sufficient substitute, having been previously classed at least six months in the company or battalion to which the person belongs who hires such substitute: Provided always, That persons serving by substitute as aforesaid, if said substitute shall be called in his own turn into actual service before the term expires which he was to serve for his employer, that then the person procuring such substitute shall march in the said substitute's turn or be liable to pay his fine for neglect, which fine is to be recovered as other fines for neglect of serving are by this act directed to be recovered and that sons who

are not subject to the militia law may be admitted as substitutes for their fathers, and that each substitute be approved of by the lieutenant or sub-lieutenant.

[Section XXXVIII.] (Section XLIX, P. L.) And be it further enacted by the authority aforesaid. That the lieutenant or one of the sub-lieutenants shall, within ten and not less than five days after the marching of any part of the militia, call to his assistance two freeholders, one of whom shall be a justice of the peace, to sit at the most convenient place for the inhabitants of their respective districts (notice having been given of such place in the written or printed summons of every militiaman), and shall there hear and determine all appeals that may be made by the persons thinking themselves aggrieved by anything done in pursuance of this act, and they are hereby authorized and required to grant such relief to such appellant as to them shall appear just and reasonable in consideration of such inability of body as in the opinion of the court renders him incapable of performing military duty, and each of the said freeholders, before they shall sit on the said appeal, shall take the following oath or affirmation, viz.: "That he will hear and impartially determine on the cases of appeal that may be laid before him agreeable to law and according to the best of his knowledge," which oath or affirmation the said justice, lieutenant or sub-lieutenant is hereby empowered and required to administer, and the said justice and freeholder shall have and receive from the said lieutenant the value of one bushel of wheat each for every day they sit on the said appeals, and the said lieutenant and justice of the peace shall each keep a separate record of the proceedings of such court of appeals.

[Section XXXIX.] (Section L, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall knowingly sell, buy, take or exchange, conceal or otherwise receive any arms, accoutrements, colors or drums belonging to this state or the United States on any account or pretense whatsoever, the person so offending, being convicted thereof before one or more justice or justices of the peace of the city or county where such offense shall be committed, shall forfeit and pay for every such offense treble the value of such arms

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or accoutrements, to be ascertained by the said justice or justices and levied by distress and sale of the offender's goods and chattels by the justice or justices before whom such offender shall be convicted, returning the overplus, if any, on demand, to such offender, and for want of such distress shall commit such offender to the common gaol of the county, there to remain without bail or mainprise for any term not exceeding three months, unless such money shall be sooner paid; and in every case the proof of the property shall be made by the possessor of such arms or accoutrements.

[Section XL.] (Section LI, P. L.) And be it further enacted by the authority aforesaid, That no person, not being a subject of this state or any of the United States, who already has deserted or shall hereafter desert from the enemy in the course of the present war, shall be enrolled in any company of militia of this state during the present contest or be subject to any fine or penalty for not serving as by this act is required of others.

[Section XLI.] (Section LII, P. L.) And be it enacted by the authority aforesaid, That no civil process shall be served on any commissioned, non-commissioned officer or private at any regimental review or training of any company, or while going to or returning from the place of such review or training.

[Section XLII.] (Section LIII, P. L.) And be it enacted by the authority aforesaid, That all moneys passing into the treasury by virtue of the directions of this act shall be appropriated as a fund for the benefit and relief of such officers and privates of the militia of this state as are or shall be wounded and disabled in service, and of the widows and children of such as have or shall fall in battle or otherwise loose their lives in the service of the state, and shall not be considered as a revenue for any other purpose than that of supporting the necessary officers for carrying this law into effect, equipping and furnishing the militia with every necessary apparatus for the defense and security of the state, the surplus, if any, to be appropriated in such manner and to such uses as the assembly shall from time to time direct and appoint.

[Section XLIII.] (Section LIV, P. L.) And be it further en-

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acted by the authority aforesaid. That if any commissioned officer, non-commissioned officer or private militiaman of this state who has lost or may hereafter lose a limb in any engagement in the service of the state, or in the service of the United States of America, or be so disabled as to render him incapable of getting a livelihood, he shall receive during life or the continuance of such disability a pension adequate to the necessity of such disabled officer or private militiaman by the judgment of the orphans' court of the county where such disabled officer or private militiaman shall dwell or reside. And every officer or private disabled as aforesaid shall, before he be legally entitled to the pension above mentioned, produce a certificate, upon oath, from the commanding officer who was in the same engagement in which he was wounded, or from the officer next in command, or the surgeon that attended him, and upon such disabled officer, non-commissioned officer or private militiaman's producing such certificate as aforesaid to the orphans' court of the county where such disabled officer, non-commissioned officer or private militiaman shall dwell or reside, the said court is hereby enjoined and required, if they are satisfied of the truth thereof, to give every such officer or private an order on the lieutenant of the said city or county for such sums of money from time to time as to them shall appear just and necessary, provided such sums of money do not exceed the half pay and rations of such officer or private. And the said lieutenant is hereby enjoined and required to accept and pay the said order to such officer or private. And the said lieutenant shall draw on the state treasurer as often as he shall have occasion for such sum or sums of money as he shall make appear to the president and council to be necessary for carrying

[Section XLIV.] (Section LV, P. L.) And be it enacted by the authority aforesaid, That if any officer, non-commissioned officer or private militiaman residing in this state, having a family, has been killed, shall be killed or shall die of his wounds received in the service of this or the United States, a certificate from the commanding or other officer next in rank who was in the same engagement in which he was killed or wounded and

this proviso into execution.

died of his wounds, being produced to the orphans' court, and also a certificate from the overseers of the poor and two other reputable freeholders of the township, borough, ward or district where the family of such deceased officer or private militiaman shall dwell or reside at that time, setting forth the particular circumstances of such family, the age or ages of the child or children and the necessity of granting them some support, the said orphans' court, when possessed of the certificates aforesaid, is hereby authorized to give orders upon the lieutenant of the city or county for such sum of money as they may think just and necessary for the support of such family from time to time.

(Section LVI, P. L.) Provided always, That the sum of money aforesaid does not exceed the half pay and rations that such officer, non-commissioned officer or private was entitled to at the time of his death.

[Section XLV.] (Section LVII, P. L.) And be it further enacted by the authority aforesaid, That if any field or other commissioned officer, at any regimental review or on any other occasion when the battalion or company to which he may belong, or in which he holds a command is paraded in arms, shall appear, misbehave or demean himself in an unofficerlike manner, he shall, for such offense, be cashiered or punished by fine at he discretion of a general court martial as the case may require in any sum not exceeding the price of six days' labor; and if any non-commissioned officer or private shall, on any occasion of parading the company to which he belongs, appear with his arms and accoutrements in an unfit condition, or be found drunk or shall disobey orders or use any reproachful or abusive language to his officers, or any of them, or shall quarrel himself or promote any quarrel among his fellow soldiers he shall be disarmed and put under guard by order of the commanding officer present until the company is dismissed, and shall be fined in any sum not exceeding the price of ten days' labor nor less than one day's labor.

[Section XLVI.] (Section LVIII, P. L.) And be it further enacted by the authority aforesaid, That if the lieutenantcolonel or commanding officer of any battalion shall neglect

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or refuse to give orders for assembling his battalion at the times appointed by this law or at the direction of the lieutenant or sub-lieutenant of the city or any county when the said lieutenant or sub-lieutenant is thereto commanded by the president or vice-president in council, or in case of an invasion of the city or county to which such battalion belongs, he shall be cashiered and punished by fine at the discretion of a general court-maritial; and if a commissioned officer of any company shall, on any occasion neglect or refuse to give orders for assembling the company to which he belongs, or any part thereof, at the direction of the lieutenant-colonel or commanding officer of the battalion to which such company belongs he shall be cashiered and punished by fine at the discretion of a regimental court-martial and a non-commissioned officer offending in such case shall be fined in any sum not exceeding the price of ten days' labor.

[Section XLVII.] (Section LIX, P. L.) And be it further enacted by the authority aforesaid, That if any captain or commanding officer of a company shall refuse or neglect to make out a list of the persons noticed to perform any tour of duty and send or convey the same to the lieutenant-colonel or commanding officer of the battalion to which such company may belong for such neglect or refusal he shall be cashiered or fined at the discretion of a regimental court-martial.

[Section XLVIII.] (Section LX, P. L.) And be it further enacted by the authority aforesaid, That the following rules and regulations shall be those by which the militia shall be governed.

1st. Every general court-martial shall consist of thirteen members, all of whom shall be commissioned officers and of such rank as the case may require, and these thirteen shall choose a president out of their number, who shall be a field officer.

2d. Every regimental court-martial shall be composed of five members, all commissioned officers, who are to choose one of their members as president not under the rank of a captain.

3d. In any court-martial not less than two-thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted.

4th. The president of each and every court-martial, whether general or regimental, shall require all witnesses in order to the trial of offenders to declare on oath or affirmation that the evidence they shall give is the truth, the whole truth and nothing but the truth, and the members of all such courts shall take an oath or affirmation, which the president is required to administer to the other members and the next in rank is required to administer to him that they will give judgment with impartiality.

5th. All members of any militia called as witnesses in any case before a court-martial who shall refuse to attend and give evidence shall be censured or fined at the discretion of the court.

6th. No officer or private man being charged with transgressing these rules shall be suffered to do duty in the battalion, company or troop to which he belongs until he has had his trial by a court-martial, and every person so charged shall be tried as soon as a court-martial can be conveniently assembled.

7th. If any officer or private man shall think himself injured by his lieutenant-colonel or the commanding officer of the battalion and shall, upon due application made to him, be refused redress, he may complain to the lieutenant of the county, who shall summon a general court-martial that justice may [be] done.

8th. If an inferior officer or private man shall think himself injured by his captain or other superior officer in the battalion, troop or company to which he belongs, he may complain to the commanding officer of the battalion who shall summon a regimental court-martial for the doing justice according to the nature of the case.

9th. No penalty shall be inflicted at the discretion of the court-martial other than degrading, cashiering or fining.

10th. The commanding officer of the militia for the time being shall have full power of pardoning or mitigating any censures or penalties ordered to be inflicted on any private or non-commissioned officer for the breach of any of these articles by a general court-martial, and every offender convicted as

aforesaid by any regimental court-martial, may be pardoned, or have the penalty mitigated by the lieutenant-colonel or commanding officer of the battalion, excepting only where such censures or penalties are directed as satisfaction for injuries received by one officer or private man from another, but in case of officers such sentence to be approved by the commanderin-chief or the nearest general officer of the militia, who are respectively empowered to pardon or mitigate such sentence or disapprove the same.

11th. The militia, on the days of exercise, may be detained under arms on duty in the field any time not exceeding six hours, provided they are not kept above three hours under arms at any one time without allowing them a proper time to refresh themselves.

12th. No company or battalion shall meet at a tavern on any of the days of exercise, nor shall march to any tavern before they are discharged; and any person who shall bring any kind of spiritous liquor to such place of training shall forfeit such liquors so brought for the use of the poor belonging to the township where such offender lives.

13th. All fines that shall be incurred by any breach of these rules shall be paid into the hands of the clerk of the company to which the offenders belong, but if a field officer, to the clerk of that company whose captain has the first rank in the battalion, within three weeks after they become due; but in case of neglect or refusal to pay any of the said fines, then in such case, upon application made by the clerk to whom such fine or fines ought to have been paid, it shall and may be lawful for any one justice of the peace of the county, if the fine does not exceed fifty pounds, or two justices if above that sum, by warrant under his or their hands and seals to levy such fine or fines respectively on the offender's goods and chattels, and otherwise proceed in recovering the same as is by law directed, and when recovered the said justice or justices are required to pay such fines into the hands of the clerk who applied for recovery and shall be applied as other fines before directed.

[Section XLIX.] (Section LXI, P. L.) And be it further enacted by the authority aforesaid, That in any case wherein any

person is by this act called to do or perform anything in execution thereof, or otherwise, and no special recompense is herein provided for such service, such person shall be satisfied for the same at the discretion of the lieutenant, taking to his assistance two sub-lieutenants of the city or county respectively.

[Section L.] (Section LXII, P. L.) And be it further enacted by the authority aforesaid. That in any case wherein the person who shall be authorized to collect any fine due by virtue of this act shall need assistance in levying the same, such collector, on application to any captain or inferior officer of the militia of the place where such fine shall be due, shall be assisted therein by a sufficient party of militia of the neighborhood ordered on such duty by such captain or other officer, and if such captain or other officer or any of the party by such captain or other officer ordered on such duty refuse or neglect to perform the said duty, such captain or other officer shall forfeit and pay the sum of fifty pounds, and if any non-commissioned officer or private be delinquent therein he shall forfeit and pay the sum of twenty-five pounds, to be recovered with costs of suit as demands for fifty pounds are by law recoverable, to be applied as other fines levied by virtue of this act.

[Section LI.] (Section LXIII, P. L.) And be it further enacted by the authority aforesaid, That in case any militiaman shall desert when he is out on a tour of duty the commanding officer of the battalion or detachment from which he deserts shall, as soon as possible, give notice thereof to the lieutenant of the city or county or sub-lieutenant of the district from which he came who, if he does not see proper to send him back shall subject him to the payment of such fine as he would have paid if he had not gone out on such tour.

[Section LII.] (Section LXIV, P. L.) And be it further enacted by the authority aforesaid, That if any suit or suits shall be brought or commenced against any person or persons for anything done in pursuance of this act, the action shall be laid in the county where the causes of such action did arise and not elsewhere, and the defendant or defendants in such action or actions to be brought may plead the general issue, and

give this act and the special matter in evidence; and if the jury shall find for the defendants in such action or actions, or if the plaintiff or plaintiffs shall be non-suited or discontinue his or their action or actions after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs the defendant or defendants shall have treble costs and have the like remedy for the same as any defendant or defendants had or have in other cases to recover costs by law.

[Section LIII.] (Section LXV, P. L.) And be it further enacted by the authority aforesaid, That all and every the fines and forfeitures by this act made payable and the mode of recovery not hereinbefore particularly pointed out shall be recovered by the lieutenant of each county and of the city of Philadelphia by summons or warrant and execution from under the hand and seal of a justice of the peace in the neighborhood where the person charged resides, directed to any constable of the city or county, requiring him to levy the same on the goods and chattels of the delinquent, and the same cause to be appraised by two freeholders, and after being publicly advertised seven days make sale thereof, and after payment of the fine or forfeiture to the lieutenant, together with costs and charges, pay the overplus, if any, to the owner, and if goods and chattels sufficient to discharge the same cannot be found, that then the justice granting such precept shall certify the proceedings had thereon to the prothonotary of the county court of common pleas, who is thereupon required to issue a fieri facias directed to the sheriff of said county for levying the fines and forfeitures aforesaid, together with the costs on the lands or tenements of such delinquent.

[Section LIV.] (Section LXVI, P. L.) Provided always, and be it enacted by the authority aforesaid, That if any person or persons shall think him or themselves aggrieved by the judgment of the justice aforesaid in any suit of fifty pounds or upwards, he or they may appeal before the justice aforesaid, and on the party's giving security within six days next after any such judgment to prosecute such appeal in the court of

common pleas of the county with effect, the justice shall receive the same and stay further process, and the said justice shall return every such appeal on the first day of the next term, and the court shall direct a trial by jury, as in other cases of debt, whose verdict shall be final and conclusive; and all such appeals shall be tried at the term to which such returns shall be made, any law, custom or usage to the contrary notwithstanding.

[Section LV.] (Section LXVII, P. L.) And be it further enacted and declared. That the act entitled "An act to regulate the militia of the commonwealth of Pennsylvania,"¹ passed on the seventeenth day of March, Anno Domini one thousand seven hundred and seventy-seven; also, the supplement to the said act passed the nineteenth day of June, Anno Domini one thousand seven hundred and seventy-seven;² also, a further supplement to the said act passed on the thirtieth day of December, Anno Domini one thousand seven hundred and seventy-three;³ also, a further supplement to the said act passed on the fifth day of April, Anno Domini one thousand seven hundred and seventy-nine; 4 also, such parts of an act, entitled "An act to empower the supreme executive council and justices of the supreme court to apprehend suspected persons and to increase the fine to which persons are liable for neglecting to do their tour of militia duty," 5 as relates to the fining the militia for not performing a tour of duty and the pay of the lieutenants are hereby repealed and made void.

[Section LVI.] (Section LXVIII, P. L.) Provided always, That nothing in this act contained shall be deemed to repeal. alter or dispense with the powers, authorities or duties of the present lieutenants and sub-lieutenants of the city and counties aforesaid, or of any other officer or person under the militia laws that have been in force in this state immediately before the passing of this act until their respective offices are supplied and filled by new appointments in virtue of this act which

¹ Chapter 750. 2 Chapter 760. 3 Chapter 781. 4 Chapter 843. 5 Chapter 865.

1780] The Statutes at Large of Pennsylvania.

said present lieutenants and sub-lieutenants or other proper officers are hereby authorized required and enjoined to collect or cause to be collected all [such] fines and forfeitures as have been or shall be incurred during the continuance of their respective commissions and pay in the same agreeable to this law, or the late laws aforesaid on or before the first day of July next. But in case the president or vice-president and council shall approve of the discontinuing to act or resignation of the said present lieutenants and sub-lieutenants or any of them and not otherwise it shall be lawful for such officer and he is hereby required to deliver to his successor in office an account on oath of all the moneys uncollected and outstanding on account of fines and forfeitures aforesaid, who is in such case empowered and required to collect the same.

Passed March 20, 1780. See the Acts of Assembly passed May 26, 1780, Chapter 908; September 22, 1780, Chapter 916; March 21, 1783, Chapter 1022; September 22, 1783, Chapter 1038; December 9, 1783, Chapter 1061; September 29, 1787, Chapter 1319; March 22, 1788, Chapter 1339; November 19, 1788, Chapter 1383; March 27, 1789; Chapter 1416; March 3, 1790, Chapter 1483; March 27, 1790, Chapter 1493; April 5, 1790, Chapter 1513 (repealed by the Act of Assembly passed) April 11, 1793, Chapter 1696. Recorded L. B. No. 1, p. 374, &c.

CHAPTER CMIII.

AN ACT TO DISCONTINUE A ROAD CALLED PALMER'S LANE IN THE TOWNSHIP OF THE NORTHERN LIBERTIES IN THE COUNTY OF PHILADELPHIA AND NEAR TO THE LOWER FALLS OF SCHUYLKILL

(Section I, P. L.) Whereas it has been represented to us on the petition of John Redman of the city of Philadelphia, practitioner in physic, and Nathaniel Falconer, of the same place, mariner, that in the year one thousand seven hundred and twenty-three, four, a road was laid out from the market place in Germantown, in the county of Philadelphia, to Robert Roberts' ferry, on the river Schuylkill, which entered the lands then owned by William Palmer, and since by the said John Redman and Nathaniel Falconer, at the northwest end of the same, and

THE

ACTS AND RESOLVES

PASSED BY

Che Ceneral Assembly

OF THE

STATE OF VERMONT,

AT THE

OCTOBER SESSION.

1852.



PUBLISHED BY AUTHORITY.

MONTPELIER: E. P. Walton & Son, Printers. 1852.

EXHIBIT 6 (McLean)

1852.]

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No. 24.-AN ACT TO PREVENT TRAFFIC IN INTOXICATING LIQUORS FOR THE PURPOSE OF DRINKING.

SECTION

- 1. Manufacture, sale, &c., of intoxicating liquor prohibited, except as provided in this act.
- 2. A county commissioner to be chosen annually; compensation fixed.
- 3. Commissioner to appoint an agent of the several towns, to purchase and sell, for the town of which he is agent, intoxicating liquor for certain purposes, under certain regulations.
- 4. Agent to execute a bond for the faithful performance of his trust.
- 5. Penalties for selling, &c. intoxicating liquors in violation of this act.
- 6. Justices of the peace and county courts to have concurrent jurisdiction of offences. Prosecutions, how to be made.
- 7. No appeal allowed from decision of justices of the peace, unless certain securities are given.
- 8. Commissioner empowered to revoke license of agent, and to prosecute him for violations of this act.
- 9. No person to be manufacturer or common seller unless appointed agent as aforesaid. Penalties prescribed. Proviso, in relation to cider, and manufacture for private use.
- 10. Persons engaged unlawfully in such traffic disqualified to sit upon any jury in cases arising under this act.
- 11. Prosecutions under this act to take precedence of other cases, except certain criminal cases, and not to be discontinued or con-

SECTION

tinued unless required by purposes of justice.

- 12. Provisions for search and destruction of liquor in certain case.
- 13. Provisions in case the owner of any liquor is unknown, and in case it belongs to any town.
- 14. Appeal from judgment of justice allowed and regulated. Liquors may be kept by manufacturers &c. for use.
- 15. Provisions for seizing liquor in shanties, &c. on ground of any public show or occasion.
- 16. In cases appealed when judgment is affirmed, liquors to be destroyed.
- 17. Witnesses to be bound over for appearance at county court.
- 18. Forms of complaints given. Defects may be amended. Fine to be imposed for each act of selling proved.
- 19. Fees regulated. ,
- 20. Powers of city authorities under this act.
- 21. Payments for liquors sold in violation of this law to be treated as against law. In suits, buyer and seller may be a witness. No action to lie for recovery of liquor, or its value, unless the same sold or purchased agreeably to this rict.
- 22. Persons intoxicated and disturbing the public peace may be apprehended, and compelled to disclose where they obtained such liquor.
- 23. Penalty for neglect of duty by public officer.
- 24. Grand jury to make presentments.

:23-cv-00265-LEK-WRP

Fine to be received and paid by 29. Canvass of votes, when to be the state treasury. made. 25. Penalty on state's attorney for 30. This act not to affect prosecutions under the present law: and not settling with offenders. to interfere with licenses now 26. Former acts repealed. 27. Act when to take effect. granted. 28. Provisions for obtaining an ex-31. Provisions for first election of county commissioners in case the pression of the choice of the people vote in favor of this act. freemen.

It is hereby enacted by the General Assembly of the State of Vermont, as follows:

SEC. 1. No person shall be allowed, at any time or place within this state, except as hereinafter provided, to manufacture, sell, furnish or give away, by himself, his clerk, scrvant or agent, any spirituous or intoxicating liquor, or mixed liquor, of which a part is spirituous or intoxicating, all which is intended by the phrase intoxicating liquor wherever it occurs in this act : *Provided*, that nothing in this act shall be construed to prevent the manufacture, sale and use of the fruit of the vine for the commemoration of the Lord's supper.

There shall be chosen by ballot at each annual SEC. 2. March meeting in this state, by the legal voters in such meeting, a county commissioner for each county-each to be chosen by the legal voters of the several towns in their respective counties, a notice of which election shall be by the selectmen inserted in the warning for town meetings, and a certificate of the votes given for such commissioner shall be forwarded, by the town clerks of the several towns, to the clerk of the county in which such towns are situated, on or before the second Tuesday in April next after such election; and the clerk aforesaid shall, on the second Tuesday in April, canvass the votes so returned, and the person having the greatest number of votes so returned shall be declared elected commissioner, and the clerk aforesaid shall issue, to the person so elected, a proper certificate of his election, and make suitable proclamation of such election in one or more newspapers printed in such county, or if there be no such paper printed in such county, then in one or more papers printed in an adjoining county. And such commissioners shall hold their respective offices for the term of one year, and until others are chosen in their stead, and shall have full power to perform all the duties required of them by this act, and shall receive as compensation, for services rendered as required by this act, six cents per mile for all necessary travel, and two dollars per day for time actually spent in the performance of duties herein required, to be paid from the treasuries of the respective counties.

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SEC. 3. The commissioner of any county, on the first Monday in May, annually, or as soon after as may be convenient, may appoint some suitable person as the agent of any town or city in the county, to purchase, at the expense of the town or city, for which such agent is appointed, and to sell at some central or convenient place therein, intoxicating liquor, to be used for medicinal, chemical, and mechanical purposes only; and the money received for such sales shall be paid into the treasuries of their respective towns or cities; and such agent shall receive such compensation for his services as the selectmen of the town, or mayor and aldermen of the city, shall prescribe; and shall, in the sale of such liquor, conform to such rules and regulations as said commissioner shall prescribe; and shall hold his situation for one year, unless sooner removed by said commissioner, or his successor in office. And in case such appointment becomes vacant by removal or otherwise, said commisioner may appoint some other person to the situation for the remainder of the year: Provided, that no innkeeper, or keeper of a house of public entertainment, shall be appointed such agent in any town or city in the state.

SEC. 4. Such agent shall receive a certificate from the commissioner appointing him, authorizing him, as the agent of the town, to sell intoxicating liquor for medicinal, chemical, and mechanical purposes only; but such certificate shall not be delivered unto him, or take effect, until he shall, if required by the commissioner, have executed and delivered a bond, with two good and sufficient sureties, to said commissioner, in the sum of six hundred dollars, in substance, as follows:

"Know all men that we _____ as principal, and _____ as sureties, are holden to the county of _____, in the sum of six hundred dollars, for the payment of which, to said county, we bind ourselves, our heirs, executors and administrators firmly by these presents.

"Provided, that if the said ——— shall, so long as he is agent of the town of ——— for selling intoxicating liquor, conform to the provisions of the law relating to the traffic in such liquor, and to such rules and regulations respecting the same as have been or may be prescribed by the commissioner of said county, not inconsistent with the provisions of this act, then this obligation shall be void; otherwise of force."

SEC. 5. If any person, by himself, clerk, servant or agent, shall sell, furnish or give away, any intoxicating liquor in violation of this act, he shall forfeit and pay to the treasurer of the town where such offence is committed, upon the first conviction, ten dollars and costs of prosecution; on the second con-

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viction he shall forfeit and pay as aforesaid twenty dollars and the costs of prosecution; and on the third conviction, he shall forfeit and pay as aforesaid twenty dollars and the costs, and be imprisoned in the county jail not less than three months, nor more than six months.

SEC. 6. Justices of the peace shall have concurrent jurisdiction in their several counties with the county court, to hear and determine all offences against the above section, though inhabitants of the town where the offence is committed; and the same may be tried upon the complaint of the grand juror of such town, or of the state's attorney, before any justice, or upon the information of the state's attorney, before the county court for such county. And such forfeiture may also be recovered in an action of debt in the name of such town; and it shall be the duty of the selectmen of such town to institute such action, on being informed of any such offence and furnished with evidence thereof.

SEC. 7. No person shall be allowed an appeal from the judgment rendered against him by any justice on the trial of such action or complaint, until he recognize, with good and sufficient sureties, in the sum of not less than one hundred dollars, to prosecute his appeal to effect, and to pay all costs, fines and forfeitures, and undergo all penalties that may be awarded against him upon the final disposition of such action or complaint; nor until he give a bond, with other good and sufficient sureties, to the town or city where such offence was committed, in the sum of two hundred dollars, conditioned that he will not, during the pendency of such appeal, violate any of the provisions of this act.

SEC. 8. Whenever complaint shall be made to the commissioner of any county, that any agent, appointed by him or his predecessor under this act, has violated the terms of his license, or has broken the condition of his bond, he shall notify him thereof; and if, on hearing, it shall appear that such terms have been violated, or that such condition has been broken, he shall revoke and make void his appointment. And whenever any breach of the condition of such bond shall come to the knowledge of such commissioner, he shall cause the same to be prosecuted.

Sec. 9. No person shall be a manufacturer or common seller of intoxicating liquor within this state, without being appointed agent as herein before provided ; and every person convicted thereof the first time shall forfeit and pay the sum of one hundred dollars and costs of prosecution; the second, and every subsequent time, two hundred dollars ; and on being convicted thereof the third, or any subsequent time, he shall be imprisoned in the county jail not less than four nor more than

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twelve months; such forfeiture and payment to be recovered, and such penalty to be inflicted, upon complaint, information or indictment; but if not so prosecuted within one year after the offence is committed, such forfeiture and payment may be recovered by an action of debt, in the name and for the benefit of the town or city where the offence was committed; and it shall be the duty of the selectmen of such town, or the mayor or aldermen of any city, to commence such action, upon being informed of any such offence and furnished with the evidence thereof: *Provided*, that nothing in this act contained shall be construed to prevent the manufacture and sale of cider in quantities of not less than five gallons for medicinal, chemical, mechanical and culinary purposes only, nor the manufacture, by any one for his own consumption and use, of any fermented liquor.

SEC. 10. No person engaged in unlawful traffic in intoxicating liquor shall be competent to sit upon any jury, in any case arising under this act; and when information shall be communicated to the court that any member empannelled upon such jury is believed to be engaged in such traffic, the court shall inquire of him as to the truth thereof; and no answer that he shall make shall be used against him in any case arising under this act; but he may decline to answer, and in that case he shall be discharged from such panel; and if he answer falsely, he shall be incapable of serving upon any jury thereafter: *Provided*, that no verdict against any respondent in such a case shall be vitiated or impeached, in consequence of such a person having been upon the jury by which it was rendered.

SEC. 11. All cases arising under this act shall take precedence of all other trials in the court in which they are pending, except those in criminal cases where the respondents are under arrest; and neither the court nor prosecuting officer shall have authority to enter a nolle prosequi, or to grant a continuance, in any case arising under this act, either before or after the verdict, except where the purposes of justice require it.

SEC. 12. If any three persons, voters in any town, shall make complaint, under oath or affirmation, before any justice of the peace in the county, that they have reason to believe, and do believe, that intoxicating liquor is kept or deposited in any dwellinghouse, store, shop, steamboat, or water-craft of any kind, depot, railroad car, or land carriage of any kind, warehouse or other building or place in said town, and intended for sale, by any person not authorized to sell the same, said justice of the peace shall issue a warrant, to any sheriff or constable of the state, to search the premises described in such complaint; and if any intoxicating liquor is found therein under circumstances warranting the belief that it is intended for sale contrary to the

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provisions of this act, such officer shall seize the same and convey it to some proper place of security, and keep the same until final action is had thereon; and the owner or keeper of the liquor so seized, if he be known to the officer seizing the same, shall be summoned by him to appear forthwith before the justice issuing the warrant; and if he fail to appear, or to show by satisfactory evidence that said liquor is not intended for sale contrary to the provisions of this act, or is of foreign production, that the same has been imported under the laws of the United States, and in accordance therewith, that it is contained in the original packages in which it was imported, in quantities not less than the laws of the United States prescribe, such liquor shall be adjudged forfeited, and shall be destroyed under a written order of said justice, and in his presence, or in the presence of some person appointed by him, and named in said order for that purpose, who shall join with the officer executing such order in certifying, upon the back thereof, the execution of the same; and the owner or keeper of such liquor shall pay to said town a fine of twen y dollars and costs, if, in the opinion of said justice, said liquor was kept or deposited for the purpose of sale, contrary to the provisions of this act. And the custom house certificate of importation, and proof of marks on the casks or packages, in which such liquor is contained, corresponding thereto, shall not be received as evidence that the liquor contained in such packages is that actually imported therein.

SEC. 13. If the owner, keeper or possessor of any liquor so seized shall be unknown to the officer seizing the same, it shall, before being destroyed, be advertised, with the number and description of the casks or packages, by posting up in some public place, for two weeks, a written notice of the proceeding. And if it shall be made to appear, within the space of two weeks as aforesaid, that said liquor is actually the property of any town in this state, and was so when seized, and had been purchased for sale by the agent of such town, for medicinal, chemical and mechanical purposes only, the officer having the custody of such liquor shall, upon the order of such justice, deliver said liquor to the agent of the town whose property it is, taking his receipt for the same, upon the back of said order, which he shall thereupon return to said justice; and if not so made to appear, such liquor shall be proceeded with as provided in the last preceding section.

Any person claiming such liquor may appeal from Sec. 14. the judgment of said justice; but his appeal shall not be allowed until he give, with good and sufficient sureties, a bond in the sum of two hundred dollars, conditioned that he prosecute his appeal to effect, and pay all fines, forfeitures, and costs 1852.]

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which may be finally awarded against him; and if the final decision be against him, and the liquor seized as aforesaid exceed in quantity five gallons, he shall be adjudged by the court a common seller of intoxicating liquor, and shall be subject to the penalties provided in section nine of this act, and said liquor shall be destroyed, as provided in section twelve. Nothing in this act contained shall be so construed as to prevent any chemist, artist or manufacturer, in whose art or trade it may be necessary, from keeping, at his place of business, such reasonable and proper quantity of distilled liquor as he may have occasion to use in his art or trade, but not for sale.

It shall be the duty of any sheriff, sheriff's deputy, SEC. 15. constable, selectman, or grand juror, if he shall have information that any intoxicating liquor is kept or sold in any tent, shanty, hut or place of any kind for selling refreshments in any public place, except dwelling houses, on or near the ground of any cattle show, agricultural exhibition, military muster or public occasion of any kind, to search such suspected place without warrant, and if such officer shall find upon the premises any intoxicating liquor, he shall seize and apprehend the keeper or keepers of such place, and take them, with the liquor so found and seized, forthwith, or as soon as conveniently may be, before some justice of the peace of the town in which the same was found; and thereupon such officer shall make a written complaint under oath, and subscribed by him, to such justice; and upon proof that such liquor is intoxicating, that the same was found in the possession of the accused, in a tent, shanty, or other place as aforesaid, he or they shall be sentenced to imprisonment, in the county jail of the county where such offence was committed, for thirty days, and the liquor so seized shall be destroyed by order of said justice, as provided in the twelfth section of this act; and if any person, apprehended under this section and sentenced as aforesaid, shall claim an appeal, before his appeal is allowed, he shall recognize, with good and sufficient sureties, in the sum of one hundred dollars, that he will prosecute his said appeal to effect, and pay all fines and costs, and suffer such penalty as may be awarded against him. And if he is convicted upon such appeal, he shall, in addition to the penalty imposed by such justice, pay a fine of ten dollars to the town where said liquor was seized as aforesaid. And any person resisting an officer in the execution of his duties under this or any other section of this act, shall be liable to the same penalties as are provided by law for resisting a sheriff in the execution of legal process.

SEC. 16. Whenever the appellant, in any case arising under this act, shall fail to enter and prosecute his appeal, or shall be convicted, the county court, or court in which such appeal is

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finally decided, shall order all liquor seized upon the original complaint, or complaint and warrant, to be destroyed forthwith, under the order of such court, as in case of liquor destroyed under an order of a justice of the peace, as herein before provided.

SEC. 17. It shall be the duty of the justice of the peace or county court, before whom any case arising under this act is tried, if, requested by either party, to take the recognizance of the necessary witnesses, who shall have testified in the case, for their appearance at the county court, in the same sum in which the respondent is ordered to find bonds. And in case any such witness shall refuse to enter into the bond of recognizance ordered, he may be committed to jail on the warrant of the justice or court making such order.

SEC. 18. Complaints for any offence against the fifth section of this act shall be substantially in the following form, to wit :

"STATE OF VERMONT, ?

To A. B., justice of the peace for the ——— County, ss. county of ----- comes C.D., grand juror of the town of in said county, and complains that E. F., of ——— on the – day of _____ A. D. ____ at ____ did at divers times sell. furnish, or give away, (as the case may be,) intoxicating liquor, without authority, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the state. C. D., grand juror." And the justice, to whom such complaint is made, shall certify thereon, substantially as follows :--- " This complaint, exhibited to me this -day of — A. D. — A. B., justice of the peace." And for all offences against the ninth section of this act, the complaint shall be, in substantially the same form, inserting the words " became a manufacturer of" or "common seller of" (as the case may be) in lieu of the words "did at divers times sell, furnish, or give away." And in cases arising under the twelfth section of this act, the complaint shall commence, substantially, in the same manner, and proceed in substance as follows :----"Come C. D., E. F. and G. H., legal voters in the town of in said county, and complain that they have reason to believe and do believe that intoxicating liquor is kept or deposited in (describing the place where,) and intended for sale, contrary to the form," &c., following the form above mentioned; and the justice, to whom the same is made, shall certify thereon in substance as follows, viz :-- "The above named C. D., E. F. and G. H. exhibited this complaint to me, and made oath to the truth thereof, this ------ day of ----- A. D. -----, before me, A. B., justice of the peace." And in cases arising under the fifteenth section of this act, the complaint shall follow the

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same form, substantially, as far as the word "complains," and then proceed, in substance, as follows : " That E. F., of on the _____ day of _____ A. D. _____ kept or sold (as the case may be) in (describing the place) near (describing the public occasion) in said county, the intoxicating liquor seized by me, and here produced, namely (describing the same briefly) contrary to the form," &c., following the said form first mentioned; and all informations, indictments and declarations in actions of debt founded on this statute, may be substantially in the same form, so far as the case will admit; nor shall it be necessary to set forth more particularly the kind or quantity of intoxicating liquor, nor the nature, date or place of the offence; nor to make any averment of a former conviction for a like offence, but upon proof of one or more former convictions of the same offence, the respondent shall be sentenced to forfeit, pay and suffer the several fines, forfeitures and penalties herein provided in such cases. And any defects in such complaint, information, indictment or declaration, either of form or substance, may be amended by the court before which the same is pending, whether by original entry, appeal or otherwise. And, under the first of the foregoing complaints, every distinct act of selling, furnishing or giving away may be proved, and the court shall impose a fine for each offence, or if the number exceed five, the respondent may be adjudged a common seller. and be subjected to the penalties provided in section nine of this act.

SEC. 19. In addition to the fees now allowed by law, thirtyfour cents shall be allowed to the justice for taking any bond required by this act, thirty-four cents for an order for the destruction of liquor, fifty cents for attending such destruction; to any officer serving any warrant or process for seizing intoxicating liquor, or seizing the same under the fifteenth section of this act, and apprehending the keeper, one dollar; for removing such liquor and keeping the same, his actual expenses; for destroying liquor under the order of any court, and making his return of such order, one dollar; for posting up the notices required in the thirteenth section of this act, one dollar; and to every prosecuting officer in case of conviction before a justice of the peace, two dollars; all which are to be taxed as so allowed in the bill of costs against the respondent.

SEC. 20. The mayor and aldermen of the city of Vergennes, or of any other city hereafter incorporated, shall have the same authority and power, and be subject to the same duty and liability in case of any offence, committed within said city or cities against this act, as the selectmen or grand juror of any town, in case of like offences committed in such town, and may require like securities of their agent or agents, and deter-

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mine the amount of their compensation; and the said city or cities shall have the same right to all fines and forfeitures imposed in case of such offence in said city or cities, and the same remedy to recover them, as any town would have if such offence were committed therein.

SEC. 21. All payments or compensations for liquor sold in violation of law, whether in money, labor or personal property, shall be held and considered to have been received in violation of law, without consideration, and against law, equity, and good conscience, and in any action, either at law or equity, touching such money, labor, or personal property, the purchaser, and also the seller, of such liquor may be a witness for either party. And no action of any kind shall be had or maintained, in any court in this state, for the recovery or possession of intoxicating liquor, or the value thereof, except such as are sold or purchased in accordance with the provisions of this act.

Whenever any person within this state shall be SEC. 22. found in such a state of intoxication as to disturb the public or domestic tranquility, any sheriff, deputy sheriff, high bailiff, or justice of the peace for the county, or any constable, grand juror, or selectman of the town in which such person is so found, may, without warrant, and it is hereby made their duty to, apprehend such person so intoxicated, and take and retainhim in custody, at the expense of the town in which he is so found, in any place within the county, in the discretion of the officer so arresting, until, in the opinion of such officer, the person so detained shall be capable of testifying properly in a court of justice, and as soon as may be thereafter, bring him before some justice of the county, and such person, so found intoxicated, shall, on oath before such justice, disclose the place where, and the person of whom, the liquor so producing intoxication was obtained, and all the circumstances attending it; and, on the refusal or neglect of such person so to disclose, he may, by such justice, be committed to the common jail of the county, at the expense of the town in which he was so found, until he shall so disclose, or by said justice be discharged. And in case said justice shall adjudge from the evidence that the sale, furnishing or giving away of said liquor was an offence against this act, he shall forthwith issue his warrant, and cause the person so selling, furnishing or giving away said liquor, to be brought forthwith before him, and such proceedings shall be had in the case, in all respects, as would have been had if the person so offending had been regularly prosecuted before such justice, for such offence, in the manner prescribed in this act. And any person resisting the arrest or detention of such person so found intoxicated, by any of the officers aforesaid, shall be liable to the same penalties as are

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provided by law for resisting a sheriff in the execution of a legal process.

SEC. 23. Whenever any justice of the peace, grand juror, constable, selectman, county commissioner, sheriff, sheriff's deputy, state's attorney, or other officer, whose duties are to enforce any of the provisions of this act, shall, on the proper application being made to them, or either of them, refuse or neglect to do and perform faithfully their respective duties, as provided in this act, every such officer, so refusing or neglecting, shall be subject to indictment or information by the grand jury, or state's attorney, for the county in which such officer or officers aforesaid refused or neglected to perform his or their respective duties; and on conviction of either of them, the person or officer so convicted shall be fined a sum not exceeding five hundred dollars, nor less than three hundred dollars, in the discretion of the court.

SEC. 24. It shall be the duty of the grand jurors, empannelled before the several county courts, to inquire into, and present all violations of this act, not otherwise prosecuted, as is herein before provided; and in all cases so commenced before the county court, the fines imposed and the costs incurred shall be received and paid by the treasury of the state.

SEC. 25. If any state's attorney, having charge of any case for violations of this act, shall settle with, or in any manner release, any such effender, whose case is in process of adjudication, before the court shall hear and determine the same, such attorney shall be subject to indictment and fine, not exceeding five hundred dollars, nor less than three hundred dollars, in the discretion of the court.

SEC. 26. All acts, and parts of acts, inconsistent with the foregoing provisions of this act, are hereby repealed.

SEC. 27. The foregoing provisions of this act shall take effect on the second Tuesday of March next : *Provided*, that if a majority of the ballots to be cast as hereinafter provided shall be "no," then this act shall take effect on the first Monday of December, A. D. 1853.

SEC. 28. A meeting shall be warned and holden on the second Tuesday of February next, at the usual place of holding the annual March town meetings in the several towns in this state, agreeably to the provisions of chapter fifteen of the compiled statutes, at which the freemen of this state may express their judgment and choice in regard to this act, by depositing their ballots, in a box to be provided for that purpose by the presiding officers of such meetings respectively, with the word "yes" or "no" written or printed thereon. And the retarns of the votes on this question shall be made by the town clerks of the several towns respectively, to the county clerks of

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their respective counties, within one week from said second Tuesday in February. And the several county clerks shall, within two days next after the third Tuesday in February next, at their respective offices, canvass the votes so returned, and as soon as said votes are so canvassed, they shall certify and return to the secretary of state a statement of such canvass of the votes so returned to them.

SEC. 29. On the fourth Thursday in February next the secretary of state shall canvass the returns so made to him by the county clerks, and within five days thereafter shall issue his proclamation certifying the result of such vote, and declaring the time when the first twenty-six sections of this act are to take effect, according to the provisions of the twenty-seventh section thereof.

SEC. 30. No prosecution or other legal proceeding, which has been, or shall hereafter be, commenced for any violation of the provisions of chapter eighty-seven of the compiled statutes, shall be prejudiced or affected by this act; and all licenses granted under said chapter, while the same continues in force, shall have effect until they expire by their own limitation.

SEC. 31. In case the first twenty-six sections of this act shall take effect on the second Tuesday of March text by the provisions of this act, the first election of a county commissioner for each county, as provided by the second section, shall be made on the second Tuesday of March next, at meetings to be held on that day in the several towns, which election shall be made and conducted as is provided in said second section; and the returns therein provided to be made by the town clerks shall be returned to the county clerks within one week after such election; and the county clerks shall on the third Tuesday of March next make the canvass and proceed in all things as provided in said second section; and the county commissioners thus elected shall hold their office until others are elected in their stead.

Approved, November 23, 1852.

No. 25.—AN ACT IN ADDITION TO CHAPTER EIGHTY-SEVEN OF THE COMPILED STATUTES, RELATING TO INN-KEEP-ERS AND GROCERS, AND THE TRAFFIC IN INTOXICATING DRINKS.

It is hereby enacted by the General Assembly of the State of Vermont, as follows:

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ACTS AND RESOLVES

OF THE

GENERAL ASSEMBLY

OF THE

State of Rhode Island and Providence Plantations,

PASSED

JANUARY, A. D., 1853,

BEING THE ADJOURNMENT OF THE OCTOBER SESSION;

WITH THE ROLL OF MEMBERS, AND THE REPORTS ORDERED TO BE FUBLISHED.



State of Rhode Jslaud, &c. OFFICE OF THE SECRETARY OF STATE, MARCH, 1853.

P R O V I D E N C E: SAYLES, MILLER & SIMONS, PRINTERS TO THE STATE. 1853.

EXHIBIT 7 (McLean)

The General Assembly convened in Providence, agreeably to adjournment, on the second Monday of January, 1853, and adjourned on Friday, the 25th of February, following.

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or pistol, within eighty rods of any baiting place not his own property, and actually used, in the proper season therefor, for the baiting and netting of wild pigeons, shall be fined not exceeding twenty dollars nor less than five dollars.

SEC. 2. Every person who shall be convicted of strewing or placing any powder or brimstone or other sulphurous substance upon any baiting place not his own property, or of burning thereon any of said substances saturated with tar or turpentine, shall be fined not less than five nor more than twenty dollars.

SEC. 3. All fines and penaltics under the preceding sections of this Act shall be recovered by like processes as is prescribed in the Act to which this is in addition.

AN ACT for the more effectual suppression of Drinking Houses and Tippling Shops.

It is enacted by the General Assembly as follows:

Act for the sion of Drinking Tippling Shops.

SECTION 1. No person shall be allowed, at any time, ual suppres to manufacture or sell or suffer to be manufactured or sold by any person, or keep or suffer to be kept on his Houses and premises or possessions, or under his charge, for the purposes of sale, any ale, wine, run or other strong or malt liquors, or any mixed liquors, a part of which is ale, wine, rum or other strong or malt liquors, except as hereinafter provided.

> Sec. 2. The town council of any town may, and the mayor and aldermen of any city shall, annually on the Monday next following the annual election of town officers in any town, or as soon thereafter as may be convenient, appoint some suitable person or persons, as the agent or agents of said town, to sell at some central or convenient place within said town, ale, wine, rum or other strong or malt liquors, to be used for medicinal and mechanical purposes only: and said agent shall receive such compensation for his services, and shall in the sale of such liquors, conform to such rules and regulations, as the town council as aforesaid shall prescribe. Any such agent, appointed as aforesaid, shall hold his situation for one year, unless sooner removed by the board from which he received his appointment, as he may be at any time, at the plea-

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sure of said board: and in case of a vacancy in said appointment, by such removal or otherwise, said board may appoint some other person to such agency for the remainder of the year.

SEC. 3. Every such agent shall receive a certificate from the board by whom he has been appointed, authorizing him, as the agent of such town, to sell ale, wine, rum or other strong or malt liquors, for medicinal and mechanical purposes only: but such certificate shall not be delivered to the person so appointed, until he shall have executed and delivered to said board, a bond with good and sufficient sureties, in the sum of six hundred dollars, in substance as follows:

Know all men, that we as principal, and as sureties, are holden and stand firmly bound to the town of (or city of) (as the case may be,) in the sum of six hundred dollars, to be paid said town : to which payment we bind ourselves, our heirs, executors and administrators, firmly by these presents .---Sealed with our seals, and dated this day of A. D. The condition of this obligation is such, that whereas the above bounden has been duly appointed an agent for the town (or city) of to sell within and for and on account of said town (or city,) ale, wine, run, or other strong or malt liquors, for medicinal and mechanical purposes only, until the

, unless sooner reday of A. D. moved from said agency. Now if the said shall in all respects, conform to the provisions of the law, relating to the business for which he is appointed, and to such rules and regulations, as now are, or shall be from time to time established by the board making the appointment, then this obligation shall be void, otherwise it shall remain in full force.

SEC. 4. If any person shall at any time, sell, or suffer to be sold by any person, any ale, wine, rum or other strong or malt liquors, or any mixed liquors, as aforesaid, in violation of the provisions of this act, he shall be sentenced on the first conviction, to pay the sum of twenty dollars and all costs of prosecution and conviction, and to be imprisoned in the county jail for ten days, and on the second conviction he shall be sentenced to pay the sum of twenty dollars and all costs of prosecution and conviction, and be imprisoned in

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the county jail three calender months; and on the third and every subsequent conviction he shall be sentenced to pay the sum of twenty dollars and all cosis of prosecution and conviction, and be imprisoned in the county jail not less than three nor more than six calendar months; and in each case to stand committed until sentence be performed in all its parts. And if any person shall keep or suffer to be kept on his premises or possessions, or under his charge, for the purposes of sale, in violation of the provisions of this act, any ale, wine, rum or other strong or malt liquors, or any mixed liquors as aforesaid, he shall on conviction thereof be sentenced to pay the sum of twenty dollars and all costs of prosecution and conviction, or to be imprisoned in the county jail for thirty days.---And all such liquors so kept by any person for the purposes of sale in violation of the provisions of this act, shall be liable to be seized, together with the casks or other vessels containing them, and adjudged forfeited, upon complaint made, and trial had, as hereinafter provided.

SEC. 5. All prosecutions for offences under the fourth section of this act, shall be by complaint and warrant in the name of the State, before any justice of the peace, or any court exercising the jurisdiction of a justice of the peace, in the town where the offence was committed: one half of said fine to and for the use of the complainant, and the other half thereof to and for the use of the State: and the prosecutor and complainant by waving in favor of the State his portion of the fine, may be admitted as a witness in the trial; and no judgment rendered upon a subsequent complaint for the same offence shall be a bar, or prevent judgment upon the merits being rendered on any prior complaint, and the pendency of the former complaint may be pleaded in bar of the second complaint.

SEC. 6. Any person convicted before a justice of the peace, or a court exercising the jurisdiction of a justice of the peace, of any offence under the fourth section of this act, may appeal from the sentence of the justice or court, to the Court of Common Pleas, next to be holden in the same county, after ten days; *provided*, such appeal be prayed at the time of passing sentence; and upon such prayer the appellant

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shall be required to give recognizance, in the sum of one hundred dollars, with good and sufficient sureties. in every case so appealed, conditioned, that he will file his reasons of appeal, together with a copy of the whole case in the court appealed to, on or before the second day of the term thereof, as aforesaid, that he will appear before said court, and there prosecute his appeal with effect, and abide or perform the order or sentence of said court, in said case, and that he will not during the pendency of such appeal violate any of the provisions of this act, which recognizance such justice or court shall forthwith certify to said Court of Common Pleas; and upon the neglect of said appellant, to give such recognizance, he shall forthwith be committed to the jail in the same county, there to remain until he give such recognizance, or be discharged by order of law. And the said appeal shall be in said Court of Common Pleas heard and tried, and the judgment or sentence therein shall be final.

SEC. 7. The town council of any town, whenever complaint shall be made to them in writing, that a breach of the conditions of the bond given by any agent appointed by them has been committed, shall notify the person complained of, and if upon a hearing of the parties it shall appear that any breach has been committed, they shall revoke and make void his appointment: and the town treasurer shall, at the expense and for the use of said town, cause the bond to be put in suit, in any court of competent jurisdiction, unless otherwise directed by the town council.

SEC. 8. No person shall be allowed to manufacture any alc, wine, run, or other strong or malt liquors, or to be a common seller thereof, without being duly appointed as aforesaid, on pain of forfeiting on the first conviction, the sum of one hundred dollars and costs of prosecution, and in default of the payment thereof, the person so convicted shall be imprisoned sixty days in the county jail of the same county in which the offence was committed: and on the second and on every subsequent conviction, the person so convicted shall forfeit and pay the sum of two hundred dollars and costs of prosecution and conviction, and shall be imprisoned four months in said county jail: said penalties to be recovered before any court of competent ju-

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risdiction, by indictment in the county where incurred. one half of said forfeiture to and for the use of the town in which the offence shall have been committed. and the other half thereof to and for the use of the And three several sales of ale, wine, rum, or State. other strong or malt liquors, or mixed liquors as aforesaid, either to different persons or the same person, shall be sufficient to constitute one a common seller within the meaning of this act. But nothing in this act contained, shall be construed to prohibit the manufacture of cider or the sale thereof in quantities not less than one gallon, or the manufacture of wine or malt liquors for domestic use, or of alcohol for exportation, or to be sold to or through, and only to or through the agents appointed under the second section of this act.

SEC. 9. Any justice of the peace, within the town in which he resides, and any court exercising the jurisdiction of a justice of the peace, within the town in which such court is established, may issue a search warrant for the purpose of searching for any ale, wine, rum, or other strong or malt liquors, or any mixed liquors, as aforesaid, held for sale contrary to law, such warrant to be served during the day time, complaint being first made in writing, on oath, as is required before issuing of search warrants in other cases, which complaint shall be made by three legal voters and distinctly set forth that the liquors described in the warrant are believed to be held for sale contrary to the provisions of this act, in some house or place within the town in which the complaint is made, or in some vessel or craft in any of the waters of Narragansett Bay; and all such liquors together with the casks or other vessels in which the same are contained, and which shall be found by any officer in executing any such search warrant, shall be safely kept so long as shall be necessary for the purposes of evidence in any case arising under this act; and upon final conviction of the person or persons in whose possession the said liquors and the vessels containing them shall be by the justice or court adjudged forfeited, the said liquors be ordered to be destroyed, and the said casks or other vessels to be delivered to the sheriff of the county, or his deputy, and the officer to whom such casks shall

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be delivered as aforesaid, shall advertise and sell the same, in the same manner in which like personal property is liable to be sold on execution, and the proceeds of such sale after deducting therefrom his lawful fees and charges, he shall pay over to the justice or clerk of the court, to and for the use of the State. But in the event of the acquittal of the person charged with the unlawful keeping or possessing of the liquors so seized, the same together with the vessels containing them, shall be returned to the place from which they were taken, by the officer in whose custody they may be : *Provided* that no warrant to search for liquors shall issue, until a warrant shall have been issued for the supposed owner thereof, or the person having said liquors in charge, on complaint for keeping or suffering to be kept on his premises or possessions, or under his charge, liquors of the kind aforesaid, contrary to the provisions of this act. And any person convicted upon any such complaint may appeal from the sentence, judgment and order of the justice or court thereon, to the court of Common Pleas next to be holden in the same county after ten days; in the same manner, and upon the same terms and conditions and with the like effect, as prescribed in section 6th of this act. Provided however, that any appeal from any sentence, judgment and order of the Court of Magistrates of the City of Providence, prior to the 15th day of March. 1853, shall be to the Supreme Court at its March term, 1853, in the county of Providence, wherein such appeals shall be heard and tried, and the decision therein shall be final. And the recognizance required on such appeals shall be varied by the said Court of Magistrates conformably with this proviso. And in case of such appeal, if the final decision shall be against the appellant sentence shall be passed by said appellate court, and such liquors seized be adjudged forfeited and ordered to be destroyed as herein provided; and all reasonable charges incidental to the keeping and storage of such liquors, from and after the date of its seizure, shall be taxed in the costs against the defendant. But nothing in this act contained shall be construed to prevent any person from keeping on his premises or possessions, any liquors which are of foreign production, and which have been

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imported under the laws of the United States and in accordance therewith, and which are contained in the original packages in which they were imported, but the custom house certificates of importation and proof of marks on the casks or packages corresponding thereto, shall not be received by any court in this State as conclusive evidence that the liquors contained in those packages are those actually imported therein.

SEC. 10. It shall be the duty of any mayor, alderman, city marshal, city or town sergeant, constable or police officer, of any city or town, if he shall have information that any ale, wine, rum, or other strong or malt liquors, or any mixed liquors as aforesaid, are kept for sale or sold in any tent, shanty, hut or place of any kind for selling refreshments in any public place, on or near the ground of any cattle show, agricultural exhibition, military muster or public occasion of any kind, to search such suspected place, and if such officer shall find upon the premises any ale, wine, rum, or other strong or malt liquors, or any mixed liquors as aforesaid, he shall seize them and apprehend the keeper or keepers of such place, and take them with the liquors and the vessels containing them, so found and seized, forthwith or as soon as may be convenient, before some justice of the peace, or court exercising the jurisdiction of a justice of the peace, of the town where found, and thereupon such officer shall make a written complaint under oath, and subscribed by him, to such justice or court, that ale, wine, rum, or other strong or malt liquors, or mixed liquors, a part of which is ale, wine, rum, or other strong or malt liquors, was found in the possession of such keeper or keepers, in a tent, shanty, hut, or place for selling refreshments, and upon proof that said liquors are either ale, wine, rum, or other strong or malt liquors, or mixed liquors as aforesaid, that they were found in the possession of the accused, in a tent, shanty or other place as aforesaid, for sale, he or they shall be sentenced to imprisonment in the county jail of the same county for twenty days, and the liquor and vessels so seized shall be dealt with, by order of such justice or court, as provided in the ninth section of this act. But from the sentence and order of said justice or court as aforesaid, the defend-

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ant may appeal to the Court of Common Pleas next to be holden in the same county after ten days; in the same manner, and upon the same terms and conditions and with the like effect, as prescribed in section 6th of this act. And in case of such appeal, if the final decision shall be against the appellant, sentence as aforesaid shall be passed upon him by the appellate court, and the liquor and vessels seized as aforesaid shall be dealt with as aforesaid.

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SEC. 11. In all cases of appeal under this act, in which the appellant shall fail to enter and prosecute his appeal in the appellate court according to law, said court in addition to defaulting his recognizance, shall order all liquors and vessels in the custody of the officer, under the provisions of the 9th section of this act, to be dealt with as in that section provided: and whenever a default shall be had of any recognizance taken in pursuance of this act, suit shall be forthwith commenced in a court having competent jurisdiction.

SEC. 12. Whenever a justice of the peace or any court exercising the jurisdiction of a justice of the peace, shall convict any person of a violation of the provisions of this act, and the person convicted shall claim an appeal, it shall be the duty of such justice or court, upon motion of the complainant or the defendant, to require any witness sworn, to enter into recognizance in the sum of fifty dollars, conditioned that he will appear at the appellate court to testify in the trial whenever such appeal shall be called for trial.

SEC. 13. No person or persons, who shall make any complaint for the violation of any of the provisions of this act, except the provisions of the fourth section thereof, shall be required, at the time of making such complaint, to enter into recognizance, or in any way to become liable for the costs that may accrue thereon. Complainants appointed by the town where the offence is committed, and the complaint made, the city marshal, city sergeant, and city watchmen of the eity of Providence, the sheriffs and deputy sheriffs of the several counties, and the town sergeants and constables of any town, and such persons as shall waive in writing, on the complaint, at the time of making the same, in favor of the State, the complainant's por240

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tion of the penalty, shall not be required, upon making any complaint for the violation of any of the provisions of the fourth section of this act, to enter into recognizance or give surety. All other persons upon making any complaint for a violation of any of the provisions of the fourth section of this act, shall enter into recognizance with surety in manner and with like conditions, as is required by the 135th section of the act entitled " an act concerning crimes and punishments."

SEC. 14. In any action, complaint and warrant, indictment or other proceedings, against any person for a violation of any of the provisions of this act, it shall not be necessary to set forth the kind or quantity of ale, wine, rum, or other strong or malt liquors, or mixed liquors, as aforesaid, or the time of the sale or manufacture thereof; but proof of the violation of any of the provisions of this act, the substance of which is briefly set forth therein, within the times mentioned therein, by the person complained of, 'shall be sufficient to convict such person; nor shall it be requisite in any such action, complaint and warrant, indictment or other proceeding, to set forth a record of a former conviction, or any allegation of any such conviction, but any such conviction, may be proved, in the same manner, and with the same effect as if an allegation thereof had been made; nor shall it be necessary to particularly describe the packages or kinds of liquor to be searched for. And any defects in any such complaint and warrant, indictment, or other proceeding, either of form or substance, may be amended either by the justice, or court exercising the jurisdiction of a justice or other court before whom the action, complaint and warrant, indictment or other proceeding is originally brought. All cases of appeal under this act from the judgment or sentence of a justice of the peace, or court exercising the jurisdiction of a justice of the peace, shall in the appellate court, be conducted and argued by the Attorney General in behalf of the State; and in every case in such court in which the appellant shall be required to pay the costs, the sum of six dollars shall be taxed in the bill for the services of the Attorney General; for which sum, the clerk of said court or other officer to whom such

costs may be paid, shall account with the General Treasurer: and no costs in any such case shall be remitted or reduced.

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SEC. 15. Any justice of the peace within the town in which he resides, and any court exercising the jurisdiction of a justice of the peace, within the town in which such court is established, shall have jurisdiction and cognizance of all offences done or committed in the town in which the justice trying the cause shall reside, in violation of any of the provisions of the fourth, ninth and tenth sections of this act, with power to proceed to trial, render judgment, pass sentence, and award a warrant for execution thereof: and complaints for the violation of any of the provisions of the act, may be made to either of the justices of any court exercising the jurisdiction of a justice of the peace, and the warrants issued thereon may be signed by either of the justices thereof. And whenever a court exercising the jurisdiction of a justice of the peace, is or shall be established in any town, such court shall have exclusively, in such town, the jurisdiction, cognizance and powers conferred by this act. And any violation of any of the provisions of the eighth section of this act, upon any of the waters of Narragansett Bay, or other public waters of this State, may be prosecuted, by indictment, in any county in this State; and any violation of any other of the provisions of this act, upon any of the waters of Narragansett Bay, or other public waters of this State, may be prosecuted by complaint and warrant, before any justice of the peace of any town, or any court exercising the jurisdiction of a justice of the peace, in any town in this State.

SEC. 16. In addition to the fees now allowed by law, the justice of the peace, or court exercising the jurisdiction of a justice of the peace, shall be entitled to receive for taking any bond under this act, the sum of fifty cents; and the officer who shall make service of any warrant or process for the seizure of any liquors under the ninth or tenth sections of this act, shall be allowed for the same the sum of one dollar: for the removing of any liquors so seized, to a place of safety, all expenses by him incurred in the removal, care and custody of said liquors, the sum of one dol-

JANUARY, 1853.

lar: said fees to be included in the bill of costs and taxed by the justice or court against the defendant.

SEC. 17. All payments or compensations for liquors sold in violation of law, whether in money, labor, or personal property, shall be held and considered, as between the parties to such sale, to have been received in violation of law, without consideration, and against law, equity and good conscience: and in any action either at law or equity touching such money, labor, or personal estate, the purchaser and also the seller of such liquors may be a witness for either par-And no action of any kind shall be had or mainty. tained in any court in this State, for the recovery or possession of intoxicating liquors, or the value thereof, except such as are sold, purchased or held, in accordance with the provisions of this act.

SEC. 18. Nothing herein contained shall be construed to affect any prosecutions commenced or proceedings pending on the 18th day of July, 1852, for the violation of any of the provisions of an act entitled "An Act enabling town Councils to grant Licences for retailing strong liquors and for other purposes," passed at the January session, A. D., 1844, or of any act or acts in amendment of or in addition to the same, or to affect any prosecutions commenced or proceedings pending, or which may hereafter be commenced before this act shall go into effect, for the violation of "An Act for the suppression of Drinking Houses and Tippling Shops," passed at the May sesion, A. D. 1852, or of any act or acts in amendment of or in addition to the same; or in any way to affect any right, title, interest, duty, obligation, penalty, forfeiture, claim or demand, which shall have vested, accrued, or become forfeited by virtue of the acts aforesaid, but said prosecutions may be commenced, proceeded with, tried, determined, and sentence thereon passed and executed, in the same manner and with the same effect, as if this act had not been passed. And any and all appointments of agents for sale, and of complainants, made by any town council, or board of Aldermen, or by any town, and all bonds, obligations or engagements, given, assumed, or taken under the provisions of the said act of May, 1852, shall be deemed as valid and effectual to all intents, as if made, giv-

en, assumed, or taken, after this act shall have taken effect, and in virtue of this act.

The legal voters in the several towns may, Sec. 19. at the annual election in April next, vote upon the question of repealing this act. And the Secretary of State is hereby directed to furnish printed ballots to the town clerks of each town equal to six times the number of persons who voted in such town at the last election, upon one side of which ballotsshall be printed the question-"shall the act for the more effectual suppression of drinking houses and tippling shops be repealed," and on the reverse, upon one half of said ballots the word "Yes," and upon one half the word "No." And any voter wishing to vote upon said question, shall enclose one of such ballots in the envelope containing his ballot for general officers, or in case he does not vote for general officers, then in one of the envelopes provided by law for that purpose. Said ballots shall be sealed up and deposited with the Secretary of State and be counted by the General Assembly at the next May session, and in the event of a majority of such ballots being cast in favor of the repeal of this act, the same shall be limited in its operations, and have no effect after the tenth day from and after the rising of the General Assembly at said May session. *Provided*, however, that in case the vote of the people shall be for repeal, such repeal shall not in any way affect any prosecutions commenced, or proceedings pending, under this act, on or before the day of its repeal.

SEC. 20. All acts and parts of acts in any way inconsistent with the provisions of this act are hereby repealed.

AN ACT in relation to appeals in criminal causes within the jurisdiction of Justices of the Peace.

It is enacted by the General Assembly as follows;

SECTION 1. When any person convicted before any Act in relajustice of the peace or any court in this State, exer- peals in cising the jurisdiction of a justice of the peace, of causes. any offence within the jurisdiction of such court or justice to try and determine and sentenced to pay a

PUBLIC ACTS,

PASSED BY THE GENERAL ASSEMBLY

OF THE

State of Connecticut,

MAY SESSION, 1859.



STATE OF CONNECTICUT,

OFFICE OF THE SECRETARY OF STATE, JUNE, 1859.

HARTFORD: DAY & CLARK, STATE PRINTERS. 1859.

EXHIBIT 8 (McLean)

MILITARY FORCE.

shall be forever precluded from claiming and showing that said taxes have not been paid, but it shall be taken as conclusively proved that said taxes have been paid. Provided, however, that in all cases where the select-Omission of sigmen of any town in this state have heretofore returned men not to inval-to the town clerk a list of the names of persons whose idate lists of state or town taxes have been by them abated, and have heretofore made. neglected to subscribe their names thereto, the same shall not, by reason of such neglect, be thereby invalidated, and may be proved by any other proper evidence.

SEC. 4. Any collector of taxes knowingly and do-Penalty for mak-signedly making a false certificate, and any selectman cate or list. of any town knowingly and designedly making a false list of persons whose taxes shall be abated under this act, shall pay a fine not exceeding two hundred dollars; said offence to be a crime, and to be prosecuted and proceeded with like other criminal offences.

SEC. 5. The fifth section of the act to which this is an addition, and all acts and parts of acts inconsistent herewith, are hereby repealed.

Approved, June 24th, 1859.

CHAPTER LXXXII.

An Act in addition to and in alteration of "An Act for forming and conducting the Military Force."

Be it enacted by the Senate and House of Representatives in General Assembly convened:

SEC. 1. There shall be one parade annually, some-ramdes. time in the month of May, for one day only, by company; also one parade annually, for one day only, by regiment or brigade, in the month of August or September, as the commanding officer of the division shall direct, with the approval of the commander-in-chief.

SEC. 2. Chaplains, surgeons, paymasters, engineers What officers and sergeant-majors, may appear on horseback only on my appear on days of general review; on all other occasions, they days of general shall appear on foot.

SEC. 3. Every company that shall comply with the Allowance for provisions of the military laws, shall be allowed, out of and drill-room.

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MILITARY.

the state treasury, the sum of seventy-five dollars per annum, as rent for armory and drill-room, upon a certificate from the adjutant-general that such company is justly entitled to receive the same.

shall do duty in accordance with the provisions of law,

shall be allowed seventy-five dollars per annum for ar-

parade-ground, muster-field or encampment, the sheriff or deputy-sheriff of the county, or any justice of the

Any company of governor's guards which

If any booth, shed, tent, or other temporary

Allowance to governor's guards.

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SEC. 4.

mory rent.

SEC. 5.

Temporary crec-tions for sale of crection, within one mile of any military parade-ground, liquors or gaming, near parade muster-field or encampment, shall be used and occupied ground, may be for the sale of spirituous or intoxicating liquor, or for the abated as nuisances. purpose of gambling, the officer commanding said

> peace, selectman, or constable of the town in which such booth, slied, tent, or other temporary creetion is situated, upon having notice or knowledge that the same is so used or occupied, shall notify the owner or occupant thereof to vacate and close the same immediately; and, if said owner or occupant shall refuse or neglect so to

do, said commanding officer, sheriff, deputy-sheriff, justice of the peace, selectman or constable, may forthwith abate such booth, shed, tent, or other such temporary erection, as a muisance, and may pull down or otherwise destroy the same, with the assistance of any force, civil or military.

The commander-in-chief is hereby authori-SEC. 6. zed to appoint a board of officers to prepare a system of general regulations for the government of the militia, for which services no compensation shall be claimed or allowed.

SEC. 7. It shall be the duty of the quarter-mastergeneral, annually, to inspect the armories and gunhouses of the several companies, and also the rooms occupied by the regimental bands; and, on or before the first day of November, to make to the adjutant-general a full report of the condition of the same, and what companies are entitled to the allowance for armory rent; for which services he shall be allowed the sum of nine cents for every mile of necessary travel.

SEC. 8. Each company may adopt, by a vote of twoforce regulations, thirds of its members, rules, regulations and by-laws for and by laws. the government of its members. the government of its members, not inconsistent with the militia laws; and such rules, regulations and by-laws

Board of officers may be appointed to prepare sys-tem of regulations.

Quarter-mastergeneral to inspect armories, gun houses, &c., annually.

Compensation.

Companies may

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COMMUNITIES AND CORPORATIONS.

shall be binding, and may be enforced by process of law; and any member who shall violate any such rule, regulation or by-law, may be expelled from his company by a major vote of the same, provided that such vote is approved by the commander of the regiment.

SEC. 9. Assessors of persons liable to pay the commu-compensation of tation tax, as provided in section nine of the act approv-assessed and collectors of commutation taxes shall be allowed the sum of one cent mutation taxes shall be allowed the sum of two cents for each tax actually collected and paid into the town treasury by him; and, if any assessor or collector shall refuse Penalty for or neglect to perform the duty required by said act, he neglect. shall forfeit to the state not less than fifty nor more than one hundred dollars.

SEC. 10. Second lieutenants of companies are hereby second lieutenrequired to attend the officers' drill, established by act ants required to approved June 29, 1855, and to comply with all laws drill. relative thereto.

SEC. 11. This act shall take effect from and after its To take effect passage; and section twenty-eight, of the act approved July 1, 1854,—section one, of the act approved June 28, 1856,—section one, section nine, of the act approved June 25, 1857,—and all other acts or parts of acts, inconsistent herowith, are hereby repealed. Section three, provision of 1856, of the act approved June 29th, 1855, is hereby ro-for officers' drill. enacted.

Approved, June 24th, 1859.

CHAPTER LXXXIII.

An Act concerning Communities and Corporations.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

The secretaries or clerks of all stock fire and fire and Insurance commarine insurance companies who are by law required expense of reto make returns to the comptroller, in the month of Jan- conting returns uary of each year, shall, at the time of making said return, pay the expense of making the record of the same.

Approved, June 24th, 1859.

LAWS

OF THE

Commonwealth of Massachusetts

PASSED BY THE GENERAL COURT,

AT THEIR SESSION, WHICH COMMENCED ON WEDNESDAY, THE FOURTH OF JANU-ARY, AND ENDED ON THURSDAY, THE TWENTIETH OF APRIL, ONE THOUSAND EIGHT HUNDRED AND THIRTY-SEVEN.



Published agreeably to a Resolve of the sirteeuth January, 1812.



Boston: DUTTON AND WENTWORTH, PRINTERS TO THE STATE. 1837.

EXHIBIT 9 (McLean)

MILITIA.

April 20, 1837. 273

CHAP. CCXL.

An Act concerning the Militia.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SEC. 1. Every able bodied white male citizen All persons be-resident within this Commonwealth, who is, or shall to be enrolled, be, of the age of eighteen, and under the age of except, &e. forty-five years, excepting idiots, lunatics, common drunkards, vagabonds, paupers and persons convicted of any infamous crime, shall be enrolled in the militia, and be included in the military returns: provided, that nothing herein contained shall be so construed as to render any of the exempts mentioned in the first, second and third sections of the twelfth chapter of the Revised Statutes, liable to do military duty otherwise than is therein provided.

SEC. 2. Division inspectors and division quarter- Division inspecmasters shall hereafter be appointed by the respec- tors and quarter-masters, how aptive major generals, and approved by the commander in chief.

SEC. 3. The commissions of all staff officers, staff commisappointed by any commanding officer, shall expire expire. after the commanding officer shall be discharged or vacate his commission, as soon as his successor is commissioned.

SEC. 4. The adjutant general shall annually in Acting quarterthe month of February, lay before the governor and expenditures; council, for adjustment, an account of all expendi- and settled. tures of money made by him, as adjutant general

tors and quarterpointed.

sions; when they

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MILITIA.

April 20, 1837.

and acting quartermaster general, with vouchers to support the same; and such accounts shall be settled by the governor and council.

Military returns, how made.

Paualty for neglecting to make returns.

Penalty of commanders of companies.

---of commandors of regiments and battations.

ers of brigades.

-of commanders of divisions.

--of brigade majors.

Fines and forfeitures ; how prosecuted for, and how disposed of.

SEC. 5. The military returns shall continue to be made, as provided in the thirty-first and thirtysecond sections of the twelfth chapter of the Revised Statutes, excepting, that every commanding officer of a brigade shall make and transmit returns of the state of his brigade, to the commanding officer of the division to which he belongs, in the month of July annually; and every commanding officer of such division shall make and transmit returns of the state of his division, to the adjutant general in the month of August annually. And the penalty for neglecting to make the returns as provided for in the thirty-first and thirty-second sections of the twelfth chapter of the Revised Statutes, and in this section, shall be as follows :---

Every captain or commanding officer of a company, who shall neglect to make returns, for each instance of such neglect, ten dollars.

Every commanding officer of a regiment or separate battalion, who shall neglect to make returns, for each instance of such neglect, twenty five dollars.

Every commanding officer of a brigade, who shall neglect to make returns, for each instance of such neglect, fifty deilars.

Every companding officer of a division, who shall neglect to make returns, for each instance of such neglect, seventy-five dollars.

Every brigade major and inspector who shall neglect to make returns, for each instance of such neglect, fifty dollars.

Feb-The above fines and forfeitures to be prosecuted i for by the officer to whom the respective returns :23-cv-00265-LEK-WRP Document 55-42 Filed 07/14/23 Page 4 of 5 Pagel

MILITIA.

should be made, in any court of competent jurisdiction, and paid into the treasury of the Commonwealth.

So much of the one hundred and four- Certain provi-sions of R. S. re-SEC. 6. teenth section of the twelfth chapter of the Revised peoled. Statutes as requires clerks of companies to make annual returns to the brigade majors, and the brigade majors to the commander in chief; and so much of the fifty-eighth section of the twelfth chapter of the Revised Statutes as requires a majority of the qualified voters of the company to be present, at an election of officers, is hereby repealed, and a majority of the le- Majority of legal gal voters present at any company election, duly we notified, may elect company officers.

SEC. 7. No non-commissioned officer or private Members of volof any company raised at large, shall be required to to produce a cerperform military duty in the standing company with- tificato, when, in whose limits he resides : provided, that when notified of his enrolment in such standing company, or otherwise requested, he shall produce within ten days, to the commanding officer of such standing company a certificate from the commanding officer of his own company, that he is a member thereof; and if any such non-commissioned officer or private remove out of the limits within which his company is raised, he shall continue to be a member thereof.

SEC. 8. The division inspector of each division inspectors to keep res-shall constantly keep a correct roster of the division to and orderly book; how com-The division inspector of each division Division inspecto which he belongs, and an orderly book, in which penseted. he shall record all orders received and issued; and he shall receive annually the same compensation which is now by law allowed to the oldest aid-decamp of each major general; and so much of the twenty-seventh section of the twelfth chapter of the Revised Statutes, as provides that the oldest aid-de-

voters may elect,

April 20, 1837.

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Fines of members of volunteer companies; how collected and disposed of.

Towns to provide powder, &c. when roquired by commander in chief.

Fines for towns neglecting to provide, &c.

The 46th and 47th sections, &c. repealed. camp of each major general shall keep such roster and orderly book, is hereby repealed.

SEC. 9. All fines and forfeitures incurred by the members of volunteer companies, may be collected by such persons and disposed of in such manner, for the benefit of said companies, as a majority of the members thereof may determine.

SEC. 10. Whenever, in the opinion of the commander in chief it shall be necessary, he shall issue his proclamation, requiring all towns to provide and deposit in some suitable and convenient place therein, sixty-four pounds of good powder; one hundred pounds of musket balls, each of the eighteenth part of a pound; one hundred and twenty-eight flints suitable for muskets; three copper, iron or tin campkettles, for every sixty-four soldiers enrolled in said town; and the same proportion of the aforesaid articles for a greater or less number, and so to keep the same, until he shall by proclamation declare the same no longer necessary.

Any town which shall neglect to provide and keep deposited all or any of the aforesaid articles as above required, shall forfeit the sum provided in the one hundred and sixth section of the twelfth chapter of the Revised Statutes.

SEC. 11. The forty-sixth and forty-seventh sections of the twelfth chapter, and all other provisions of the Revised Statutes, which are inconsistent with this act, are hereby repealed.

[Approved by the Governor, April 20, 1837.]

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PUBLIC ACTS

GF THE

STATE OF MAINE,

PASSED BY THE

SEVENTEENTH LEGISLATURE,

JANUARY SESSION, 1837.

PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 28, 1820.

AUGUSTA: SMITH & ROBINSON, PRINTERS TO THE STATE.

1837.

EXHIBIT 10 (McLean)

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MILITIA.

why the same should not be organized—the County Commissioners may organize said inhabitants within such territorial limits as they shall deem proper and said County Commissioners shall grant a warrant to some one of the petitioners authorizing him to call the first meeting of said inhabitants-and the inhabitants so assembled may choose all necessary Plantation Officers and transact such other business as plantations in this State are allowed to do-and plantations so organized shall be vested with all the powers and privileges and be subject to all the liabilities of other plantations now organized in this State.

[Approved by the Governor March 25, 1837.]

Chapter 276.

AN ACT additional to an Act to organizo, govern and discipline the Militia of this State.

SECTION 1. Be it enacted by the Senate and House of Representatives, in Legislature assembled, That when it shall appear to the command-ing Officer of a Regiment that any Company within his command, is without a commissioned Officer, build have no commissioned officer. he shall issue his orders to the Clerk of such Com-pany, to enrol all persons liable to do duty therein, and to return the roll thereof to him forthwith; and if there be no Clerk of such Company, then such or of there be no clerk of such Company, then such there is a such re-turn the roll thereof to him forthwith then the Assess-ors of towns to make such recommanding Officer shall require in writing, the turn. Assessors of cities, towns or plantations in which such Company is situated, or some other person or persons, to make out and return to him, within ten days, a list of the names of all the persons, liable by law to do military duty in such Company; and if any such Clerk, Assessors or other persons, shall Penalty for negfail to comply, they shall forfeit and pay not less leet. than twenty nor more than one hundred dollars.

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Staff to be detailnies which shall Sec.

of the Company. fines.

Non-commisdollars.

non-coinanv or private to per-form the duty, except to keep the records.

MILITIA.

Sест. 2. Be it further enacted, That when-Officers of the ever any Company shall have remained without any ed to drill Compa- commissioned Officer for the term of three months. have been three the commanding Officer of the Regiment to which any command- said Company belongs, shall detail some suitable Officer of the Staff, or of the line, not above the rank of Lieutenant, to train and discipline said Company, until some Officer shall be elected, or appointed by the Commander-in-Chief, as provided in the second section of the seventh article of the Constitution, and commissioned: and such Officer so detailed, shall have the same power and authority, and be subject to the same liabilities, as if he were Captain of such Company; and he shall keep the -to keep records records of the Company, and prosecute for all fines ot the company. and forfeitures, in like manner as Clerks of Companies are authorized and required to do. Whenever the Officer so detailed to command such Company, or, where no Officer shall have been detailed, the commanding Officer, of the Regiment to which such Company belongs, shall, in writing, order any non-commissioned Officer or private to notify the sioned officer or persons liable to do duty in such Company, to to notify Compa-to notify Compa- appear for any duty required by law, any nonless than 20 nor commissioned Officer or private who shall neglect or refuse to notify such persons to meet at the time and place and for purposes mentioned in such order as aforesaid, shall forfeit and pay not less than twenty nor more than one hundred dollars.

Be it further enacted, That when-**SECT.** 3. when no person ever the office of Clerk in any Company shall bewill accept the come vacant, and it shall appear to the command-office of Clerk the come vacant, and it shall appear to the commandficer may require ing Officer of said Company that there is satisfactory missioned officer evidence that no person will accept the same, he may issue his order in writing to any non-commissioned Officer or private in said Company, requiring him to perform all the duties of Clerk of said Company, except keeping the records, for a term not exceeding three months, and if any non-com:23-cv-00265-LEK-WRP Document 55-43 Filed 07/14/23 Page 4 of 8

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MILITIA.

missioned Officer or private so appointed, shall refuse or neglect to perform all or any of the duties of said office during said term, (except keeping the records,) he shall forfeit and pay not less than ten refusing to pernor more than twenty dollars. And in case of the absence, sickness, or other inability of the Clerk of any Company, the commanding Officer thereof may appoint a Clerk pro tempore; or upon satisfactory evidence that no member of the Company will accept the office pro tempore, he may order any —Clerk pro tem. non-commissioned Officer or private in like man-incase of absence or sickness of ner to perform all the duties of the office of Clerk. (except keeping the records,) until the Clerk shall be able to perform the same, or some other person be appointed, not exceeding the term of three months; and any person so ordered, refusing or remaining to refuse neglecting to perform all the duties of said office said duty. (except keeping the records,) shall forfeit and pay not less than ten nor more than twenty dollars. In all such cases the records of the Company shall be Records to be, kept by the commanding Officer as long as such manding Officer, and to be commended vacancy, absence, sickness or other inability shall tent evidence. continue: and the records so kept shall be competent evidence of such orders and temporary appointments, as well as of all other matters of which such records would be evidence if kept by the Clerk.

SECT. 4. Be it further enacted, That all fines and forfeitures incurred in neglecting military duty, How fines are to by members of any Company without Officers, how to be dispos-(except forfeitures for refusing to give notice when ordered by the Officer detailed to command such Company, as provided in the second section of this Act or by the commanding Officer of the Regiment; and except forfeitures incurred by Clerks in neglecting to return the roll as required by the first section of this Act,) shall be prosecuted and collected by the Officer detailed to command said Company as provided in the second section of this Act, substantially in the manner that Clerks of Companies are

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ed of.

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authorized and required to do by "An Act to organize, govern and discipline the Militia of this State," passed March S, A. D. 1834, to which this is additional; one half of the amount recovered to be to the use of the Regiment, and the other half to the use of the Officer; and the Officer so prosecuting shall be a competent witness in the case. All fines and forfeitures incurred under the first, second and third sections of this Act, shall be recovered by indictment, or by action on the case, by any person whatever, one half of the sum recovered to be to the use of the State, and the other half to the use of the prosecutor.

Be it further enacted, **Sect.** 5. That no No idiot, Iunatic, idiot, lunatic, common drunkard, vagabond, pauper, and, vagatond, nor any person convicted of any infamous crime, nor convicted of any any other than white, able-bodied, male citizens, shall be eligible to any office in the Militia; and fice,-nor unless shall be engine to the Commander-in-Fersons ineligible Chief, that any person thus ineligible has received a majority of votes cast at any election of Officers, he shall not commission him, but, with the advice and consent of the Council, shall declare said elec--vacancy to be tion null and void, and appoint some person to fill the vacancy.

Sect. 6. Be it further enacted, That all stu-Students in Col-leges made liable dents attending any of the several colleges, academies or seminaries of this State, shall be holden and compelled to do military duty as other persons, in the town where said colleges, academies or seminaries are established.

Be it further enacted, That when-SECT. 7. Verbal notice to ever any Company shall be paraded, the, command-appear on a fu-ture day may be ing Officer thereof is hereby authorized verbally to given on parade. notify the men so paraded, to appear on some future day not exceeding thirty days from the time of such notification, for any military duty required by law, and such notification shall be legal as it respects the men present.

be eligible for of-

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MILITIA.

SECT. S. Be it further enacted, That all com- Officers manding officers, subaltern Officers, and all Clerks of Com-panies made with of Companies be and they hereby are made competent witnesses in law, to testify to all or any facts within their knowledge, in any suit commenced by said Clerk or commanding Officer, for the collection of any fine or forfeiture named in this Act, or in the several Acts to which this is additional.

SECT. 9. Be it further enacted, That when- In case of death ever any action shall have been commenced, for any manding officer, fine or forfeiture, by any Clerk of any Company, to continue pros-and said Clerk shall die, resign or refuse, or in any to fine induce to fi other way be disqualified to prosecute said suit so where them them commenced, it shall be lawful and is hereby made the duty of the commanding Officer of the Company, to assume and prosecute said suit to final judgment and execution; and whenever any fine or forfeiture shall have been incurred by any private or non-commissioned Officer of any Company, and there shall be no Clerk, or the Clerk shall resign or die, or be disqualified, it shall be lawful for any Clerk appointed after said fine or forfeiture has been incurred, to sue for and recover the same; Provided said action shall be commenced within the time prescribed by law.

SECT. 10. Be it further enacted, That a copy of records copy of the record of any Court Martial, certified by made evidence in made evidence in the President of such Court, together with a duly cases. authenticated copy of the order convening said Court. shall be conclusive and sufficient evidence to sustain in any Court, any action commenced for the recovery of any fine and costs, or part costs, or either, agreeably to the provisions of an Act to which this is additional.

SECT. 11. Be it further enacted, That if any Fino imposed on Captain or commanding Officer shall neglect or ficers whoneglect refuse to make, or cause to be made, a return of of the May Inthe state of his Company as it existed on the day of the annual inspection in May, to the command-

nesses.

Clerk.

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ing Officer of the Regiment, on or before the first day of June annually, and shall so continue to neglect for fifteen days thereafter, being notified by the Adjutant of the Regiment to which such Company belongs, that said return has not been received, he shall forfeit and pay a fine of ten dollars, one half thereof to the use of the State, and the remainder to the Adjutant of said Regiment, who shall be required to collect said fine by an action of debt in any court proper to try the same.

Be it further enacted, That any SECT. 12. any institution of the action or complaint, for any fine or forfeiture prothe town where vided for by this Act, or by that to which this additional, may be brought before any Justice of the Peace, where the Officer, non-commissioned Officer, or private, parent, master, or guardian, who may be liable therefor, may reside, any law to the contrary notwithstanding.

SECT. 13. Be it further enacted, That all Courts Martial for the trial of Officers of and below of Captains and the rank of Captain, including the Regimental Staff Officers, shall be ordered and detailed by the respective Major Generals of Divisions, from the Division to which the Officer to be tried belongs : And the Court so constituted, shall have and possess all the powers, and be subject to all the duties defined and prescribed in and by the Act to which Judgment of the this is additional; Provided however, That the judgfied to the Major ment or sentence of said Court shall, as soon as may be, be certified by the President thereof, under the seal of the Court, to the Major General by whom said Court was detailed, instead of the Commander-in-Chief as in said Act is provided.

Be it further enacted, That all the **SECT.** 14. duties required to be performed by the Division Advocate in the respective Divisions, in and by the Act to which this is additional, shall be done and performed in the manner therein provided; excepting and providing that all complaints, charges and

Action may be Defendant resides.

How Courts Martial are to be de-

Court to be certi-General.

Complaints and charges against Captains and Subalterns to be transmitted by Division Advocate to Major Goneral.

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specifications against the Officers of the rank mentioned in the foregoing section, shall be by him transmitted to the Major General of the Division, to which the officer against whom such complaint is made, belongs, for his consideration.

SECT. 15. Be it further enacted, That the compensation of the members of the Court detailed Compensation of members of this Act, of the Division Advocate Courts Martial and withesses. and other Officers, and of witnesses attending the same, shall be the same as is allowed in and by the Act to which this Act is additional, and shall be made up, certified and filed, in the manner therein described.

SECT. 16. Be it further enacted, That the Major Generals in their respective Divisions, shall Major Generals have power to appoint an Officer to make a sum-mary inquiry into the truth and circumstances of any into truth of any matter, contained in any complaint or allegation shall report to him their doings, against any Officer not above the rank of Captain, whose duty it shall be to report the result of such inquiry and investigation to the respective Major Generals, as soon as may be after he shall have completed such investigation, and file his account for -to to compensuch services in the Adjutant General's office, to be sure. presented to the Legislature for allowance and payment.

SECT. 17. Be it further enacted, That all Acts and parts of Acts, inconsistent with the pro- Acts and parts of visions of this Act, be, and the same are hereby repealed.

[Approved by the Governor March 28, 1837.]

At the General Assembly of the State of Rhode Island and Providence Plantations, begun and holden by adjournment at Providence, within and for said State, on the first Monday of January, in the year of our Lord one thousand eight hundred and forty, and of Independence the sixty-fourth.

$\mathbf{PRESENT}$:

SAMUEL W. KING, HEZEKIAH BOSWORTH, JONATHAN REYNOLDS, EZEKIEL FOWLER, WILLIAM T. BROWNING, OLNEY WHIPPLE, HENRY ALDRICH,

The Secretary.

EXHIBIT 11 (McLean)

REPRESENTATIVES FROM THE SEVERAL TOWNS.

Newport. Asher Robbins Benjamin Hazard Henry Y. Cranston Richard K. Randolph George G. King George Bowen. Providence. John H. Clarke Thomas J. Stead John Whipple Charles Jackson. Portsmouth. John Manchester Clarke Chace William Almy Simeon Coggeshall Warwick. Gideon Spencer Thomas R. Holden Bennet Low William Rhodes. Westerly. Daniel Babcock, Jr. Welcome A. Hoxie. New Shorcham. George G. Sheffield Archibald Milliken. North Kingstown. George T. Nichols. Joseph Spink South Kingstown. Isaac P. Hazard Elisha R. Potter East Greenwich. J. Shippee. Jeremiah S. Slocum. Jamestown. John J. Watson Robert H. Weeden. Smithfield. Sessions Mowry Samuel Clarke, Scituate. Elisha Mathewson Wilmarth N. Aldrich. Glocester. Charles A. Slocum Robert Steere Charlestown. Joseph Gavitt George A. Stanton.

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West Greenwich Thomas T. Hazard. Benjamin R. Hoxie Coventry. Elisha Harris Jeremiah McGregor. Exeler. Robert Gardner Isaac Greene. Middletown. Benjamin Weaver William Taggart, Bristol. Joseph M. Blake Benjamin Hall. Tiverton. Joseph S. Bliven. George W. Humphreys. Little Compton. Nathaniel Church Christopher Brown. Warren. Simmons Cole Alfred Bosworth. Cumberland. Jeremiah Whipple Waldo Earl. Richmond. David Clarke George S, James. Cranston. Amasa Sprague. Seneca Stone Hopkinton. Henry M. Wells, Edward Barber Johnston. James F. Simmons Abraham C. Atwood. North Providence. Stephen Randall, Jr. Edward S. Wilkinson Barrington. Jeremiah S. Drown James Bowen. Fuster. Gideon Burgess, Jr. Burrillville. Amasa Ballou Jonathan Lackey.

The Hon. Henry Y. Cranston, Speaker; George Rivers and Edward H. Hazard, Esq'rs Clerks.

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State of Rhode Island and Providence Plantations. In General Assembly, January session, A. D. 1840.

AN ACT to regulate the Militia.

Be it enacted by the General Assembly as follows :--- Act to regulate Section 1. The whole militia of this state shall be the miliarranged in one division; the militia in the counties of the Newport and Bristol shall form the first brigade; the militia in the county of Providence shall form the second brigade; the militia in the county of Washington shall form the third brigade; and the militia in the county of Kent shall form the fourth brigade. The brigade in the counties of Newport and Bristol shall consist of three regiments; the brigade in the county of Washington, of three regiments; and the brigade in the county of Kent, of two regiments.

Sec. 2. The regiments aforesaid shall be constituted as follows; to wit: the towns of Newport, Portsmonth, Jamestown, and Middletown, shall constitute the first regiment; the towns of Providence and North Providence, the second regiment; the towns of Westerly, Charlestown, and Hopkinton, the third regiment; the towns of Bristol, Warren, and Barrington, the fourth regiment; the towns of Warwick and East Greenwich, the fifth regiment; the town of Smithfield, the sixth regiment; the town of Scituate, the seventh regiment; the towns of North Kingstown and Excter, the eighth regiment: the towns of West Greenwich and Coventry, the ninth regiment; the towns of Tiverton and Little Compton, the tenth regiment; the towns of South Kingstown and Richmond, the eleventh regiment; the towns of Glocester and Burrillville, the twelfth regiment; the town of Foster, the thirteenth regiment; the towns of Cranston and Johnston, the fourteenth regiment; and the town of Cumberland, the fifteenth regiment.

Sec. 3. There shall be four companies of militia in the town of Newport; six companies in the city of Providence; three companies in the town of Portsmouth; four companies in the town of Warwick; two companies in the town of Westerly; three companies in the town

of North Kingstown; four companies in the town of South Kingstown; two companies in the town of East Greenwich; one company in the town of Jamestown; five companies in the town of Smithfield; four companies in the town of Scituate; three companies in the town of Glocester; two companies in the town of Charlestown; three companies in the town of West Greenwich; five companies in the town of Coventry; three companies in the town of Exeter; two companies in the town of Middletown; two companies in the town of Bristol; three companies in the town of Tiverton; one company in the town of Little Compton; one company in the town of Warren; four companies in the town of Cumberland; two companies in the town of Richmond; three companies in the town of Cranston; three companies in the town of Hopkinton; two companies in the town of Johnston; two companies in the town of North **Providence**; one company in the town of Barrington; four companies in the town of Foster; and three companies in the town of Burrillville; and the aforesaid division, brigades, regiments, and companies, shall be officered agreeably to the several acts of Congress, and the provisions of this act, and said officers shall be engaged as herein hereafter provided. And the division of companies as now existing in the several towns and in the city of Providence, shall be continued, subject however, to such alterations as their present number or future increase or diminution may, in the opinion of the field officers of the regiments respectively, or any two of them, from time to time render expedient : and the officers aforesaid are hereby authorized to augment or reduce the number of companies in their several regiments accordingly : giving written notice thereof to the secretary of state, within five days thereafter.

Sec. 4. In addition to the persons exempted from the performance of military duty by the act of Congress, there shall also be exempted from the performance of such duty, the following persons, to wit: all persons who have holden the office of governor, or lieutenant governor; all persons who, after the last day of February, A. D. 1796, shall have holden any military commission or commissions, or staff office, with the rank of an officer of the line, for the space of five years succes-

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sively, and who have been engaged thereon according to law, and been honorably discharged; also every person who shall have holden any such military commission or commissions, or staff office aforesaid, for a less term of time than five years, and who have been superseded without their consent: *Provided however*, that any person who shall claim an exemption on account of his having holden any commission or commissions or staff office as aforesaid, shall exhibit to the commanding officer of the company within the bounds of which he shall reside. if required by such commanding officer, his original commission, or evidence of his appointment to such staff office as aforesaid, by virtue of which he shall claim such exemption; and the original certificate of his having been engaged thercon; and shall also, if required, leave a copy of each of them with said commanding officer, and which copies said commanding officer shall deliver to his successor in office.

Sec. 5. Persons of the following descriptions, as long as they shall remain of said descriptions, shall be exempted from the performance of military duty, to wit: the members of the senate; the justices and clerks of the supreme judicial court; the justices and clerks of the courts of common pleas; the secretary of state; the attorney general; the general treasurer; the sheriff of each county; one ferryman at each stated ferry, who usually navigates the boat; the keepers of light-houses within this state; all settled or ordained ministers of the gospel; the president, professors, tutors, students, and steward of Brown university; town and city treasurers; town and city clerks; practising physicians; practising surgeons; not including pupils of either; preceptors and ushers of academies and schools; and enginemen; and provided that no engine shall have more than twenty men, unless otherwise provided by special enactment; the members of firehook and ladder companies; every member of a chartered independent company, who shall deliver, once for all, a certificate from the commanding officer of said company, that he is a member thereof, and completely equipped according to law and the rules and regulations of said company; and all persons belonging to the society of friends commonly called quakers: *Provided however*, that each member of such soفتدرينونه

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ciety, who would otherwise be liable to do military duty, shall annually procure a certificate from the clerk of any monthly meeting or any two overseers of said society that he is a member thereof; which certificate he shall exhibit to the commanding officer of the company within whose bounds he shall reside, whenever thereto required, not oftener than once in each year; and every person who shall be conscientiously scrupulous against bearing arms: Provided however, that such person shall make oath or affirmation before a justice of some court in this state, that he is conscientiously scrupulous against bearing arms, and obtain the certificate of said justice that he has taken such oath or affirmation; and said certificate shall be presented, in the month of April, to the commanding officer of the company, within whose bounds such conscientiously scrupulous person shall reside : and no friend or quaker, and no conscientiously scrupulous person aforesaid, who shall fail to comply with these provisions, respectively, shall avail himself of the privileges of this section.

Sec. 6. Whenever any member of a chartered independent company shall cease, otherwise than by death or removal out of the state, to be a member thereof, it shall be the duty of the commanding officer of such chartered independent company to give notice thereof forthwith to the commanding officer of the militia company, within whose bounds such member shall reside.

Sec. 7. The officers and non-commissioned officers of the militia shall be as follows, to wit: the governor, for the time being, shall be captain-general and commander-in-chief; and he shall command, except when the militia shall be called into the service of the United States; and he shall be entitled to appoint his own aids, not exceeding four, with the rank of colonel. There shall be one major-general; two aids with the rank of major; one division inspector with the rank of lieutenant-colonel; one adjutant-general with the rank of colonel; one guarter-master-general with the rank of colonel. To each bridage there shall be one brigadiergeneral; one aid with the rank of captain; one brigade inspector, who is also to serve as brigade-major, with the rank of major; one brigade quarter-master, with the rank of captain; and one judge-advocate. To each

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regiment there shall be one colonel; one lieutenantcolonel; one major; one adjutant; one quarter-master; one paymaster; the adjutant, quarter-master, and paymaster, each with the rank of lieutenant; one surgeon; one surgeon's mate; one chaplain; one sergeant-major; one sergeant-quarter-master; one drum-major; and one fife-major. To each company of infantry, light infantry, and riflemen, there shall be one captain; one lieutenant; one ensign; four sergeants; four corporals; one or more drummers; and one or more fifers; or buglers.— To each company of artillery there shall be one captain; two lieutenants; four sergeants; four corporals; one or more drummers; one or more fifers, or buglers; and three drivers. To each company of cavalry there shall be one captain; two lieutenants; one cornet; four sergeants; four corporals; one saddler; one farrier; and one or more trumpeters: *Provided nevertheless*, that all chartered companies organized before the first day of January, one thousand eight hundred and forty, shall continue to be officered as before that time.

Sec. 8. Whenever the office of major-general, brigadier-general, colonel, lieutenant-colonel, major-commandant, or captain, shall be vacant, or such officer be sick or absent, the officer next in rank shall command the division, brigade, regiment, battalion, or company, as the case may be, until the vacancy be supplied; and whenever the office of quarter-master-general shall be vacant, the duties thereof shall be performed by the adjutant-general.

Sec. 9. Whenever a company shall have neither commissioned nor non-commissioned officers, the commanding officer of the regiment to which such company belongs, shall appoint suitable persons of said company, to be non-commissioned officers of the same; and the senior non-commissioned officer of a company without officers shall command the same, except upon parade, and except as provided in the following section.

Sec. 10. Whenever any company shall be first enrolled, or shall, from any cause, be without officers, and when an election of officers shall be ordered for said company, and such company shall neglect or refuse to elect any officer, or when no person elected shall accept, the commanding officer of the regiment to which such

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company belongs, shall detail some officer of the staff, or of the line of the regiment, to train and discipline said company, until some officer shall be elected, or appointed by the commander-in-chief as provided in the nineteenth section; and such officer, so detailed, shall have the same power and authority, and be subject to the same liabilities, as if he were captain of said company; and he shall keep the records of the company; and all meetings of said company shall be notified as is provided in the fifty-third section.

Manner of Elections and Appointments to Office.

Sec. 11. The officers of the line, of the militia, shall be elected as follows, to wit: the major-general, brigadier-generals, field officers of regiments, the adjutantgeneral, division inspectors, brigade inspectors, and brigade quarter-masters, shall be elected by the general assembly; captains and subalterns of companies, by the written or printed votes of the non-commissioned officers and privates of their respective companies; and all who are liable to be enrolled, shall be legal voters in their respective companies; aids to the commander-in-chief, shall be appointed by the commander-in-chief; aids to the major-general, by the major-general; judge-advocates, by the major-general, with the approval of the commander-in-chief; aids to the brigadier-generals, by the respective brigadier-generals; adjutants, paymasters, quarter-masters, chaplains, surgeons, and surgeon'smates, of regiments, by the respective colonels.

Appointment of Non-commissioned Officers.

Sec. 12. Non-commissioned officers shall be appointed as follows: sergeant-majors, sergeant-quarter-masters, drum-majors, and fife-majors, of regiments, by the commanding officers of their respective regiments; noncommissioned officers of companies, by the captains of their respective companies; who shall forthwith return the names of the same in writing to the commanding officer of the regiment.

Sec. 13. All commissions for officers shall be signed and issued by the commander-in-chief; warrants for

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non-commissioned officers shall be signed and issued by the colonels of the regiments, respectively.

Sec. 14. No idiot, lunatic, common drunkard, vagabond, pauper, nor person convicted of any infamous crime, nor any other than able bodied white male citizens, shall be eligible to any military office; and whenever it shall appear to the commander-in-chief, that any person thus declared ineligible has been elected as commanding or subaltern officer in any company, he shall not commission such person, and shall declare such election null and void, and shall order a new election, or appoint some person to fill the vacancy, as he may judge expedient; and no person shall be eligible to the office of major-general, unless it be one of the acting brigadier-generals; or, if neither of them will accept, then some one who has filled the office of brigadiergeneral, and been honorably discharged.

Sec. 15. All commissioned officers of the same grade, shall take rank according to the respective dates of their commissions; and when two, or more, of the same grade bear an equal date, their rank shall be determined by lot, to be drawn by them before the commanding officer of the division, brigade, regiment, company or detachment, or the president of a court martial; as the case may be. The day of election or appointment of any officer shall be the date of his commission; and whenever he shall be transferred to another corps or station, of the same grade, the date of his original commission or appointment shall be the date of his commission.

Sec. 16. Whenever any officer shall lose his commission, he shall be entitled to a duplicate commission of the same grade and date, on his affidavit made before a justice of any court in this state, on application to the commander-in-chief.

Sec. 17. Any person elected major-general, shall be forthwith notified of his election by the secretary of state; and shall, within twenty days after such notice, signify to the secretary his acceptance of said office, or shall be considered as having declined.

Sec. 18. Each company shall meet on the first Monday in April in each year, to elect the captain and subaltern officers of said company; and in case of a vaPocument 55-44 Filed 07/14/23 Page 10 of 32 PageID.1026

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cancy in either office, it shall be the duty of the colonel or commanding officer of the regiment to which said company belongs, to order a meeting of said company at an early day, to fill said vacancy; and any person elected to either of said offices, shall signify his acceptance of the office to the commanding officer of the regiment, within twenty days of his said election; or he shall be deemed to have refused the appointment. The order of the commanding officer of the regiment for a meeting of the company to fill any vacancy, shall be directed to the highest commissioned or non-commissioned officer in said company; and in case there shall be no commissioned or non-commissioned officer in said company, said order shall be directed to any member of said company, whose power to warn said company shall be valid and lawful; and he shall preside at the election.

Sec. 19. In case any company shall neglector refuse to elect some person to fill a vacant office, the commander-in-chief shall appoint some suitable person to fill the same, upon being notified by the colonel or commanding officer of the regiment, of such neglect or refusal to elect.

Sec. 20. When a company has been newly enrolled, or, from any cause, is without commissioned officers, the commanding officer of the regiment may order an election of officers for the same.

Sec. 21. All commissions shall be delivered to the major-general, and by him to be delivered, through the proper officers, to the persons for whom they are intended.

Sec. 22. All brigade or field officers to whom commissions shall be sent or delivered, by the major-general, shall signfy to him their acceptance or refusal of such office, within thirty days after the receipt of the commission: and in case of refusal, the same shall be communicated to the secretary of state, by the major-general.

Sec. 23. No candidate for election to office in the militia shall treat the electors with ardent spirits, either pending, during, or after said election.

Sec. 24. No officer, non-commissioned officer, or private, shall be arrested on any civil process, while going

to, returning from, or remaining at any place at which he shall have been ordered to attend, for the election of any military officer, or the performance of any military duty.

Officers, How Qualified.

Sec. 25. Each commissioned officer, before he shall enter on the discharge of the duties of his office, shall take and subscribe the following oath and declarations, before some justice of the peace, or other magistrate, or town clerk : on the back of each commission the following form of the oath shall be printed, to wit: " I,

do solemnly swear (or affirm) that I will bear true faith and allegiance to the state of Rhode Island and Providence Plantations; that I will support the constitution and laws thereof, and the constitution and laws of the United States; and that I will faithfully and impartially discharge all the dutics incumbent upon me as

according to my abilities and understanding, according to the laws of this state, and of the United States; so help me God." (Or, "this I promise on the pains and penalties of perjury.") On the back of each commission, the following form of certificate shall be printed, and signed by the person before whom such officer shall be qualified, to wit: "This may certify, that commissioned within named, appeared before me this , A. D. , and took and subscribed day of the oath and declarations prescribed by the laws of this state, and of the United States, before me." Signed, &c.

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Officers, how Discharged.

Sec. 26. Any officer who shall have holden any commission or commissions in the militia of this state during the term of five years in succession, and faithfully performed the duties of the same, shall be honorably discharged, on his application to the commander-in-chief, and shall, forever after, be exempt from the performance of military duty; and no officer shall be discharged, unless on his own application, or unless in cases hereinafter provided; and any officer who has held a

commission or commissions, as aforesaid, for a less term of time than five years, and who shall be superseded by the election or appointment of another person over him, shall, on application as aforesaid, be honorably discharged, and forever after be exempt from military duty.

Sec. 27. All resignations shall be in writing; and shall be approved of and certified as follows: the resignation of the major-general, shall be made to and approved of by the commander-in-chief: the resignation of a brigadier-general, shall be approved of by the major-general; the resignation of a field officer, shall be approved of by the brigadier-general of the brigade to which such field officer belongs; and the resignation of a captain or subaltern officer, shall be approved of by the commanding officer of the regiment to which such captain or subaltern shall belong. And the majorgeneral, brigader-general or commanding officer of a regiment who shall approve of any resignation as aforesaid, shall certify the same to the commander-in-chief, who shall have the power to allow or disallow thereof at his discretion. And no officer shall be considered as having resigned his commission, unless the same shall have been approved of and certified as aforesaid, and allowed by the commander-in-chief.

Discipline, Inspection, Training and Review.

Sec. 28. The system of discipline and field exercise, from time to time ordered for the army of the United States, shall be the system of discipline and field exercise for the militia of this state.

Sec. 29. Each commanding officer of a company shall order out his company on the third Monday of April annually, at one o'clock in the afternoon, for inspection; and shall inspect, examine, and take an exact account of the equipments of his men, note all delinquencies of appearance, and deficiencies of equipments, and correct his company roll, in order that a thorough inspection may be made, of all the militia in the state; and every commanding officer of a company, shall train and discipline his company on said day, as well as inspect them. All persons now holding commis-

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sions as captains or subaltern officers in the militia, shall exercise the duties of their said office, at the company trainings herein ordered on the third Monday of April next: and at the said company training, after the exercise and drill, the company shall proceed to the election of officers; and return of said election shall be made as herein required. And the same proceedings for the election of officers shall be had on the said third Monday of April in each succeeding year.

Sec. 30. The militia of this state shall in the year one thousand eight hundred and forty, and in every second year thereafter, in the month of September, meet by regiment or battalion, for the purpose of training, disciplining and improving them in martial exercise: the places of regimental and battalion rendezvous shall be appointed by the commandants of the regiments respectively: and the days of the regimental or battalion rendezvous, by the respective brigadiers. In the year one thousand eight hundred and forty-one, and in every second year thereafter, in the month of September, the commissioned officers belonging to each brigade shall be called together for the purpose of disciplining and improving them in martial exercise : the time for calling out said officers shall be designated by the major-general; and the place of meeting shall be designated by the brigadicr-general of each brigade; and the officers of said brigade shall be under the immediate command of the brigadier-general when so assembled: Provided, that the militia in the town of Jamestown, and that portion of the militia of the town of Portsmouth residing on the island of Prudence, may muster with the regiment to which they belong, or by company in their respective towns, on the same day with their regiment; and in the latter case, the commanding officers of said companies respectively, shall inspect and review their companies, and make return to the commander of the regiment : Provided also, that the inhabitants of the town of New Shorcham shall be exempt from all military duty.

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Sec. 31. Each brigade and regiment, when in the field, shall take rank according to its number, as in the first and second sections of this act, beginning at the lowest number as highest in rank; and the companies

in each regiment shall form according to the rank of the officers present commanding them; and when distinct corps shall parade, join or do duty together, the senior officer present shall command, without regard to corps.

Sec. 32. Whenever any company destitute of commissioned officers, shall parade with other troops, the commanding officer present shall detail some officer of the regiment to discipline and command them, unless the officer be present, detailed for that purpose according to the provision of the tenth section.

Sec. 33. Every commanding officer, when on duty, is hereby authorized to ascertain and fix necessary bounds and limits to his parade, not including any road on which people travel, so as to obstruct the same, or prevent their passing, within which, no spectator shall have a right to pass or enter, without leave from such commanding officer; and the commanding officer of any battalion or company may put under guard any spectator or bystander who shall abuse, molest or strike any one when on parade, or under arms; and every person who shall encroach on the parade ground.

Sec. 34. Brigade-majors and brigade-inspectors shall attend the inspections and reviews of their respective brigades, whether the same be by brigade or regiments; and if by regiments, shall inspect their arms, annunition, and equipments, superintend their exercises and evolutions, and introduce and enforce the system of discipline required by law and by the orders of the commander-in-chief; and shall make return as provided in the forty-first section.

Sec. 35. No non-commissioned officer or private shall, unnecessarily, or without orders from his superior officer, come on to any place of parade, with his musket, rifle, or pistol, loaded with ball, slugs, or shot, or shall so load the same while on parade, under the penalty provided in such cases in the seventy-second section.

Sec. 36. The ball cartridges required by this act shall be inspected at such place as the commanding officer may appoint.

Sec. 37. No officer, non-commissioned officer, or private, shall be compelled to do military duty on any day appointed for town, city, or ward meetings, or for the election of any civil officer, in the town or city in which

he shall reside, except on the third Monday in April, unless it be in case of invasion, insurrection, riot, or tumult threatened; and no doings of any town, city, or ward meeting, and no election of civil officers, holden on the third Monday in April, shall be valid, or of any legal force.

Sec. 38. Nothing herein contained shall prevent any company from meeting at any time for drill, funeral, or any other voluntary duty, nor to impair the corporate privileges of any chartered company, nor any lawful articles of agreement adopted by any company so far as relates to those who have voluntarily signed the same.

Rolls, Rosters, and Returns.

Sec. 39. A fair and correct roll of each company shall be kept by the commanding officer, with the state of the arms and equipments belonging to each man; and said officer shall keep an orderly book for allorders received or issued, and all accounts of all fines, from whom received and when and for what cause.

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Sec. 40. All general orders shall be distributed by the adjutant general; all division orders, by one of the aids of the major-general; all brigade orders, by the brigade-major; all regimental orders, by the adjutant; and company orders, by any non-commissioned officer or private, when required by the commanding officer.

Sec. 41. Each commanding officer of a company, shall make a correct return of the state of his company, with the names of all the men belonging to it, together with the true statement of their arms, ammunition, and equipments, to the commanding officer of his regiment, annually, in the month of May. Each commanding officer of a regiment shall make a like return to the commanding officer of his brigade, of the state of his regiment, annually, in the month of September. The brigade-majors and inspectors shall make a like return of the state of their respective brigades, to the adjutantgeneral, annually, in the month of October. And the adjutant-general shall make duplicate abstracts of the state of the militia; one to be delivered to the commander-in-chief, who shall present the same to the general assembly; and the other shall be transmitted, in the

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month of December, to the president of the United States.

Sec. 42. The adjutant-general shall furnish blank forms of rolls and of the various returns that may be required, at the expense of the state; and explain the principles on which they are to be made out; and the roll shall be kept as prescribed.

Sec. 43. The commanding officers of companies raised at large, except independent companies chartered before the first day of January, A. D. 1840, shall, in the month of April, annually, make out a list or lists of the men belonging to their respective companies, and deliver the same to the commanding officers of the regiments, within whose bounds any such men shall reside.

Enrollment.

Sec. 44. Every able bodied white male citizen, in this state, who is, or who shall be, of the age of eighteen years, and not exceeding the age of forty-five years, excepting persons absolutely exempted by the provisions of this act, and idiots, lunatics, common drunkards, paupers, vagabonds, and persons convicted of any infamous crime, shall be enrolled in the militia, in the companies within whose bounds they shall respectively reside, by the commanding officers of companies. Such enrollments shall be made from time to time, as each citizen shall arrive at the age of eighteen years, or shall come to reside within said bounds; or who, without being exempted, shall cease to be holden to do military duty elsewhere; and the commanding officer of any such company, who shall enroll any such citizen, shall cause such citizen to be notified of his enrollment without delay, by a proper non-commissioned officer of said company, by whom such notice may be proved; and any legal notice or warning by a non-commissioned officer, to attend any training, inspection, or review, or election of officers of said company, shall be a legal notice of enrollment. All non-commissioned officers and privates, discharged from any company raised at large, or members of any such company which shall be disbanded, except in cases otherwise provided by law, shall be enrolled as privates in the standing companies of

militia, within whose bounds they shall respectively reside; and in all cases of doubt as to age or liability, the person enrolled shall be required to furnish proof: Frovided, however, that all persons between the ages of thirty years and forty-five years, not otherwise exempted by this act, shall be exempt from the performance of military duty, except in case of invasion, insurrection, riot, or tumult, by keeping themselves constantly armed and equipped according to law, by carrying or sending their arms and equipments, annually on the third Monday in April, to the place of parade of their respective companies for inspection.

Sec. 45. Every keeper of a tavern orboarding house, and every master and mistress of a family, or dwellinghouse, shall, upon application of the commanding officer of the company within whose bounds such tavern or house is situated, or on application of any person acting under the direction and authority of such commanding officer, give information of the names of all persons residing in such tavern or house, liable to enrollment, or to do military duty; and if any such keeper, master, or mistress, on such application, shall refuse to give information, or shall give false information, or if any person liable to do military duty shall, on such application, either refuse to give information of his age and name, or shall give false information, he, she, or they, shall be liable to the penalty provided in the seventy-fourth section of this act.

Sec. 46. If any non-commissioned officer or private shall become a pauper, vagabond, or common drunkard, or be convicted of any infamous crime, he shall be forthwith discnrolled from the militia.

Sec. 47. No soldier shall be compelled to do military duty within six months after notice given him of his first enrollment; but he shall be entitled from the time of his enrollment to vote at elections in the company in which he is enrolled.

Equipments.

Sec. 48. Every citizen, when first enrolled in the militia and legally notified thereof, or within six months thereafter, shall provide himself with a good musket RP Document 55-44 Filed 07/14/23 Page 18 of 32 PageID.1034

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with a bore sufficient for balls of the eighteenth part of a pound, a sufficient bayonet and belt, two spare flints, a priming wire and brush, and a cartridge box to contain twenty-four cartridges, suited to the bore of his musket, and twelve blank cartridges; or with a good rifle, shot pouch, and powder horn; except when otherwise ordered by the commander-in-chief. 'The commissioned officers shall be severally provided with a sword or hanger; and all soldiers, after six months from having been notified of their enrollment, shall be constantly provided with the arms, and equipments, as provided by law; and which shall be annually inspected at such company, regimental or brigade inspections as are herein directed to be holden.

Sec. 49. Any person unable to equip himself, may represent to the town council of the town, or board of aldermen of the city, in which he resides such inability; and said council or board of aldermen upon being satisfied of his inability, shall give him a certificate to that effect; which certificate shall exempt him from any fine for want of said equipments; and any poor parent, master, or guardian, may avail himself of the privileges of this section.

Sec. 50. Every parent, master, or guardian, shall arm and equip all minors under his, her, or their care, respectively, except as provided in the forty-ninth section, liable to do military duty; and every parent, master, or guardian, who shall fail to do so, shall be liable to the penalties provided in the seventy-first section for deficiency in arms and equipments.

Sec. 51. Every officer, non-commissioned officer, and private, shall hold his uniform, arms, ammunition, and equipments, free from all suits, distresses, executions, or sales for debt or taxes.

Sec. 52. Every officer of the line, and every staff officer, shall provide himself with an uniform complete, which shall be such as the commander-in-chief shall prescribe, and subject to such limitations, restrictions, and limits, and alterations as he may order; and every such officer who shall be deficient therein, shall be liable to the penalty provided in the seventy-first section.

Notifications.

Sec. 53. When ever any commanding officer of a com-

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pany shall order out his company for inspection of arms, company training, or inspection and review, he shall issue his orders to some one or more of the non-commissioned officers or privates of his company, to notify the men enrolled in said company to meet at the time and place appointed; and such non-commissioned officers or privates shall notify all the persons enrolled in said company to meet at the time and place appointed, and for the purpose specified in the orders aforesaid; under the penalty for neglecting to warn, provided in the seventy-second section.

Sec. 54. No notice shall be legal, except given verbally or by written or printed warrant to the person to be notified, or by a printed or written warrant left at his usual place of abode, by the person authorized to notify by the commanding officer, and signed by the warning officer; and no such notice shall be legal, if for a company training, inspection and review, unless given at least four days previous to the time appointed for the same; nor for an election of officers, unless given at least ten days before the day of such election : *Provided*, that, in case of invasion, insurrection, riot, or tumult, or any unforeseen and sudden occasion, any verbal, written, or printed notice, from a proper officer or person authorized to notify, shall be legal, however short.

Sec. 55. 'The adjutant-general shall furnish commanding officers of companies with blank forms of orders to non-commissioned officers and privates to notify, and blank notifications to be left with the men.

Sec. 56. The commanding officer of each company shall record, in the orderly book, all company orders and notifications; but the record shall not be necessary to the recovery of any penalty.

Calling out the Militia in case of Invasion, Insurrection, Riot, or Tumult.

Sec. 57. Whenever any invasion of the state, or any insurrection, riot, or tumult shall be made in any part of the state, the commander-in-chief shall call out the militia, or any part thereof, as he may deem expedient or necessary, to suppress or repel the same; and he may order out the division or any brigade, brigades, regi-

ments, regiment, companies, or company, or any portions of the same, or cause any number of men to be detached or drafted from them, and cause officers to be detailed which, with those attached to the troops, shall be sufficient to organize the forces; and if such invasion or insurrection, or any imminent danger thereof, be so sudden in any part of the state, that the commander-inchief cannot be informed, and his orders received and executed in season to suppress or repel the same, the major-general may order out the division, or any part thereof, as the commander-in-chief might do; and when any troops are in the field for such purposes, the senior officer of said troops, present, shall command, until the commander-in-chief, or some officer detailed by him, shall appear to take the command.

Sec. 58. Whenever any draft from the militia shall be ordered, the non-commissioned officers and privates, except so many as shall voluntarily offer to serve, shall be drafted by lot, from the company; and the officers detailed from the roster.

Sec. 59. If any company without officers be ordered to march, or any draft or detachment therefrom ordered, the commanding officer of the regiment to which such company belongs, shall detail some officer to command them, who shall have the same authority to command them to appear, and to command them in the field, and to make any draft or detachment therefrom, as though he were captain of said company, and shall have the same responsibility.

Sec. 60. Every officer who, when ordered to march to the place of rendezvous, shall unnecessarily neglect to do so, or who shall otherwise disobey any lawful order, shall be punished as is provided in the seventythird section; and every soldier ordered out, drafted, or detached, who shall not appear at the time and place appointed, armed and equipped as the law directs, or who shall not have some able-bodied substitute, so armed and equipped, at such time and place, or shall not pay to the captain of his company, within twenty-four hours from such time, the sum of one hundred dollars for the benefit of the company, shall be fined not exceeding one hundred dollars; and each non-commission-

ed officer and private shall take with him provisions for at least three days, when so ordered.

Sec. 61. When, in any county in this state, there shall be any tumult, riot, mob, or any body of men acting together, with intent to commit felony, to offer violence to persons or property, or in any other way to resist the laws of the state by force and arms, or by violence, or when any of said acts shall be threatened, and the fact be made to appear to the commander-in-chief, or to the sheriff of said county, or to either of the justices of the court of common pleas in such county, or, if in the city of Providence, to the mayor of said city in the first instance, or in his absence, to the board of aldermen, the commander-in-chief shall issue his order, or such justice, sheriff, mayor, or board of aldermen shall issue his or their precept, properly signed, directing the commanding officer of the division, brigade, regiment, or company, as the case may be, to order out his command, or any part of the same, to suppress such riot, tumult, or mob, and to prevent the perpetration of any such felony, or act of unlawful violence.

Sec. 62. The officer to whom any such order or precept shall be directed, as named in the foregoing section, shall forthwith order out the troops therein required, to parade at the time and place appointed; and if he shall refuse to obey such order or precept, or if any officer under his command shall refuse to obey an order issued under such order or precept, he shall be cashiered, and farther punishable by fine, as provided in the seventy-third section, and be liable to imprisonment, on the sentence of a court martial approved by the commander-in-chief, for a term not exceeding six months.— And any non-commissioned officer or private, who shall neglect or refuse to appear at the time and place of parade, or to obey any lawful order issued in such case, shall suffer the penalty provided in the sixtieth section.

Excuses.

Sec. 63. Any excuse for non-appearance of a noncommissioned officer or private, shall be made to the commanding officer of his company, within twenty days after the training or other military duty, for the non21-

performance of which he shall claim to be excused, and if the delinquent shall produce satisfactory evidence to the commanding officer, that he was unable to appear at the time and place appointed, the commanding officer may excuse him; but no commanding officer shall receive any excuse for non-appearance after the expiration of said twenty days; and any commanding officer who shall violate this provision, shall be liable to be tried by court-martial.

Sec. 64. Any officer detailed to train and discipline a company without officers, shall have the power, as commanding officer, to excuse absences as aforesaid, and to impose fines.

Disorderly Conduct.

Sec. 65. Any non-commissioned officer or private who who shall, while under arms or on duty, behave himself with contempt to an officer, or who shall conduct in a disorderly manner, join in, or excite any riot or tunult, or appear in any fantastical dress, or with other arms and accoutrements than what the law requires, or who shall be guilty of any other unsoldier-like conduct, shall be put under guard by the officer commanding the field, or by his order, for a time not exceeding the time the troops shall be under arms; and shall be fined, as provided in the seventy-second section.

Surgeons and Surgeon's Mates.

Sec. 66. No surgeon, or surgeon's mate, nor any physician, shall take any gratuity whatsoever from any person, for a certificate for inability to perform military duty on account of bodily infirmity; and it shall be the duty of such to examine critically the cases of all applicants for such certificates, and not to grant any certificate for bodily infirmity or inability, unless such infirmity or inability be, beyond all doubt, such as to render the applicant unable to perform military duty; and any surgeon, surgeon's mate, or physician who shall violate the provisions of this section, shall be liable to the penalty of fifty dollars; to be sued for and recovered by the colonel or commanding officer of the regiment to which such surgeon or surgeon's mate shall belong, and within whose bounds such physician shall reside; and said penalty shall be to the use of the regiment, and said certificate shall be of no avail.

Sec. 67. Whenever any regiment may be without a surgeon or surgeon's mate, or when any person may claim to be exempt from military duty by reason of bodily infimity or disability, and shall not reside within ten miles of the surgeon, or surgeon's mate of the regiment, within the bounds of which he shall reside, any respectable physician within said distance, may grant him a certificate, subject to the restrictions contained in the preceding section; and the commanding officer of any company is authorized to exempt any person from military duty, who shall reside within the bounds of his company, on the presentation of such certificate from the surgeon, or surgeon's mate, or a physician as aforesaid, either for a longer or shorter period, not exceeding one year, as, in the judgment of the commanding officer, the case may demand.

Volunteer Companies.

Sec. 68. If any company raised at large after the first day of January, A. D. 1840, shall, at any time, be destitute of commissioned officers, and shall, after having been twice ordered, refuse or neglect to fill vacancies, or if the number of privates in any such company be reduced to less than twenty-four, and continue thus reduced for more than one year, said company may be disbanded by the commander-in-chief, and the non-commissioned officers and soldiers thereof be enrolled in the militia : *Provuled however*, that no person who has served seven years in any chartered volunteer company in this state, shall ever afterwards be liable to do military duty except in case of invasion, insurrection, or riot.

Sec. 69. Officers of disbanded companies shall not be reduced to the ranks; but may be honorably discharged by the commander-in-chief, or detailed as occasion may demand, for the discharge of any duty correspondent with their rank.

Fines and Penalties.

Sec. 70. Every non-commissioned officer and private, holden to do duty in the militia in this state and refusing or neglecting to appear for the performance of duty when legally warned and notified, shall forfeit and pay as follows, to wit: for unnecessarily neglecting to appear at any inspection and review, seven dollars. For unnecessarily neglecting to appear at any company training, five dollars. For unnecessarily neglecting to appear when ordered, or disobeying any lawful order, in case of riot, mob, or tumult, one hundred dollars.

Sec. 71. Every non-commissioned officer and private, who shall appear at any inspection, training, or review, whose equipments are deficient, or of bad quality, shall forfeit and pay, for a musket, a bayonet or belt, and an iron or steel ramrod, all or either, one dollar. A cartridge box with twelve blank cartridges, two spare flints, and a priming wire and brush, all or either, one dollar. The officers of every grade, for a deficiency of uniform, or uniform of bad quality, five dollars. A deficiency of a sword or hanger, or belt, of good quality, both, or either, two dollars.

Sec. 72. Any non-commissioned officer or private, guilty of contempt of any officer, or of disorderly conduct, or other offence described in the sixty-fifth section, not less than fifty, nor more than one hundred dol-For quitting his guard, section, or platoon, withlars. out leave, ten dollars. For discharging his musket, rifle, or pistol, when going to, remaining on, or returning from parade, not less than five, nor more than ten dollars. For refusing or neglecting to warn, when ordered in a company without officers, two hundred dollars.— For refusing or neglecting to give notice or warning in a company without officers, as provided in the fiftythird section, two hundred dollars. For loading arms on parade, with balls, slugs, or shot, not less than five dollars, nor more than twenty dollars.

Sec. 73. Officers shall be liable to the following penalties, to wit: For exercising any power or authority in the militia, after having accepted an appointment in the army of the United States, not more than three hundred dollars. For disobeying any order or precept

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in time of riot, mob, or tumult, not less than one hundred dollars, nor more than five hundred, and to be cashiered and liable to imprisonment. The manner in which fines shall be inflicted on officers, as well as other penalties, shall be by courts-martial, according to law.

Sec. 74. When information is required by persons ordered to enrollment, every person liable to do duty, refusing to give information of his name or age, or giving false information, shall forfeit and pay twenty dollars. Every keeper of a tavern, or boarding-house, and every parent, master, or mistress of a family, refusing to give information, or giving false information, twenty dollars. Persons intruding on the bounds and limits of parades, ten dollars.

Prosecutions for Fines.

Sec. 75. For all penalties incurred under the provisions of the seventieth and seventy-first sections, the commanding officer, within ten days after any inspection, training, review, election, or duty, at which the delinquent failed to appear, or appeared deficient in arms and equipments, or with arms and equipments of bad quality, the commanding officer of the company to which said delinquent belongs shall cause him to be notified, in writing, of the penalties incurred by him; and if such delinguent shall fail to excuse himself to the satisfaction of the commanding officer, within ten days after such notice given, then the commanding officer may issue his warrant for said penalty or penalties, and put the same into the hands of the sheriff, his deputy, or any town scrgeant or constable in the town or county in which such delinguent resides, who are hereby required to execute the same.

Sec. 76. Whenever the commanding officer of a company shall impose a fine, the person so fined, if he claims to be exempt from military duty at the time for which he is fined, may, within ten days after notice given him, appeal to the commanding officer of the regiment; and in all cases of appeal, it shall be the duty of the officer to whom the appeal is made, to cause written notice to be given to the officer imposing the fine, who shall thereupon stay proceedings for the collection thereof, until

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the appeal be determined. And the officer to whom the appeal is made, may, on hearing the parties, abate the fine; and if such fine be not abated, the officer imposing the same, shall proceed to the collection thereof. And the person fined, may be heard by himself or his counsel, both on the original action, and on the appeal. And all appeals shall be made in writing, and notice thereof given to the officer imposing the fine, within twenty days after such appeal is made; and no action shall be sustained against any officer for imposing a fine under the provisions of the seventy-first section.

Sec. 77. All warrants granted for the collection of fines according to the provisions of the preceding sections, shall be directed to the sheriff, his deputy, or any town sergeant or constable of the county or town in which the delinquent dwells; which warrant may be levied on the goods or chattels of said delinquent, if of the age of twenty-one years, and for want of such goods and chattels, on the body of said delinquent; and if such delinquent be under the age of twenty-one years, then on the goods and chattels of his parent, master or guardian, and for want of such goods or chattels, on the body of the same; and him commit, till such fine be paid, with lawful fees for warrant and service, as in execution for debt.

Sec. 78. All fines collected from non-commissioned officers and privates, shall be appropriated to the benefit of the company to which the delinquent or delinquents shall belong, for the purpose of procuring music, and defraying other necessary expenses: *Provided how*ever, that any person may sue for and recover a fine for firing a musket, rifle, or pistol, either going to, or returnining from parade, one half said fine to the prosecutor, and the other half to the company aforesaid.

Sec. 79. All military fines whatever, except those named in the preceding section, and those imposed by court martial, may be sued for and recovered in an action of debt in any court in this state competent to try the same; and when collected shall be paid to the general treasurer.

Courts Martial.

Sec. 80. General, field, commission, and staff officers,

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shall be subject to trial by court martial, according to the usage and practice of war, for disobedience of orders, unofficer-like conduct while on duty, or during any day appropriated to military exercise, inspection or review, and for neglect of any duty imposed upon them, by law, as officers of the militia; which court martial shall consist of not less than nine, nor more than thirteen members; and the senior officer, who shall always be of a rank superior to that of the officer on trial, shall preside. The court martial for the trial of an officer under the grade of a field officer, shall be appointed by the commanding officer of the brigade to which he belongs; for the trial of an officer of the grade of field officer, by the commanding officer of the division; and for the trial of a general officer, by the commander-in chief. In every court martial there shall be a judgeadvocate, who shall discharge the duties of that office according to the usage and practice of courts-martial; and no other person shall be admitted to prosecute or defend an arrested officer. Whenever a court martial shall be ordered, the order shall designate the time and place of holding the same, the name of the officer to preside, and the names and ranks of the other officers, of which the court is to be composed. If the court shall be ordered by the commander-in-chief, the orders shall be as follows, to wit:

> State of Rhode Island, ss. GENERAL ORDERS.

"A general court-martial is ordered to assemble at on the day of A. D. for the trial of such persons as may be brought before them, to consist of members, to be taken from the division, to wit: the major-general, brigadier generals, lieutenant colonels. Major-gencolonels. will preside. The adjutant of the eral regiment will furnish an orderly sergeant, to attend and execute the orders of the court." [To be signed by the commander-in-chief, or by the adjutant-general by his order.] If a court-martial be ordered by the majorgeneral, the orders shall be as follows, to wit:

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State of Rhode Island, ss. Division Orders.

A general court-martial of the division will assemble at on the day of A. D. for the trial of such persons as may be brought before them, to consist of members, to wit : brigadier-generals, colonels, lieutenant colonels,

majors. Brigadier-general will preside. The adjutant of the regiment will furnish an orderly sergeant to attend and execute the orders of the court. [To be signed by the major-general, or by the division inspector, by his order.] If the court be ordered by a brigadier-general, the orders shall be as follows, to wit:

State of Rhode Island, ss. BRIGADE ORDERS FOR THE BRIGADE OF RHODE ISLAND MILITIA.

A general court martial for the brigade will assemble at on the day of A. D. for the trial of such persons as shall be brought before them, to consist of members, to wit: colonels, lieutenant-colonels, majors, subalterns. Colonel will preside. captains, The adjutant of regiment will furnish an orderly sergeant to attend and execute the orders of the court. To be signed by the brigadier-general, or by the brigade-major, by his order.] For a general court martial, the adjutant-general shall detail and notify all general officers, and apportion the other officers required, to the several brigades they are to be taken from; and give notice thereof to the division-inspector, or brigade-maiors, who shall detail and notify said officers, and make return thereof to the adjutant-general. In a division court-martial, the division-inspector, or an aid-de-camp under the direction of the major-general, shall detail and notify the general officers, and apportion the other officers to each brigade, and give notice thereof to the respective brigade-majors, who shall detail and notify the field officers required of their brigades, and make return thereof to the major-general.

For a brigade court martial, the brigade-major shall

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detail and notify the field officers required to serve on said court martial, and apportion the number of captains and subalterns of each regiment, and notify the respective adjutants; and the adjutant of each regiment shall notify them, and make return thereof to the brigade-major; and if the officer to be tried be a general officer, he shall be furnished with a copy of the order for said court, and a copy of the charges in arrest, by the adjutant-general, or by the division inspector, or by a brigade inspector, as the commanderin-chief shall direct, thirty days before the sitting of said court, who shall make return thereof, with the names of the officers composing said court; and the officer to be tried, if under the rank of a field officer, shall be furnished with like copies, twenty days before the sitting of the said court, by a brigade-major, or inspector, or by the adjutant of the regiment to which he belongs, as the officer ordering the court martial shall direct; who shall return the same, and the names of the officers composing the court, to the judge-advocate of the court; and it shall be the duty of the said judge advocate to summon, or cause to be summoned, such witnesses on the part of the state, as may be necessary by subpoena signed by the officer ordering the court, or by the president thereof, or by said judge-advocate; and the accused shall be entitled to like process, to procure the attendance of his witnesses; which process shall be served by the judge-advocate, or by any disinterested person deputed by him. The members to compose the court, shall be detailed according to seniority, in a regular rotation of duty; and all charges in arrest shall be made out in due form, by way of complaint, and signed by the party complaining, and addressed to the officer whose duty it is to order the court, specifying the act or neglect of which the accused is supposed to be guilty, and praying due process, before said officer shall order a court-martial for the trial of the officer accused. The members of the court, before they enter on the trial of any person accused, shall take the following oath, to wit: "You swear [or affirm] that you will truly try and determine, according to the evidence given in court, the matters depending between this state, and the officer [or officers] now to be tried;

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that you will not divulge the sentence of the court, until the same has been approved or disapproved pursuant to law; and that you will not at any time, disclose the vote or opinion of any member of this court, unless required to do so in due course of law. So help you God." [Or this you affirm, &c.] And the foregoing oath shall be administered by the judge-advocate; but all other oaths which it may be necessary to administer, during the continuance of the court, may be administered either by him, or any general or field officer.

Sec. 81. There shall be appointed and commissioned by the commander-in-chief, one judge-advocate for each brigade, who shall perform all the duties of that office, in all courts-martial assembled in their respective brigades, who shall take the following oath, to wit :- "You swear [or affirm] that you will not, at any time whatever, disclose the vote or opinion of any member of any court-martial in which you may be called to act, unless required by due course of law, nor divulge the sentence of any such court, till the same has been approved or disapproved according to law; and that you will faithfully and impartially discharge the duty of judge-advocate, according to the best of your abilities, so help you God." And said oath may be administered by a judge of any court in the state, or any justice of the peace in the state; and a certificate thereof shall be made on the commission of the judge-advocate, by the person administering the oath; and the judge-advocate as aforesaid, shall hold his office only during the pleasure of the commander-in-chief. Whenever any judgeadvocate, by reason of interest, relationship to any officer to be tried, sickness, or any other cause, cannot act in any court-martial to be assembled, the officer ordering the court, may designate the judge-advocate of any other brigade, and order his attendance at said court, to officiate as judge-advocate.

Sec. 82. If, on trial, the accused shall object to any one, or more members of the court, he shall state the ground of his objections, and if it appear to the court sufficient, the member or members objected to, shall leave their seats; and if the number remaining be less than nine, the court shall be adjourned for a reasonable time, that the officer ordering the court may detail oth-

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ers to supply the place or places vacated by such member or members. And no court martial shall order any other punishment than a fine not exceeding five hundred dollars, or a reprimand, either or both; or a fine not exceeding two hundred dollars, or imprisonment not exceeding six months, or cashiering, either, or all three; and no sentence, as aforesaid, shall be carried into effect, unless passed by the concurrent votes of two-thirds of the court, and approved by the commander-in chief. And in case an officer under arrest, shall refuse or neglect to attend a court martial, according to orders and notice given him, he shall, by said court, be sentenced to pay a fine not exceeding two hundred dollars, and be cashiered, with disability of ever after holding any military office in this state; unless he be prevented from attending such court martial by reason of sickness, or some other reasonable cause; in which case the court shall have power to adjourn; and notice thereof shall be given to the arrested officer, by the judge-advocate, at least ten days before the day to which the court shall have been adjourned. And the fines imposed by said courts martial shall be to and for the use of the state, and shall be collected by warrant, under the hand and seal of the president of the court, directed to the sheriff of the county in which the convicted officer shall reside; and the fine, when collected, shall be paid to the general treasurer by the sheriff.— And in all cases in which a fine or costs shall be awarded by a court martial, and the sentence of such court shall be approved by the commander-in-chief, and the president of such court shall die, be discharged, or promoted, without having issued such warrant, for such fine and costs, it shall be the duty of the member of said court next in rank to said president, to issue said warrant.

Sec. 83. If any witness duly summoned shall refuse to obey such summons, he shall be committed to the jail in the county in which he resides, by a warrant from the president of the court, directed to the sheriff, or a deputy-sheriff, of said county, there to be held at his own expense, until he will conform, and give evidence in the case, or until discharged by due course of law.---And all witnesses summoned on the part of the State,

Document 55-44 Filed 07/14/23 Page 32 of 32

and the judge-advocate, for summoning them shall, for travel and attendance, have the same fees that are allowed in civil causes, to be taxed by the president of the court; expenses shall be paid to the judge-advocate by the state, and when received by him, be paid over to the persons, to whom they are due. And if the sentence of the court be against the accused, and the same shall be approved by the commander-in-chief, the said expenses shall, by warrant under the hand and seal of the president of the court, directed in manner aforesaid, be collected of the delinquent, and paid into the general treasury. And the members of said court shall be allowed nine cents per mile travel to and from the place of holding said court, and one dollar for each day during its sitting; and there shall be allowed to the person in whose house said court shall be held, not exceeding two dollars per day, in full of all expenses for room rent, fuel and lights; and which shall be paid from the state treasury. And the judge-advocate shall be allowed twenty-five cents for each legal page of the copy of the proceedings and records of the court martial, to be taxed and paid in the same manner.

The commander-in-chief shall have power to approve or disapprove all sentences passed by courts-martial, and mitigate or remit any punishment or punishments awarded by them, or any part thereof; and the record of all proceedings and sentences of courts-martial, and of the approval, mitigation or remission, by the commander-in-chief, shall be deposited by the respective judge-advocates, in the office of the secretary of state.

Sec. 84. All acts heretofore passed in relation to the militia of this state, which are inconsistent with the provisions of this act, be and the same are hereby repealed.

Case 1:23-cv-00265-LEK-WRP Document 55-45 Filed 07/14/23 Page 1 of 5 PageID.1049

THE

REVISED CHARTER

AND

ORDINANCES

OF THE

CITY OF CHICAGO:

TO WHICH ARE ADDED THE CONSTITUTIONS OF THE UNITED STATES AND STATE OF ILLINOIS.

ARRANGED, REVISED AND PUBLISHED UNDER THE SUPERVISION AND DIRECTION OF THE COMMON COUNCIL, 1851, BY GEORGE MANIERRE, Counsellor at Law.

C H I C A G O : PRINTED AT THE DAILY DEMOCRAT OFFICE, 45 LA SALLE STREET. Steam Presses.

1851.

EXHIBIT 12 (McLean)

Case 1:23-cv-00265-LEK-WRP Document 55-45 Filed 07/14/23 Page 2 of 5

CHAPTER XVI.

Regulating the keeping and conveying Gun Powder and Gun Cotton.

- § 1. Gun powder not to be sold without permit.
 - Applications for, how made; not more than four in any block to be granted; clerk to register permits; not more than fifty pounds to be kept; when not to be weighed unless sealed; sign to be kept on the door.
 - Gun powder not to be conveyed through the streets unless secured.
 - No vessel laden with to make fast at dock or lie in the river; penalty for.
- Mayor may cause vessel to be removed when; penalty for resisting or refusing to obey order.
- Permits to expire on 10th of June; to whom permits shall not be granted.
- Duty of certain officers to execute this ordinance.
- Penalties to be distributed; one half to fire department; the other to firemen's fund.
- 9. Individuals may keep one pound.

Be it ordained by the common council of the city of Chicago,

I. That no person shall keep, sell, or give away gun powder or gun cotton in any quantity without permission of the common council or mayor in writing, signed by the mayor and clerk and sealed with the corporate seal, under a penalty of twenty-five dollars for every offence.

II. All applications for permits shall be addressed to the common council or mayor in writing, signed by the applicant. Not exceeding four permits shall be granted in any block. When the number of applications in any block shall at any time exceed the number to be granted, the requisite number shall be chosen by ballot. When issued the clerk shall make an entry thereof in a register to be provided for the purpose, which entry shall state the name and place of business and date of permit. Persons to whom permits may be issued shall not have or keep at their place of business or elsewhere within the city, a greater quantity of gun powder or gun cotton than fifty pounds at one time, and the same shall be kept in tin canisters or cases containing not to exceed thirteen pounds each, and in a situation remote from fires or lighted lamps, candles or gas, from which they may be easily removed in case of fire. Nor shall any person sell or weigh any gun powder or gun cotton after the lighting of lamps in the evening, unless in sealed canisters or cases. It shall be the duty of every person to whom a permit shall be given to keep a sign at the front door of his place of business with the words "gun powder and gun cotton" painted or

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ORDINANCES.

printed thereon in large letters. A violation of any clause of this section shall subject the offender to a fine of not less than ten dollars nor exceeding one hundred dollars.

III. No person shall convey or carry any gun powder or gun cotton, (exceeding one pound in quantity), through any street or alley in the city, in any cart, carriage, wagon, dray, wheelbarrow, or otherwise, unless the said gun powder or gun cotton be secured in tight cases or kegs, well headed and hooped, and put into and entirely covered with a leather bag or case, sufficient to prevent such gun powder or gun cotton from being spilled or scattered, under a penalty of one hundred dollars.

IV. No vessel, laden in whole or in part with gun powder or gun cotton, shall land at, or make fast to, any dock or wharf upon the Chicago river, or either branch thereof, between the south line of the school section and Chicago avenue, or to discharge such gun powder or gun cotton within said limits. If any master, or owner of any vessel, or other person shall violate any provision of this section, he shall be subject to a fine of not less than twenty-five dollars and not exceeding one hundred dollars.

V. The mayor shall have power to cause any vessel to be removed from the limits mentioned in the previous section, to any place beyond the same, by a written order, which shall be executed by the marshal or some other member of the police. If any person shall neglect or refuse to obey such order, or shall resist any officer in the execution of the same, he shall be subject to a penalty of one hundred dollars.

VI. All permissions granted under this ordinance shall expire on the tenth day of June in each year. And no permit shall be granted to any retailer of intoxicating liquors or to any intemperate person. The clerk shall be entitled to a fee of one dollar for every permit which may be issued.

VII. It shall be the duty of the officers of the police department, fire wardens, and firemen, to report all violations of this ordinance which may come to their knowledge to the city attorney for prosecution.

VIII. One half of the moneys collected for fines or penalties under the provisions of this ordinance shall be paid to the treasurer of the firemen's relief fund, and constitute a part of

Case 1:23-cv-00265-LEK-WRP Document 55-45 Filed 07/14/23 Page 4 of 5 GROCERIES. 125

said fund, and the remaining half shall be expended by the chief engineer of the fire department, in the embellishment or improvement of the instruments of that department.

This ordinance shall not be so construed as to prevent IX. individuals from keeping gun powder or gun cotton in quantities not exceeding one pound for their own use.

Passed July 23, 1851.

CHAPTER XVII.

Regulating the sale of Intoxicating Liquors.

- § 1. No person to keep liquors for sale in | § 4. Intoxicating liquors not sold to any Inquantities less than one gallon without license; exception.
- 2. Applications for to be made to mayor in writing ; if granted fifty dollars to be paid; bond with sureties to be given ; how executed ; clerk to issue license ; fee for.
- 3. Licenses shall continue one year ; not to be transferred without permission ; clerk to register ; when license to be dated ; duty of clerk.
- dian, child or apprentice without consent.
- 5. Penalties for violating provisions of ordinance.
- 6. Persons prosecuting to conviction to have ten dollars of judgment if collected ; duty of police to execute.
- 7. When license may be revoked ; manner of proceeding; no appeal.
- 8. Ordinances repealed; reservation of rights of action.

Be it ordained by the common council of the city of Chicago,

That no person or persons shall hereafter have or keep I. any tavern, grocery, ordinary, victualing or other house or place within the city, for the selling or giving away wines or other liquors, whether ardent, vinous or fermented, in quantities less than one gallon; or directly or indirectly sell, barter, give away or deliver, any ardent, vinous or fermented liquors in quantities less than one gallon, without a license for that purpose duly obtained by him or them in conformity with the provisions of this ordinance : Provided, That druggists or persons whose chief and regular business it is to sell drugs and medicines, shall not be deemed to be within the provisions hereof in selling such liquors in quantities less than as aforesaid, for purposes purely medical, mechanical or sacramental.

II. All applications for license under this ordinance shall be made to the mayor in writing. They shall be signed by the applicant and contain a particular description of the proposed place of business. If the mayor shall grant the application it shall then be the duty of the applicant to pay the sum of fifty

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Source Citation

Manierre, George. The Revised Charter and Ordinances of the City of Chicago: To Which are Added the Constitutions of the United States and State of Illinois. Printed at the Daily Democrat Office, 1851. The Making of Modern Law: Primary Sources, link.gale.com/apps/doc/DT0103399529/MMLP? u=gtown_law&sid=bookmark-MMLP&pg=133. Accessed 5 July 2023.

Gale Document Number:GALE|DT0103399529

Case 1:23-cv-00265-LEK-WRP Document 55-46 Filed 07/14/23 Page 1 of 4

PageID.1054

THE

CHARTER AND ORDINANCES

OF THE

CITY OF SAINT PAUL,

(TO AUGUST 1st, 1863, INCLUSIVE,)

TOGETHER WITH

LEGISLATIVE ACTS

RELATING TO THE CITY.

COMPILED BY ORDER OF THE COMMON COUNCIL.

SAINT PAUL: DAILY PIONEER OFFICIAL PRINT.

1863.

EXHIBIT 13 (McLean)

GUNPOWDER.

which he has the control; shall be punished by a fine not exceeding one hundred, nor less than twenty-five dollars.

SEC. 5. This ordinance shall take effect from and after its publication.

Approved, June twenty-nine, eighteen hundred and fiftyeight.

Published, July 12, 1858.

GUNPOWDER.

CHAPTER XXI.

SECTION.

1. Gunpowder, &c., not to be disposed of without permission. Proviso.

2. Permit, how obtained. Regulations of sale of gunpowder, &c. Penalty.

8. Regulations of carriage of gunpowder, &c. Penalty.

4. Expiration of permit.

AN ORDINANCE TO REGULATE THE SALE OF GUNPOWDER.

The Common Council of the City of Saint Paul do ordain as follows :

Gunpowder not without permit.

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SEC. 1. That section one (1) of an ordinance to regulate to be disposed of the sale of gunpowder, be and the same is hereby amended so as to read as follows : "SEC. 1. No person shall keep, sell, or give away gunpowder or guncotton in any quantity without first having paid into the City Treasurer the sum of five dollars, and obtain from the Common Council a permission in writing, signed by the Mayor and Clerk, and sealed with the corporate seal, under a penalty not exceeding fifty dollars, for every offence, provided any person may keep for his own use not exceeding one pound of powder or one pound of gun cotton, at one and the same time."

Permit how obtained.

SEC. 2. All applications for permits shall be addressed to the Common Council, in writing, signed by the applicant. Not exceeding four permits shall be granted in any one block ; when the number of applications in any block shall Case 1:23-cv-00265-LEK-WRP Document 55-46 Filed 07/14/23 Page 3 of 4 PageID.1056

GUNPOWDER.

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at any time exceed the numbers to be granted, the requisite number shall be chosen by ballot. When issued, the Clerk shall make an entry thereof in a register to be provided for the purpose, which entry shall state the name and place of business, and date of permits. Persons to whom permits may be issued, shall not have or keep at their place of busi- Regulations for ale of gunpowness, or elsewhere within the city, a greater quantity of gun- der, &c powder or guncotton than fifty pounds at one time, and the same shall be kept in tin canisters or cans, or kegs securely hooped and headed, containing not to exceed twenty-five pounds each, and in a situation remote from fires or lighted lamps, candles or gas, from which they may be easily removed in case of fire. Nor shall any person sell or weigh any gunpowder or guncotton, after the lighting of lamps in the evening, unless in sealed canisters or cans. It shall be the duty of every person to whom a permit shall be given, to keep a sign at the front door of his place of business, with the word "gunpowder" painted or printed thereon in large letters. Any person violating any clause of this section, Penalty. shall, upon conviction thereof, be punished by a fine of not not less than ten, nor more than one hundred dollars.

SEC. 3. No person shall convey or carry any gunpowder Carriage of gunor guncotton, exceeding (one pound in quantity,) through any street or alley in the city, in any cart, carriage, wagon, dray, wheelbarrow, or otherwise, unless the said gunpowder or guncotton be secured in tight cans or kegs, well headed and hooped, sufficient to prevent such gunpowder or guncotton from being spilled or scattered, under a penalty of Penalty. fifty dollars.

SEC. 4. All permissions granted under this ordinance Expiration of shall expire on the second Tuesday of May in each year; permit. and no permit shall be granted to any retailer of intoxicating liquors, or to any intemperate person. The Clerk shall be entitled to a fee of one dollar for every permit which may be issued.

SEC. 5. This ordinance shall take effect from and after its publication.

Approved, June twenty-ninth, eighteen hundred and fiftyeight.

Published, July 16, 1858.

Source Citation

Compiled by Order of the Common Council. The Charter and Ordinances of the City of St. Paul, (To August 1st, 1863, Inclusive,) Together with Legislative Acts Relating to the City. Daily Pioneer Official Print, 1863. The Making of Modern Law: Primary Sources, link.gale.com/apps/doc/DT0106149361/MMLP? u=gtown_law&sid=bookmark-MMLP&pg=167. Accessed 5 July 2023.

Gale Document Number:GALE|DT0106149361

CHAPTER XII.

ARMS.—PREVENT CARRYING OF.

AN ACT to prevent the carrying of Deadly Weapons.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. Any person who is not engaged in any legiti-for carrying mate business, any person under the influence of intoxicat-dendly weaping drink, and any person who has ever borne arms against the Government of the United States, who shall be found within the limits of this State, carrying on his person a pistol, bowie-knife, dirk or other deadly weapon, shall be subject to arrest upon charge of misdemeanor; and upon conviction shall be fined in a sum not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months, or both, at the discretion of the court.

Justices of the Peace shall have original juris-SEC. 2. diction of all cases arising under this Act, and on complaint made before being made, shall proceed to hear and determine the same in a summary manner, and shall have full authority to enforce both fine and imprisonment as provided in this Act, *Provided*, that nothing in this Act shall conflict with the ordinance of any incorporated city of the State.

SEC. 3. In all cases arising under this Act, the accused Fine to be assessed. shall be entitled to a jury of six men, possessing the qualifications of electors, who, if they find the defendant guilty, shall assess the fine to be paid by him, and fix the term of his imprisonment; and if convicted, may appeal to the District Court of the proper county as in other cases provided by law.

SEC. 4. This Act to take effect and be in force from and after its publication.

Approved, February 23d, 1867.

S. J. CRAWFORD, Governer.

Complaint Peace.

EXHIBIT 14 (McLean) Digitized from Best Copy Available

:23-cv-00265-LEK-WRP Document 55-48 Filed 07/14/23 Page 1 of 2 Pagel

LAWS OF MISSOURI,

PASSED AT THE SESSION OF THE

THIRTY-SECOND GENERAL ASSEMBLY,

BEGUN AND HELD AT THE CITY OF JEFFERSON,

WEDNESDAY, JANUARY 3, 1883.

(REGULAR SESSION.)

BY AUTHORITY.



JEFFERSON CITY: STATE JOURNAL COMPANY, STATE PRINTERS. 1883.

EXHIBIT 15 (McLean)

76

CRIMES AND CRIMINAL PROCEDURE.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Any person or persons doing a commission business in this state who shall receive cattle, hogs, sheep, grain, cotton or other commodities consigned or shipped to him or them for sale on commission, and who shall wilfully make a false return to his or their consignor or shipper, in an account of sale or sales of any such cattle, hogs, sheep, grain, cotton or other commodities made and rendered by such person or persons for and to such consignor or shipper, either as to weights or prices, shall be guilty of a misdemeanor and shall, on conviction, be punished by imprisonment in the county jail not exceeding one year, or by a fine not exceeding five hundred dollars nor less than two hundred dollars, or by fine not less than one hundred dollars and imprisonment in the county jail not less than three months.

Approved April 2, 1883.

CRIMES AND CRIMINAL PROCEDURE: CONCEALED WEAPONS.

AN ACT to amend section 1274, article 2, chapter 24 of the Revised Statutes of Missouri, entitled "Of Crimes and Criminal Procedure."

SECTION 1. Carrying concealed weapon. etc., penalty for increased.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. That section 1274 of the Revised Statutes of Missouri be and the same is hereby amended by inserting the word "twenty" before the word "five" in the sixteenth line of said section, and by striking out the word "one" in the same line and inserting in lieu thereof the word "two," and by striking out the word "three" in the seventeenth line of said section and inserting in lieu thereof the word "six," so that said section, as amended, shall read as follows: Section 1274. If any person shall carry concealed, upon or about his person, any deadly or dangerous weapon, or shall go into any church or place where people have assembled for religious worship, or into any school room or place where people are assembled for educational, literary or social purposes, or to any election precinct on any election day, or into any court room during the sitting of court, or into any other public assemblage of persons met for any lawful purpose other than for militia drill or meetings called under the militia law of this state, having upon or about his person any kind of fire arms, bowie knife, dirk, dagger, slung-shot or other deadly weapon, or shall in the presence of one or more persons exhibit any such weapon in a rude, angry or threatening manner, or shall have or carry any such weapon upon or about his person when intoxicated or under the influence of intoxicating drinks, or shall directly or indirectly sell or deliver, loan or barter to any minor any such weapon, without the consent of the parent or guardian of such minor, he shall, upon conviction, be punished by a fine of not less than twenty-five nor more than two hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

Approved March 5, 1883.

:23-cv-00265-LEK-WRP Document 55-49 Filed 07/14/23 Page 1 of 2 Pagel

THE

LAWS OF WISCONSIN,

EXCEPT CITY CHARTERS AND THEIR AMENDMENTS,

PASSED AT THE

BIENNIAL SESSION OF THE LEGISLATURE OF 1883,

TOGETHER WITH

JOINT RESOLUTIONS AND MEMORIALS.

VOLUME I.

PUBLISHED BY AUTHORITY.

MADISON, WIS., DEMOCRAT PRINTING CO., STATE PRINTERS. 1883.



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LAWS OF WISCONSIN.—Ch. 325-330.

[No. 5, S.]

[Published April 7, 1883.]

CHAPTER 329.

AN ACT to prohibit the use and sale of pistols and revolvers. The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Relating to the sale of pistols.

SECTION 1. It shall be unlawful for any minor, within this state, to go armed with any pistol or revolver, and it shall be the duty of all sheriffs, constables, or other public police officers, to take from any minor, any pistol or revolver, found in his possession.

SECTION 2. It shall be unlawful for any dealer in pistols or revolvers, or any other person, to sell, loan, or give any pistol or revolver to any minor in this state.

SECTION 3. It shall be unlawful for any person in a state of intoxication, to go armed with any pistol or revolver. Any person violating the provisions of this act, shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding one hundred dollars (\$100).

SECTION 4. This act shall take effect and be in force from and after its passage and publication. Approved April 3, 1883.

[No. 38, S.]

[Published April 13, 1883.]

CHAPTER 330.

AN ACT to provide for the punishment of attempts to commit felonies or other crimes, and amendatory of section 4385, revised statutes.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Relating to and other crimes.

SECTION 1. Section 4385 of the revised statutes, punishment for is hereby amended so as to read as follows; Sec-attempt to com-mit felonies tion 4385. Any person who shall assault another tion 4385. Any person who shall assault another with intent to commit any burglary, robbery, rape or mayhem, or who shall advise or attempt to commit any arson, or any other felony, that shall fail in being committed, the punishment for which such assault, advice or attempt is not herein prescribed, shall be punished by imprisonment in the state prison not more than three years nor less than one year, or by fine, not exceeding one

THE

STATUTES OF OKLAHOMA

1890.

Compiled under the supervision and direction of Robert Martin, Secretary of the Territory,

WILL T. LITTLE, L.G. PITMAN and R. J. BARKER,

—-BY----

---FROM----

The Laws Passed by the First Legislative Assembly of the Territory.

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

EXHIBIT 17 (McLean)

Case 1:23-cv-00265-LEK-WRP Document 55-50 Filed 07/14/23 Page 2 of 5 PageID.1064

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

AUTHENTICATION.

UNITED STATES OF AMERICA, TERRITORY OF OKLAHOMA. OFFICE OF THE SECRETARY.

I, ROBERT MARTIN, Secretary of the Territory of Oklahoma, hereby certify that the following embrace all the laws of said Territory as the same were passed by the first session of the Legislative Assembly, commencing on the 27th day of August, A. D., 1890 and ending on the 24th day of December, A. D., 1890, as the same appears from the enrolled bills now on file in my office.

ROBERT MARTIN, Secretary of the Territory.

(2430) § 6. Every person who, with intent to extort any Chap. 25. money or other property from another, sends to any person any Sending letter or other writing, whether subscribed or not, expressing or threatening letimplying, or adapted to imply, any threat, such as is specified in ter. the second section of this article, is punishable in the same manner as if such money or property were actually obtained by means of such threat.

(2431) § 7. Every person who unsuccessfully attempts by means Attempting to export money. of any verbal threat such as is specified in the second section of this article, to extort money or other property from another is guilty of a misdemeanor.

ARTICLE 47.—CONCEALED WEAPONS.

SECTION.

I. Prohibited weapons enumerated.

2. Same.

- Minors.
- Minors.
 Public officials, when privileged.
- 5. Arms, when lawful to carry.

SECTION.

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

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

(2433) § 2. It shall be unlawful for any person in the Territory of Oklahoma, to carry upon or about his person any pistol, revolver, bowie knife, dirk knife, loaded cane, billy, metal knuckles, or any other offensive or defensive weapon, except as in this article provided.

(2434) § 3. It shall be unlawful for any person within this 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, when privleged. duties or while going from their homes to their place of duty, or returning therefrom, shall be permitted to carry arms, but at no other time and under no other circumstances: Provided, however, That if any public officer be found carrying such arms while under the influence of intoxicating drinks, he shall be deemed guilty of a violation of this article as though he were a private person.

(2436) § 5. Persons shall be permitted to carry shot-guns or Arms, when lawful to carry. 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 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 guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, or by imprisonment in the county jail not to exceed thirty days or both at the discretion of the court. On the second and every subsequent con-

Same.

Minors.

Case 1:23-cv-00265-LEK-WRP Document 55-50 Filed 07/14/23 Page 5 of 5 PageID.1067 CRIMES AND PUNISHMENT. 496

Chap. 25. viction, the party offending shall on conviction be fined not less than fifty dollars nor more than two hundred and fifty dollars or be imprisoned in the county jail not less than thirty days nor more than three months or both, at the discretion of the court.

ings.

(2438) § 7. It shall be unlawful for any person, except a peace Public build-ings and gather officer, to carry into any church or religious assembly, any school room or other place where persons are assembled for public worship, for amusement, or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into any ball room, or to any social party or social gathering, or to any election, or to any place where intoxicating liquors are sold, or to any political convention, or to any other public assembly, any of the weapons designated in sections one and two of this article.

(2439) § 8. It shall be unlawful for any person in this Territory to carry or wear any deadly weapons or dangerous in-Intent of perstrument whatsoever, openly or secretly, with the intent or for the avowed purpose of injuring his fellow man.

(2440) § 9. It shall be unlawful for any person to point any weapons at an- pistol or any other deadly weapon whether loaded or not, at any other person or persons either in anger or otherwise.

> (2441) § 10. Any person violating the provisions of section seven, eight or nine of this article; shall on conviction, be punished by a fine of not less than fifty dollars, nor more than five hundred and shall be imprisoned in the county jail for not less than three not more than twelve months.

ARTICLE 48.—FALSE PERSONATION AND CHEATS.

SECTION. 1. False impersonation, punishment for.

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money.

Fines, how paid.

tenses.

2. False impersonation and receiving

4. Unlawful wearing of grand army badge.

Obtaining property under false pre-

Personating officers and others.

SECTION.

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

Holding mock auction. 10.

Punishment for false impersonation.

(2442) § **1.** Every person who falsely personates another, and in such assumed character, either:

Marries or pretends to marry, or to sustain the mar-First. riage 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.

Pointing other.

sons carrying

weapons.

Violation of section seven.

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LAWS

OF THE

STATE OF MISSISSIPPI,

PASSED AT & REQULAR SESSION

OF THE

MISSISSIPPI LEGISLATURE,

HELD IN THE

CITY OF JACKSON.

Commencing Jan. 8th, 1878, and Ending March 5th, 1878.

PRINTED BY AUTHORITY.

JACKSON, MISS. POWER & BARKSDALE, STATE PRINTERS.

1878.

EXHIBIT 18 (McLean)

:23-cv-00265-LEK-WRP Document 55-51 Filed 07/14/23 Page 2 of 3 Pagel

STATE OF MISSISSIPPI.

CHAPTER XLVI.

AN ACT to prevent the carrying of concealed weapons, and for other purposes.

SECTION 1. Be it enacted by the Legislature of the State of Mississippi, That any person. not being threatened with, or having good and When consufficient reason to apprehend an attack, or cealed weatraveling (not being a tramp) or setting out pons may be on a journey, or peace officers, or deputies in carried. discharge of their duties, who carries concealed. in whole or in part, any bowie knife, pistol. brass knuckles, slung shot or other deadly weapon of like kind or description, shall be deemed guilty of a misdemeanor, and on conviction, shall be punished for the first offence by a fine of not less than five dollars nor more than one hundred dollars, and in the event the fine and cost are not paid shall be required to Penalty for work at hard labor under the direction of the carrying board of supervisors or of the court, not weapons. exceeding two months, and for the second or any subsequent offence, shall, on conviction, be fined not less than fifty nor more than two hundred dollars, and if the fine and costs are not paid, be condemned to hard labor not exceeding six months under the direction of Burden of the board of supervisors, or of the court. proof on ac-That in any proceeding under this section, it cused. shall not be necessary for the State to allege or prove any of the exceptions herein contained, but the burden of proving such exception shall be on the accused.

SEC. 2. Be it further enacted, That it shall not be lawful for any person to sell to any minor or person intoxicated, knowing him to Minors, or be a minor or in a state of intoxication, any persons inweapon of the kind or description in the first toxicated. section of this Act described, or any pistol cartridge, and on conviction shall be punished by a fine not exceeding two hundred dollars, and if the fine and costs are not paid, be condemned to hard labor under the direction of the board of supervisors or of the court, not exceeding six months.

:23-cv-00265-LEK-WRP Document 55-51 Filed 07/14/23 Page 3 of 3 Pagel

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LAWS OF THE

SEC. 3. Be it further enacted. That any father, who shall knowingly suffer or permit any minor son under the age of sixteen years to carry concealed, in whole or in part, any weapon of the kind or description in the first section of this Act described, shall be deemed guilty of a misdemeanor, and on conviction, shall be fined not less than twenty dollars, nor more than two hundred dollars, and if the fine and costs are not paid, shall be condemned to hard labor under the direction of the board of supervisors or of the court.

SEC. 4. Be it further enacted, That any student of any university, college or school, who shall carry concealed, in whole or in part, any weapon of the kind or description in the first section of this Act described, or any teacher, instructor, or professor who shall, knowingly, suffer or permit any such weapon to be carried by any student or pupil, shall be deemed guilty of a misdemeanor, and, on conviction, be fined not exceeding three hundred dollars, and if the fine and costs are not paid, condemned to hard labor under the direction of the board of supervisors or of the court.

SEC. 5. Be it further enacted, That each justice of the peace before whom a conviction is had, shall, in addition to the costs now allowed by law, be entitled to a tax fee of two dollars and a half.

SEC. 6. Be it further enacted, That immediately after the passage of this Act, the Secretary of State shall transmit a copy to each circuit judge in the State, who shall cause the same to be read in open court on the day for the calling of the State docket of the court.

SEC. 7. Be it further enacted, That this Act take effect from and after its passage.

APPROVED, February 28, 1878.

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Students.

Act to be read in courts

Tax fee of justice.

Minor under 16 years. :23-cv-00265-LEK-WRP Document 55-52 Filed 07/14/23 Page 1 of 6 Pagel

LAWS

OF THE

TERRITORY OF NEW MEXICO,

PASSED BY THE SECOND

LEGISLATIVE ASSEMBLY

IN THE CITY OF SANTA FÉ.

AT A SESSION BEGUN ON THE SIXTH DAY OF DECEMBER, 1852.

SANTA FÉ: JAMES L. COLLINS & CO., PRINTERS MDCCOLIII.

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EXHIBIT 19 (McLean)

:23-cv-00265-LEK-WRP Document 55-52 Filed 07/14/23 Page 2 of 6 Pagel

LEVES

DET.

TERRITORIO DE NUEVO MEJICO,

TARADAS POR LA SEGUNDA

ASAMBLEA LEGISLATIVA

•

EN LA CIUDAD DE SANTA FÉ,

EN UN PERIODO PRINCIPIADO EL DIA SESTO DE DICIEMBRE DE 1852.

SANTA FÉ: PUBLICADO EN LA OFICINA DE LA GACETA, MDCCCLIII.

:23-cv-00265-LEK-WRP Document 55-52 Filed 07/14/23 Page 3 of 6 Pagel

OFICINA DR LA GACETA : J. L. COLLINE Y W. G. KEPBART, IMPRESORES. 1858.

:23-cv-00265-LEK-WRP Document 55-52 Filed 07/14/23 Page 4 of 6 Pagel

LAWS. SECOND LEGISLATIVE ASSEMBLY.

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LAWS OF THE THIRD SESSION.

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the Justices of the Peace or Court in which the suit may be brought, with imprisonment for a time demanded by the gravity of the offence.

SEC. 4. All acts and parts of acts repugnant to this act shall be and are by these presents repealed.

SEC. 5. This act shall take effect, from and after its approval.

Translation.

AN ACT

Prohibiting the carrying a certain class of Arms, within the Seitlements and in Balis.

Sec. 1. Kind of arms prohibited.

Sec. 2. Duties of sheriffs and constables.

Sec. 3. Licenses for dances, obligations required from judge of probate.

Sec. 4. Punishment for violation of this law.

Sec. 5. Disposition of fines.

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

SEC. 1. That each and every person is prohibited from carrying short arms, such as pistols, daggers, knives, and other deadly weapons, about their persons concealed, within the settlements, and any person who violates the provisions of this act, shall be fined in a sum not exceeding ten dollars, nor less than two dollars, or shall be imprisoned for a term not exceeding fifteen days nor less than five days.

SEC. 2. That the Sheriffs of the different counties, and Constables of the different precincts, are hereby required to enforce the observance and compliance of the provisions of the preceding section, having power to take with them, two or more armed persons, when they are on patrol at night, in order to make themselves respected while on such duty, and it is hereby made the duty of the Probate Judges and Justices of the Peace to aid and assist said officers in the prompt discharge of their duties.

SEC. 3. Any person desiring to give a Ball or Fandango, they shall apply to the Probate Judge or a Justice of the Peace

LAWS OF THE THIRD SESSION.

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for a License for the same—who, after having granted such license, shall inform the applicant, that he must maintain good order, and for this purpose he shall swear him to faithfully discharge his duties as police officer and perform said duties during such Ball or Fandango, possessing the powers of a Sheriff, and that he will not permit any person to enter said Ball or room adjoining said ball where Liquors are sold, or to remain in said balls or Fandangos with fire arms or other deadly weapons, whether they be shown or concealed upon their persons and if any person or persons shall enter said Balls or Fandangos or ante-chamber, with deadly weapons upon their person, upon conviction for such offence before any Probate Judge or Justice of the Peace, they shall suffer the punishment prescribed in the first section of this Law.

Provided, that, in case any person desires a license for a ball or fandango, who shall not be competent, the Probate Judge or Justice of the Peace as the case may be shall require him to present a competent person, who shall discharge the duties of a Police Officer, and shall swear him as prescribed in the foregoing section.

SEC. 4. That any person or persons giving Balls or Fandangos shall be liable to the punishments prescribed in the foregoing sections of this Law—if they permit any person or persons armed to remain in said Balls or Fandangos, they shall also be subject to the same penalties of the Police Officers who fail to discharge their duties or violate the provisions of this Law.

SEC. 5. That all fines collected by the provisions of this Law shall be applied to the use of the respective counties.

Translation.

AN ACT

Providing for the payment of the Salaries of Territorial Officers, not otherwise provided for by Law.

Sec. 1. Payment of officers under the Kearney code.

Sec. 2. How audited and paid.

3-cv-00265-LEK-WRP Document 55-53 Filed 07/14/23 Page 1 of 4 Pag

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JEWELL'S DIGEST

OF THE

CITY ORDINANCES,

TOGETHER WITH THE

CONSTITUTIONAL PROVISIONS, ACTS OF THE GENERAL ASSEMBLY AND DECISIONS OF THE COURTS RELATIVE. TO THE GOVERNMENT

CITY OF NEW ORLEANS

OF THE





BY AUTHORITY OF THE CITY COUNCIL.

COMPILED AND PUBLISHED BY EDWIN L. JEWELL, ATTORNEY AT LAW.

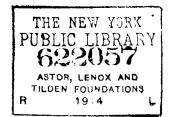
> NEW ORLEANS. 1882.

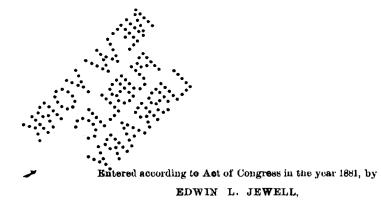
EXHIBIT 20 (McLean)

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I TITLE-AMUSEMENTS.

LAWS AND ORDINANCES

OF THE

NEW ORLEANS. CITY OF

I TITLE.

AMUSEMENTS.

CHAPTER FIRST.

GENERAL ORDINANCES.

ARTICLE 1. That hereafter it shall not be lawful for any person to carry a dangerous weapon, concealed or otherwise, into any theatre, public hall, tavern, pic-nic ground, place for shows or exhibitions, house or other May, 1879. A. S. 5045, place of public entertainment or amusement.

ART. 2. That any person violating the provisions of the first section of this ordinance, by carrying a dangerous weapon, not concealed, into any of the places designated in said section, shall be subject to the payment of a fine not exceeding twenty-five dollars, or to imprisonment in the parish prison not to exceed twenty days, to be imposed by the Recorder within whose jurisdiction the offense is committed.

ART. 3. That any person violating the provisions of the first section of this ordinance by carrying a dangerous weapon concealed about his person, in any of the places designated in said section, shall be arrested and prosecuted for violation of the law relative to the carrying of dangerous weapons concealed about the person.

ART. 4. That the Chief of Police and the members of the police force of the city of New Orleans be charged with the enforcement of this ordinance, and to that end they are authorized and required to examine all persons entering any of the places specified in section one of this ordinance, and to arrest and prefer the proper charge against all persons violating this ordinance.

ART. 5. That the provisions of this ordinance shall not apply to the officers and members of military organizations, when acting as such, nor to the carrying of arms or weapons intended to be used in any show, exhibition or other entertainment.

Concealed

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Penalty. Ibid.

Penalty. Ibid.

Police to en. force ordinance. Ibid.

Militaryor ganizations excopted.

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Copy of this

ordinance to be posted. Dec. 1856. O. S. 3131.

I TITLE-AMUSEMENTS.

ART. 6. That a printed copy of the ordinances concerning public balls, theatres and public exhibitions, be placed in a conspicuous position within the enclosure of said balls, theatres and public exhibitions, for the purpose of reference; and, that in case of neglect or refusal of the managers or owners of such places to comply with the provisions of this section, they shall be liable to a fine of fifty dollars for said offence, recoverable before any court of competent jurisdiction; and the police officers on duty shall compel the owners of the balls, theatres, etc., to close for that night.

CHAPTER SECOND.

BALLS.

Permission to be obtained for balls. May, 1859. 0, 5, 4532.

Mayor to close balls Ibid.

Duration of the ball. Ibid.

License for public bails. Ibid.

Permission and tax. May, 1859. • O. S. 4582.

ART. 7. It shall not be lawful for any person or persons to give, within the limits of the city, any public balls, of whatsoever description, under the penalty of fifty dollars fine for each and every contravention, unless permission, in writing, be previously obtained from the Mayor to give said ball or balls, and after payment of license tax.

ART. 8. Whenever the foregoing provision shall be violated, it shall be the duty of the mayor to cause the said ball or balls to be closed immediately by the police.

ART. 9. Every person giving a public ball, who shall prolong the duration of the same beyond the hour fixed by the Mayor's permit, shall pay a fine of twenty-five dollars for each and every such offence.

ART. 10 That the Mayor of the city of New Orleans be, and he is hereby requested not to issue in future any license to parties asking for them, to give public balls, when such balls are knowingly derogatory to public morals and decency, or in anywise considered a public nuisance.

CHAPTER THIRD.

THEATRES.

ART. 11. No person shall exhibit or cause to be exhibited any dramatic composition, ballet, pantomime or other performance of that kind, in any theatre in the city where all persons are admitted for their money, nor shall any person entertain the public with any display of fire-works, without having obtained from the Mayor permission for that purpose, and paid the tax thereon, under a penalty of a fine of twenty-five dollars for every. such offence; and the said permission shall express the object and the length of time for which it is granted.

v-00265-LEK-WRP Document 55-54 Filed 07/14/23 Page 1 of 5 F

MINUTES OF PROCEEDINGS



BOARD OF COMMISSIONERS

OF THE

OF THE

•

CENTRAL PARK,

FOR THE

YEAR ENDING APRIL 30, 1858.

•

NEW YORK : WM. C. BRYANT & CO., PRINTERS, 41 NASSAU ST., COR. LIBERTY.

1858.

EXHIBIT 21 (McLean)

TUESDAY, MARCH 16, 1858.

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REGULAR MEETING-3 P. M.

PRESENT:

Commissioner	Gray,	Commissioner	Fields,
"	Dillon,	"	Green,
"	Russell,	۲۵	Strong,
"	Butterworth,	"	Hogg.
"	Hutchins,		

On motion, the reading of the minutes of the previous meeting was dispensed with.

On motion of Mr. BUTTERWORTH, it was

Resolved, That the Annual Report of this Board to the Common Council, dated January 30, 1858, be printed as one of the documents of this Board.

As follows:

Ayes-Messrs Dillon, Butterworth, Gray, Fields, Green, Strong, Hogg-7.

On motion of Mr. DILLON, the ordinances recommended by the Superintendent were adopted, as follows:

"Be it ordained by the Commissioners of the Central Park: All persons are forbidden

To enter or leave the Park except by the gateways.

To climb or walk upon the wall.

To turn cattle, horses, goats or swine into the Park.

To carry fire-arms or to throw stones or other missiles within it.

To cut, break, or in any way injure or deface the trees, shrubs, plants, turf, or any of the buildings, fences, bridges, or other constructions upon the Park;

Or to converse with, or in any way hinder those engaged in its construction.

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All persons offending against these ordinances shall be desmed guilty of misdemeanor, and be punished, on conviction before the Mayor, Recorder, or any magistrate of the city of New York. by a fine not exceeding fifty dollars; and, in default of payment, by imprisonment not exceeding thirty days."

Visitors may obtain all necessary information and directions from the police.

The business offices and the police station of the Park are on Fifth avenue at Seventy-ninth street."

Mr. DILLON also moved the adoption of the following:

Ordered, That the Superintendent cause these ordinances to be posted on the Park, in such number and manner as he may deem advisable.

Ordered, That it be published for ten days in the Daily Times, Tribune, Sun, and Staats Zeitung.

Which was carried, as follows:

Ayes-Messrs. Dillon, Butterworth, Gray, Fields, Green, Strong, Hogg-7.

A communication from the Chief Engineer, submitting a report on "A Comprehensive Plan of Drainage" of the Park, accompanied by a map of the same, was received.

Mr. DILLON moved that the report be printed and referred to the Committee on Draining and Sewerage.

Which was carried, as follows:

Ayes—Messrs. Dillon, Butterworth, Gray, Fields, Green, Strong, Hogg—7.

A report from the Chief Engineer, announcing the completion of the sectional and drainage maps of the Park, and the discharge of all persons directly employed by him, was referred to the Executive Committee.

A communication from the same, as to a plan for receiving within the limits of the Park the waste water from the present and new reservoirs, was also referred to the Executive Committee.

A communication from Thomas F. Webb, as to furnishing blasting powder for the Park, was also referred to the same committee. The following communication was received from A. W. Craven, Esq., of the Croton Aqueduct Board, and on motion of Mr. Dillon ordered to be engrossed in the minutes of the Board:

CROTON AQUEDUCT DEPARTMENT,

Engineer's Office, March 2d, 1858.

Gentlemen,—I beg leave to acknowledge the receipt of a note from your Board, through Mr. Hart, dated February 16th, and to apologise for not replying to it more promptly.

The questions asked, and the answers thereto, are as follows:

"1st. What is the height of the Reservoir on the line of Fifth avenue at 41st street, excluding the railing?"

The top of the wall, exclusive of the railing, and also exclusive of the projections at the corners and over the gateway, is 119 feet above mean tide and 39 feet above the curb of Forty-first street. The height of water when the Reservoir is full is four feet below this level, or 115 feet above mean tide.

"2d. Will the top of the wall of the new Reservoir be on a level with the top of that now built in Seventy-ninth street?"

These heights are intended to be precisely the same.

"3d. Could not the height of the wall be reduced in the Reservoir now built and in the new one, and if so, how much, and yet answer all the purposes of the Reservoir?"

The height of water in these Reservoirs could not be reduced without greatly impairing the efficiency of our water distribution throughout the city, and the height of the wall could not be reduced with safety without a corresponding reduction in the high-water level.

I have the honor to be, very respectfully,

Your obedient servant,

A. W. CRAVEN,

Chief Engineer.

To the Commissioners of the Central Park, New York.

The monthly report of the Superintendent was read and ordered on file.

A petition of Norman Ewen, late Surveyor and Engineer of the third division Central Park Survey, to be allowed his pay,

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at the rate of \$150 per annum, from May 1st to November 13th, 1857, was read and referred to the Auditing Committee.

Mr. FIELDS moved to take up the special order, being the election to fill the vacancy caused by the resignation of Mr. Cooley, in pursuance of the notice given by Mr. Strong, at the meeting of February 16, 1858.

The ayes and nays being called for upon the motion, it was carried, as follows:

Ayes-Messrs. Dillon, Russell, Gray, Hutchins, Fields, Green, Strong, Hogg-8.

Nay-Mr. Butterworth-1.

Mr. Russell offered the following :

Resolved, That it is inexpedient at the present meeting to go into an election, to fill the vacancy in the Board occasioned by the resignation of Mr. Cooley.

Lost.

Mr. FIELDS moved that the Board now go into ballot.

Carried, as follows:

Ayes—Messrs. Dillon, Gray, Hutchins, Fields, Green, Strong, Hogg—7.

Nays—Messrs. Russell, Butterworth—2.

The Chair appointed as tellers Messrs. Green and Butterworth.

The Board then proceeded to ballot, with the following result:

For	August	Belmont	7
"	George	Bancroft	1
	-		

On motion of Mr. RUSSELL, the election of Mr. Belmont was declared unanimous.

On motion of Mr. HUTCHINS, the Vice-President was requested to communicate to Mr. Belmont his election to the Board.

Mr. STRONG moved that when the Board adjourn it be to Tuesday next at 1 o'clock.—Carried.

On motion of Mr. RUSSELL, the Clerk was directed to prepare a calendar of unfinished business for the use of the Board, at each stated meeting.

The Board then adjourned.

ANNUAL REPORTS

OF THE

BROOKLYN

PARK COMMISSIONERS.

1861-1873.

REPRINTED BY ORDER OF THE BOARD, WITH SUCH ACTS OF THE LEGISLATURE IN THEIR AMENDED FORM, AS RELATE TO THE BROOKLYN PARKS, AND THEIR MANAGEMENT.

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JANUARY, 1873.

EXHIBIT 22 (McLean)

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PARK ORDINANCE, No. 1.

The Commissioners of Prospect Park, in the city of Brooklyn, do ordain as follows:

ARTICLE I.—All persons are forbidden,

1. To take or carry away any sod, clay, turf, stone, sand, gravel, leaves, muck, peat, wood, or anything whatever belonging to the park, from any part of the land embraced within the boundaries of the park;

2. To climb upon, or in any way cut, injure, or deface any tree, shrub, building, fence, or other erection within the park;

3. To turn cattle, horses, goats, swine, or poultry of any description upon the park;

4. To carry firearms, or to throw stones or other missiles within the park;

5. To hinder or in any manner delay or interfere with men employed upon the park;

6. To expose any article or thing for sale, or engage in any picnic or game upon the park, except by permission derived from the Board of Commissioners;

7. To post or otherwise display any bill, notice, advertisement, or other paper or device upon any tree, structure, or other erection within the park, or upon any of its inclosures.

ARTICLE II.—Any person who shall violate or offend against any of the provisions of the foregoing article, shall be deemed guilty of a misdemeanor, and shall be punished on conviction, before any court of competent jurisdiction in the county of Kings, by a fine not exceeding fifty dollars, and in default of payment, by imprisonment not exceeding thirty days.



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Case 1:23-cv-00265-LEK-WRP Document 55-56 Filed 07/14/23 Page 1 of 9 PageID 1088

LAWS

OF THE

GENERAL ASSEMBLY

OF THE

STATE OF PENNSYLVANIA,

PASSED AT THE

SESSION OF 1868,

In the Ninety-second Year of Independence.

WITH AN APPENDIX.

BY AUTHORITY.

HARRISBURG: SINGEELY & MYERS, STATE PRINTERS. 1868.

EXHIBIT 23 (McLean)

OF THE SESSION OF 1868.

No. 1019.

Supplement

To an act, entitled "An Act to incorporate the Farmers' Coal and Iron Company," approved the seventcenth day of April, Anno Domini one thousand eight hundred and sixty-six.

SECTION 1. Be it enacted by the Senate and House of Represenlatives of the Commonwealth of Pennsylvania in General Assembly mel, and it is hereby endeted by the authority of the same, That said company shall have the power and authority to Authorized to build a bridge across the Susquehanna river, so that the same construct may be a toll and railroad bridge, and charge and receive bridge, tolls for crossing the same.

Section 2. That it shall be lawful for any other chartered Other corporacompany to subscribe to the capital stock of this company or tions may subto loan the said company money. scribe to capital

SECTION 3. That said company shall have the right to ex. stock. tend their railroad and branches, and cross at grade the tracks May extend of any railroads now made or hereafter to be made, in such railroad, &o. manuer as to connect with any other railroads or to any landings on any canal or slack-water navigation.

> ELISHA W. DAVIS. Speaker of the House of Representatives.

JAMES L. GRAHAM, Spoaker of the Senate.

APPROVED-The fourteenth day of April, Anno Domini one thousand eight hundred and sixty-eight.

JNO. W. GEARY.

No. 1020. A Supplement

To an act, ontitled "An Act appropriating ground for public purposes in the city of Philadolphia," approved the twenty-sixth day of March, Anno Domini one thousand eight hundred and sixty-seven.

SECTION 1. Be if enacted by the Senate and House of Represenlatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That the houndaries of the Fairmount park, in the city of Boundaries of Philadelphia, shall be the following, to wit: Beginning at a Fairmount park point in the north-casterly line of property, owned and occu. defined.

1083

1084

LAWS OF PENNSYLVANIA,

pied by the Reading Railroad Company, near the city bridge over the river Schuylkill at the falls, where said north-easterly line is intersected by the line dividing property of II. Duhring from that of F. Stoever and T. Johnson; extending from thence in a south-westerly direction upon said dividing line and its prolongation to the middle of the Ford road; from thence by a line passing through the south-east corner of Forty-ninth and Lebanon streets to George's run; thence along the several courses of said run to a point fourteen hundred and eighty-seven and a half feet from the middle of the Pennsylvania railroad, measured at right angles thereto; thence by a straight line through the north-east corner of Forty-third and Hancock streets to the northerly side of Girard avenue, near Fortieth street; thence by the said northerly side of Girard avenue to the easterly side of the Junetion railroad, as now used; thence by the said casterly side of the Junction railroad and the Pennsylvania railroad to the north side of Haverford street; thence by the northerly side of said Haverford street to the westerly side of Bridgewater street; thence by said Bridgewater street to the north line of Bridge street; thence by said Bridge street to the west abutment of the Suspension bridge; thence by the north-westerly side of the Suspension bridge and Callowhill street to the angle in said street, on the south-westerly side of Fairmount basin ; thence by the northerly side of Callowhill and Biddle streets to the westerly side of Twenty-fifth street; thence by the said Twenty-fifth street to the south-westerly side of Pennsylvania avenue; thence by the south-westerly side of Pennsylvania avenue to the west side of Thirty-third street; thence along the westerly side of Thirty-third street to the southwesterly line of Ridge avenue; thence along said Ridge avenue to the south-westerly line of South Laurel Hill cemetery, (north of Huntingdon street;) thence by and along said property line to such a distance from the shore line of the river Schuylkill as will permit the location of a carriage road one hundred feet wide upon its margin; thence along said river shore and its several courses, as may be most practicable, at the same distance as above specified, (provided said distance shall not exceed one hundred and fifty feet,) to a point opposite the intersection of the Ridge turnpike and School lane; thence northwardly to a point on the southwesterly side of said turnpike road, opposite to the southeasterly side of School lane; thence by the south-westerly side of the Ridge turnpike road and to its several courses to the south-easterly side of the Wissahickon creek; thence by the several courses of the said south-easterly side of Wissahickon creek to the Schuylkill river; thence across the watercourse of said river to the north-easterly line of the Rending Railroad Company's property, as now occupied and in use at the city boundary line; thence along said north-casterly line as now occupied and used by said railroad company, to the place of beginning, excepting nevertheless thereout the several water works and their appurtenances which are included within these boundaries, and such uses of the premises immediately adjacent to the same, and such other portions of

the ground as are described in the plan, as the city of Philadelphia may from time to time require for the purposes of its water department.

SECTION 2. That there shall be laid out and constructed a Road to be laid road of easy and practicable grades extending from the inter- out. section of the northerly line of the park by Belmont avenue, on the westerly side of the river Schuylkill, to the head of Roberts hollow, and thence along said hollow and the river Schuylkill to the foot of City avenue, laid out, with the ground contiguous thereto for ornamentation, of such width, and so constructed as the commissioners of Fairmount park, appointed under anthority of the act of the general assembly of the commonwealth, may determine : and such road and its con- Road and contiguous ground are hereby declared to be a part of the afore- ilguous ground said park ; and said park commissioners are hereby authorized declared part of and required to ascertain, by a proper survey, the limits park. thereof, which survey they shall file in the survey department of the city of Philadelphia; and it shall also be the Park commisduty of said park commissioners to appropriate the shores of aloners to apthe Wissuhickon creek, on both sides of the same, from its propriate shores mouth to the Paul's Mill road, and of such width as may or Wissahlokon embrace the road now passing along the same; and may also protect the purity of the water of said creek, and by passing along the crest of the heights which are on either side of said creek, may preserve the beauty of its scenery; the said To cause surpark commissioners are hereby authorized and required to veysol grounds cause a proper survey to be made of said grounds upon the to be made out Wissahickon, and to file said survey in the survey department and fled. of the city of Philadelphia; and the grounds and creek hereby appropriated, are declared to be a part of Fairmount park.

SECTION 3. That the title to and ownership of the ground fitle to ground within said boundaries shall be vested in the city of Philadel- within atoresaid phia, excepting therefrom so much as shall be required by boundaries the Schuylkill Navigation Company, the Philadolphia and vested in city. Reading, the Junction and Connecting Railroad Companies, for the execution of their franchises as now provided by law.

SECTION 4. So much of the ground as was ombraced in the Claim of city to act to which this is a supplement, approved the twenty-sixth parties of day of March, one thousand eight hundred and sixty-soven, ground emand is not included in the above boundaries, is hereby re-braced in forleased from all claim of title by the said city, with the same ner act, reeffect as if it had never been included.

SECTION 5. That all the grounds taken within the bounda- Groundssubjee ries of the Fairmount park, by the first section of this act, to control of shall be subject to all the powers and control given by the park commisact to which this is a supplement to the city of Philadelphia; sioners. and the park commissioners, designated by or appointed under said act, and the owners of all ground taken for the park, and Owners to be others interested therein, shall be compensated as in said act compensated. is directed and provided.

SECTION 6. The said commissioners shall have power and Commissioners authority, from time to time, to vacate any street or road may vacate within the boundaries of the park, (excepting Girard avenue,) streets, &c. and to open for public use such other roads, avenues and streets therein as they may deem necessary.

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LAWS OF PENNSYLVANIA,

Councils to ' cause alteration of plans of survey of certain wards, &o.

Avenue to be laid out as a boundary of rark,

Inrisdiction of commissioners, how far to extend.

Compensation for buildings.

Preceedings where owners or leasess of ground taken cannot be found

Commissionera and jury may

SECTION 7. The councils of the city of Philadelphia shall cause, under the supervision of the department of surveys, such alterations of the plan of survey of the Twonty-fourth ward as lies between Falrmount park, as by this act established, the Pennsylvania railroad and the City avenue, and of the contiguous parts of the Twentieth and Twenty-eighth wards as may become necessary or expedient by reason of the extension as aforesaid of the limits of the Fairmount park. and cause the same to be established in manner as now provided by law for revising or laying out plans of survey in and for the city of Philadelphia; and shall lay out an avenue as one of the streets of the city, of the width of not less than one hundred feet, as a boundary of the park, on the southwest, west and north-west sides thereof, extending from Girard avenue to the river Schuylkill, at or near the Falls bridge. and also upon the castern side of the river from the intersection of Pennsylvania avenue and Thirty-third street northward along the boundary of said park to the river Schuylkill.

SECTION 8. The jurisdiction of the commissioners of the park shall extend to the breadth of the footway next the park, in all avenues or streets which shall bound upon the park, and they shall direct the manner in which such footways shall be laid out, curbed, paved, planted and ornamented, which footways shall not be less than twenty feet in width on any avenue or street of the width of one hundred feet, and of like proportion upon any street or avenue of a greater or less width. unless otherwise directed by the commissioners.

SECTION 9. The said park commissioners or jury, who shall assess the compensation to the owners for the ground taken. shall ascertain and make compensation for buildings as well as the ground taken; but all buildings and machinery and fixtures not required by the park commission shall be removed by the owners thereof whenever payment of the compensation awarded them shall be made or tendered to them, and upon such payment or tender the park commissioners shall forthwith take possession of the premises; if any owner or lessee of ground taken cannot be found, notice of the taking and valuation of his land shall be given by advertisement in two daily papers published in Philadelphia six times, and in the Legal Intelligencer twice, and the amount awarded in such case to the owner or lessee shall remain in the city treasury until such owner shall produce the decree of the court having jurisdiction in the premises, ordering the said moneys to be paid to him or his legal representatives.

SECTION 10. The said commissioners and jury may make partial or special reports from time to time to the court as make partial or they may be ready to do so, and the court may act upon such special reports, reports separately, and the powers of the jury shall continue. unless limited by the court or they be required by the court to make report, until they shall have reported on all the cases on which they have been appointed, although a term or terms of the courts shall have intervened; and jurors, not to exceed six in number, may be appointed upon one or more cases according to the order of the court made; and whenever any report of the said commissioners or of the jury shall have been Case 1:23-cv-00265-LEK-WRP,Document 55-56 Filed 07/14/23 Page 6 of 9 PageID.1093

OF THE SESSION OF 1868.

confirmed by the court, the valuation made shall be forthwith payable by the city of Philadelphia.

SECTION 11. The city of Philadelphia shall be authorized Gity to effect and required to raise, by loans from time to time, such sums loans to make of money as shall be necessary to make compensation for all compensation grounds heretofore taken or to be taken for said Fairmount for grounds ta park, and for the laying out and construction thereof for pub- ken, &c. lie use, for the permanent care and improvement thereof, and for all culverts and other means for preserving the Schuylkill water pure for the use of the cltizens of said city, and shall annually assess taxes for keeping in repair and good order the said park, and shall also provide for the payment of the interest on all said loans and the usual sinking fund for the recomption thereof.

SECTION 12. The said park commissioners shall from time Communisioners to time appoint such officers, arents and subordinates as they to appoint offimay deem necessary for the purposes of this act and the act cers, agents, ke. to which this is a supplement, and they shall prescribe the duties and the compensation to be paid them; and so much of the second section of the act to which this is a supplement, as requires that the secretary shall be chosen from the commissioners, be and the same is hereby repealed.

SECTION 13. It shall be lawful for said park commissioners May acquire to acquire title to the whole or any tract of land, part of and self lands which shall fall within the boundaries mentioned in the first situate a part section of this act, and to take conveyance thereof in the name within bounda-of the city of Philadelphia; and such part thereof as shall lie ries mentioned. of the city of Philadelphia; and such part thereof as shall lie beyond or within the said park limits again to sell and convey in absolute fee simple to any purchaser or purchasers thereof by deeds, to be signed by the mayor under the seal of the city, to be utilized by direction of councils, either for eash or part cash, and part to be secured by boud and mortgage to the city, paying all each into the city treasury: Prorided, That the proceeds of such sales shall be paid into the Proviso. sinking fund for the redemption of the loan created under the provisions of this act: Provided also, That no commissioner Proviso. nor any officer under the park commission shall in any wise be directly or indirectly interested in any such sale of lands by the commissioners as aforesaid; and if any commissioner or officer aforesaid shall act in violation of this proviso, he shall, if a commissioner, be subject to expulsion, if an officer, to be discharged by a majority of votes of the bound of park commissioners, after an opportunity afforded of explanation and defence.

SECTION 14. The said board of commissioners shall annu- To make report ally hereafter, in the month of December, make to the mayor to mayor aiof the city of Philadelphia a report of their proceedings and ^{nually}. a statement of their expenditures for the preceding year.

SECTION 15. The said park commissioners shall have exclu- May leassive power to lease from year to year all houses and buildings houses, &c., within the park limits, which may be let without prejudice to within park the interests and purposes of the park by leases, to be signed units. by their president and secretary, and to collect the rents and pay them into the city treasury.

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Buildings erec-

Commissioners perty upon trusta.

Proviso.

Debts to Lind how created.

Management, &c., of park

May license passenger rail-WAYS.

Rules and regulations.

LAWS OF PENNSYLVANIA,

SECTION 16. All houses and buildings now built or to be ted on grounds built on any part of the park grounds, by or for boat or by heat clubs, skating clubs, or zoological or other purposes, shall be taken &., relative to, to have rights subordinate to the public purposes intended to be subserved by acquiring and laying out the park, and shall be subject to the regulations of said park commissioners under licenses, which shall be approved by the commission and signed by the president and secretary, and will subject them to their supervision and to removal or surrender to the city whensoever the said commissioners may require.

SECTION 17. The said park commissioners shall have power may accept pro- to accept in the name and behalf of the city of Philadelphia devises, bequests and donations of lands, moneys, objects of art and natural history, maps and books, or other things, upon such trusts as may be prescribed by the testator or donor: Provided, Such trusts be satisfactory to the commission and compatible with the purposes of said park.

SECTION 18. None of the park commissioners nor any percommissioners, son employed by them shall have power to create any debt or obligation to bind said hoard of commissioners, except by the express authority of the said commissioners at a meeting duly convened.

> SECTION 19. The said park commissioners shall have the power to govern, manage, lay out, plant and ornament the said Fairmount park, and to maintain the same in good order and repair, and to construct all proper bridges, buildings, railways and other improvements therein, and to repress all disorders therein under the provisions hereinafter contained.

SECTION 20. That the said park commissioners shall have laying down of authority to license the laying down and the use for a term of years from time to time of such passenger railways as they may think will comport with the use and enjoyment of the said park by the public, upon such terms as said commissioners may agree, all emoluments from which shall be paid into the city treasury.

SECTION 21. The said park shall be under the following rules and regulations, and such others as the park commissioners may from time to time ordain:

I. No person shall turn cattle, goats, swine, horses or other animals loose into the park.

II. No person shall carry fire arms or shoot birds in the park or within fifty yards thereof, or throw stons or other missiles therein.

III. No one shall cut, break, or in anywise injure or deface the trees, shrubs, plants, turf, or any of the buildings, fences, structures or statuary, or foul any fountains or springs within the park.

IV. No person shall drive or ride therein at a rate exceeding seven miles an hour.

V. No one shall ride or drive therein upon any other than upon the avenues and roads.

VI. No coach or vehicle used for hire shall stand upon any part of the park for the purpose of hire, nor except in waiting for persons taken by it into the park, unless, in either case, at points designated by the commission.

OF THE SESSION OF 1868.

VII. No wagon or vehicle of burden or traffic shall pass through the park, except upon such road or avenue as shall be designated by the park commissioners for burden transportation.

VIII. No street railroad car shall come within the lines of the park without the license of the park commission.

IX. No person shall expose any article for sale within the park without the previous license of the park commission.

X. No person shall take ice from the Schuylkill within the park without the license of the said commission first had, upon such terms as they may think proper.

X1. No threatening, abusive, insulting or indecent language shall be allowed in the park.

XII. No gaming shall be allowed therein, nor any obscene or indocent act therein.

XIII. No person shall go in to bathe within the park.

XIV. No person shall fish or disturb the water-fowl in the pool or any pond, or birds in any part of the park, nor discharge any fire-works therein, nor affix any bills or notices therein.

XV. No person shall have any musical, theatrical or other entertainment therein without the license of the park commissioners.

XVI. No person shall enter or leave the park except by such gates or avenues as may be for such purpose arranged.

XVII. No gathering or meeting of any kind assembled through advertisement shall be permitted in the park without the previous permission of the commission, nor shall any gathering or meeting for political purposes in the park be permitted under any circumstances.

XVIII. That no intoxicating liquors shall be allowed to be sold within said park.

SECTION 22. Any person who shall violate any of said Penalty for viorules and regulations, and any others which shall be ordained lating rules and by the said park commissioners for the government of said regulations. park, not inconsistent with this act or the laws and constitutions of this state and United States, the power to ordain which rules and regulations is hereby expressly given to said commissioners, shall be guilty of a misdomeanor, and shall pay such fine as may be prescribed by said park commissioners, not to exceed five dollars for each and every violation thereof, to be recovered before any alderman of said city, as debts of that amount are recoverable; which fines shall be paid into the city treasury : Provided, That if said park Proviso. commissioners should license the taking of ice in said park, or the entry of any street railroad car therein, or articles for sale, or musical entertainments, it may be with such compensution as they may think proper, to be paid into city treasury: And provided, That any person violating any of said Provise. rules and regulations shall be further liable to the full extent of any damage by him or her committed, in trespass or other action; and any tenant or licensed party who shall violate the said rules, or any of them, or consent to or permit the same to be violated on his or hor or their premises, shall forfeit his or her or their lease or license, and shall be liable to

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LAWS OF PENNSYLVANIA,

he forthwith removed by a vote of the park commission; and every lease and license shall contain a clause making it cause of forfeiture thereof for the lessee or party licensed to violate or permit or suffer any violation of said rules and regulations, or any of them; it shall be the duty of the police appointed to duty in the park, without warrant, forthwith to arrest any offender against the precoding rules and regulations whom they may detect in the commission of such offence, and to take the person or persons so arrested forthwith before a magistrate having competent jurisdiction.

Profits realized, to be paid into city treasury.

Proviso.

Councils may аррготе арproaches to park.

Act not to affect proceedings pending in court.

Damages, how

Commissioners t du order.

City solicitor to appoint addi-

SECTION 23. All rents, license, charges and fees, all flues, proceeds of all sales, except of lands purchased, and profits of whatsoever kind, to be collected, received or howsoever realized, shall be paid into the city treasury as a fund to be exclusively appropriated by councils for park purposes, under the direction of said commission: Provided, That moneys or property given or bequeathed to the park commissioners upon specified trusts shall be received and receipted for by their treasurer, and held and applied according to the trusts specified.

SECTION 24. That the councils of the city of Philadelphia be and they are hereby authorized to widen and straighten any street laid upon the public plans of said city, as they may think requisite to improve the approaches to Fairmount park.

SECTION 25. That nothing in this act contained shall suspend or affect any proceeding pending in court under any existing law, but the same shall be proceeded in as if this act had not been passed

SECTION 26. The damages for ground and property taken ascertained, &c. for the purpose of this act shall be ascertained, adjusted and assessed in like manner as is prescribed by the act to which this is a supplement.

SECTION 27. The said park commissioners shall employ, to employ park equip and pay a park force adequate to maintain good order force to main- therein and in all houses thereupon; which force shall be subject to the orders of the mayor upon any emergency, and so far as said force shall consist of others than the hands employed to labor in the park, it shall be appointed and controlled as the other police of the city.

SECTION 28. There shall be an additional assistant appointed by the city solicitor, whose duty it shall be, under tional assistant, the direction of the city solicitor, to attend to the assessments of damages, and to such other business of a legal nature connected with the park as said commissioners may require.

GEO. T. THORN,

Speaker of the House of Representatives pro tem.

JAMES L. GRAHAM, Speaker of the Senate.

APPROVED-The fourteenth day of April, Anno Domini one thousand eight hundred and sixty-eight.

JNO. W. GEARY.

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SAN FRANCISCO, Bal. -

MUNICIPAL REPORTS

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FOR THE

FISCAL YEAR 1874-5, ENDING JUNE 30, 1875.

PUBLISHED BY ORDER OF THE

BOARD OF SUPERVISORS.



CASAN FRANCISCO:

SPAULDING & BARTO, PRINTERS, "SCIENTIFIC PRESS" JOB PRINTING OFFICE, 414 CLAY STREET. 1875.



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four months, nor more than six months, or by both such fine or imprisonment; and one-half of any fine that may be collected for a violation of any of the provisions of this order, shall be paid to the persons making the complaint.

ORDER NO. 1,226.

PROHIBITING THE CARRYING OF CONCEALED DEADLY WEAPONS.

[Approved July 9, 1875.]

The People of the City and County of San Francisco do ordain as follows :

SECTION 1. It shall be unlawful for any person, not being a public officer or traveler, or not having a permit from the Police Commissioners of this City and County, to wear or carry, concealed, in this City and County, any pistol, dirk or other dangerous or deadly weapon.

Every person violating any of the provisions of this order shall be deemed guilty of a misdemeanor and punished accordingly. Such persons, and no others, shall be termed "travellers" within the meaning of this order, as may be actually engaged in making a journey at the time.

The Police Commissioners may grant written permission to any peaceable person, whose profession or occupation may require him to be out at late hours of the night, to carry concealed deadly weapons for his own protection.

Note.-General Orders, as amended, to November 1st, 1875.

PARK COMMISSIONERS' ORDINANCES.

ORDINANCE No. 1.

[Adopted October 27th, 1870.]

The Park Commissioners do ordain as follows:

No person shall trespass on the grounds within the limits of the Avenue, Golden Gate and Buena Vista Parks.

No person shall cut or remove from said Avenue and Parks, any trees, shrubs, stakes, wood, turf, grass or soil.

It shall be the duty of the custodian of the Park to arrest all trespassers, and all parties violating this Ordinance. v-00265-LEK-WRP Document 55-57 Filed 07/14/23 Page 3 of 5

PARK COMMISSIONERS.

ORDINANCE No. 2.

[Adopted September 24th, 1872.]

AN OBDINANCE TO PROVIDE FOR THE REGULATION AND GOVERNMENT OF THE AVENUE AND PUBLIC PARKS IN THE CITY AND COUNTY OF SAN FRANCISCO, IN CHARGE OF THE PARK COMMISSIONERS.

SECTION 1. The objects of this Ordinance are those grounds which are known as Golden Gate and Buena Vista Parks, and the Avenue leading to said Golden Gate Park, all particularly described in the first section of an Act of the Legislature of the State of California, entitled "An Act to provide for the improvement of Public Parks in the City of San Francisco," approved April 4th, 1870.

SEC. 2. Within the said grounds all persons are hereby forbidden:

1. To turn in or let loose any cattle, horses, goats, sheep, or swine.

2. To carry and especially to discharge firearms.

3. To cut, break, or in any way injure or deface any trees, shrubs, plants, buildings, fences, or structures of any kind.

4. To bathe in, or otherwise pollute the water of any pond, lake, or pool.

5. To chase, set snares for, catch, or destroy any rabbits, quails, or other wild quadrupeds or birds.

6. To make or kindle a fire of any kind.

7. To camp, lodge, or tarry over night.

8. To ride or drive any horse or other animal, with vehicle or without, elsewhere than on the roads or drives for such purposes provided.

9. To indulge in riotous, boisterous, or indecent conduct, or language.

10. To drive or ride at a furious speed.

SEC. 3. No dray, truck, wagon, cart, or other vehicle carrying, or if not carrying, employed regularly in carrying goods, merchandise, manure, soil, or other articles, shall be allowed to travel upon the drive of said avenue for any other purpose than to cross immediately at the regular street intersections, nor upon the drives of said parks. For the present the road now and heretofore commonly traveled to and from "The Central Macadamized Toll Road," is excepted from this rule. But all such vehicles shall be driven over the least worked portion of such excepted road as directed by the Superintendent or any of the Park police officers hereinafter mentioned, unless compelled to turn out in obedience to the "rule of the road," as hereinafter laid down.

The provisions of this subdivision shall also apply to light vehicles regularly driven for business purposes between the country beyond the parks and the city.

SEC. 4. The rule of the road for equestrians or vehicles meeting upon the avenue or park drives shall be: PASS TO THE RIGHT.

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ORDINANCES OF THE

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SEC. 5. There is hereby established a Pound, to be located within the Park limits, for the impounding of the animals mentioned in the first subdivision of section two of this ordinance, and of all strays found trespassing upon said grounds. All such animals shall be driven or carried to the Pound and there kept enclosed at a charge to their owners at the rate of one dollar per day or fraction of a day, for each animal so impounded. No animal thus in custody shall be released except on proof of property and on production of a receipt signed by the Secretary of the Board of Park Commissioners, countersigned by the Park Superintendent.

If unclaimed for three days, all such animals shall be impounded in the City Pound. [This Section amended by Ordinance No. 5.]

SEC. 6. All moneys accruing from the Pound charges aforesaid, and also from fines collected from offenders against any of the provisions of this. ordinance, shall be placed in the "Park Improvement Fund," and duly accounted for. [This Section amended by Ordinance No. 5.]

SEC. 7. 1. When the number of participants in any picnic or other organized party, about to enter these grounds will exceed ten persons, they, or one of them, shall communicate their intention to the keeper of the gateway at which they enter, or to the keeper of the Stanyan street entrance, pending the appointment of keepers for the other gates.

2. Any company, society or organization of any kind, being desirous of resorting to these grounds in a body, the number of individuals in which will exceed twenty-five, for the purpose of picnicing; any military or other organized company desirous of parading within the same; any base ball, cricket, or sporting club desirous of using the grounds set aside for their peculiar purposes, shall at least one day prior to the proposed date of the excursion, report, or cause to be reported, such intention to the Secretary of the Park Commissioners, or to the Superintendent of the Parks and Avenues.

3. All waste material, scraps, litter or rubbish of any kind brought upon these grounds by such picnic or other parties, shall be promptly collected and removed by them or their employees. In the event of the non-observance of this regulation, the actual cost of thoroughly performing the necessary duty by the Park force shall be charged, and a bill for the same be presented to the representatives of the organization so offending.

4. The representatives of any such organized party which shall have resorted to these grounds will be held responsible for the damage done through any transgression of these ordinances by any member of the same, when the offending individual in person cannot be identified.

SEC. 8. The Superintendent of the Parks and Avenue is hereby instructed to enforce and cause to be enforced the provisions of this Ordinance.

SEC. 9. Power and authority are hereby given to the Park-Keeper, the Head Gardener, the Foreman and the Foreman Teamster, to arrest and detain and deliver to the proper authorities, or in their discretion eject from the cv-00265-LEK-WRP Document 55-57 Filed 07/14/23 Page 5 of 5 Page 5 Page 5 of 5 Page 5 Page 5 Page 5 of 5 Page 5 Page 5 Page 5 Page 5 Page 5 of 5 Page 5 Page 5 of 5 Page 5 Page 5 of 5 Page 5 Page

PARK COMMISSIONERS.

grounds, all persons wilfully or knowingly offending against the provisions of this Ordinance, or any other Ordinance hereafter to be passed by said Board for the regulation, use and government of said Parks and Avenue.

SEC. 10. The Superintendent is herby clothed with the powers enumerated in Section 9 of this Ordinance.

SEC. 11. Whenever it may be necessary to appoint assistant keepers, there shall be delivered to each of them a certificate of appointment, signed by a majority of said Board, sealed and attested by the Secretary. Said assistant keepers shall possess all the powers enumerated in Section 9 of this Ordinance, but shall exercise the same under the direction of the Superintendent, and report to him forthwith any action which they may take under the same.

SEC. 12. The Park Keeper, the Head Gardener, the Foreman Teamster, and such assistant keepers as may be appointed as aforesaid, shall constitute the Park Police, and shall provide themselves with a badge of office consisting of a metallic star, inscribed with the words "Park Police," and the initials of the words indicating their particular office. A roll number shall be added to the initials on the badges of the assistant keepers.

SEC. 13. The Secretary of said Board shall, within five days after the passage of this ordinance, make and certify an accurate copy of the same, and cause the same to be published, as required by law, for ten days, Sundays excepted, and this ordinance shall take effect fifteen days after its passage.

ORDINANCE No. 3.

[Adopted May 23, 1873.]

SECTION 1. The object of this ordinance, is that ground known as the Golden Gate Park, as described in the first section of an Act of the Legislature of the State of California, entitled "An Act to provide for the improvement of Public Parks in the City of San Francisco," approved April 4th, 1870.

SEC. 2. All vehicles used regularly for business purposes in hauling material or produce over the roads in the said Park, shall rest upon tires at least three and one-half $(3\frac{1}{2})$ inches wide.

SEC. 3. All trucks or wagons, other than those fitted with steel springs, used regularly in transporting heavy loads of material of any description over the said roads, shall rest upon tires at least five (5) inches wide.

SEC. 4. The Secretary of said Board shall, within five days after the passage of this ordinance, make and certify an accurate copy of the same, and

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LAWS

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AND

ORDINANCES

GOVERNING THE

CITY OF CHICAGO.

[PUBLISHED BY AUTHORITY OF THE COMMON COUNCIL OF THE CITY.]

COMPILED AND ARIANGED BY MURRAY F. TULEY, Counsel to the Corporation.

CHICAGO: PUBLISHED BY THE BULLETIN PRINTING COMPANY. 132, 134 & 136 MONROE STREET. 1873.



REVISED ORDINANCES.

CHAPTER 31.

PARKS AND PUBLIC GROUNDS.

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 Duty of board of public works to superintend
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- 10.
- 11.
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- Fortune telling, gaming, indecency, etc., pro-14. hibited.
- 15. Power to close part of parks.

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- TION. When parks to be open. Right to open and close parks. Conduct of visitors regulated. Bathing, fishing, etc. in forbidden. Fireworks prohibited. Perambulators on walks. Posting bills forbidden. 19.
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- Posting bills forbidden.
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- Funeral processions prohibited. 25.
- Fires prohibited. To keep off grass, except when. Power of police in. 26.
- 27.
- 28. Chapter applies to public squares.
- 29. Penal clause.
- 30. Use of grass grown.

1. NAMES ESTABLISHED. *Rev. Ord.* 1866. The several public parks, squares and grounds in the city of Chicago, shall be known and designated by the names applied thereto respectively on the map of the city of Chicago published by Mr. J. Van Vechten in the year 1872.

2. GAMES IN PROHIBITED—PENALTY.] No person shall play at ball, cricket, or at any other game or play whatever, in any of the inclosed public parks or grounds in this city, under the penalty of five dollars for every offense.

3. BOARD OF PUBLIC WORKS-DUTY OF.] It shall be the duty of the board of public works to superintend all inclosed public grounds and keep the fences thereof in repair, the walks in order and the trees properly trimmed, and improve the same according to plans approved by the common council. They shall likewise cause printed or written copies of the prohibitions of this chapter to be posted in the said grounds or parks.

4. WALLS AND FENCES.] Ord. Jan. 11, 1869. No person shall enter or leave any of the public parks of the city of Chicago, except by their gateways; no person shall climb or walk upon their walls or fences.

5. ANIMALS TO BE EXCLUDED.] Neither cattle, horses, goats, swine or other animals, except as herein provided, shall be turned into any one of the said parks by any person.

6. FIREARMS AND MISSILES PROHIBITED—PROTECTION OF SHRUBBERY.] All persons are forbidden to carry firearms or to throw stones or other missiles within any one of the public parks. All persons are forbidden to cut, break or in any way injure or deface the trees, shrubs, plants, turf or any of



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PARKS AND PUBLIC GROUNDS.

the buildings, fences, bridges, or other construction or property, within or upon any of the said parks.

7. HINDERING EMPLOYES.] No person shall converse with, or in any way hinder those engaged in their construction.

8. SPEED OF DRIVING.] No animal shall travel on any part of either of the said parks at a rate exceeding six miles per hour.

9. VEHICLES AND ANIMALS ON DRIVES.] No vehicle, or horse, or other animal shall be permitted on the foot walks, the same being devoted exclusively to pedestrians; nor shall any vehicle, horse or animal of burden go upon any part of either of the parks, except upon the carriage drives and upon such places as are appropriated for carriages at rest.

10. OBSTRUCTION OF WAYS.] No animal or vehicle shall be permitted to stand upon the drives or carriage roads of any of the public parks of the city, or any part thereof, to the obstruction of the way, or to the inconvenience of travel, nor shall any person solicit passengers within either of said parks.

11. HACKS, ETC., NOT TO PLY FOR HIRE.] No hackney coach, carriage, or other vehicle for hire, shall stand upon either of the parks of the city of Chicago for the purpose of taking in any other passengers, or persons, than those carried to the park by said coach, carriage or vehicle.

12. PEDDLING IS NOT ALLOWED.] No person shall expose any article or thing for sale upon any of said parks, except such person shall have been previously licensed by the board of public works, nor shall any hawking or peddling be allowed therein.

13. PROHIBITED VEHICLES.] No omnibus or wagon with or without passengers, nor any cart, dray, wagon, truck or other vehicle carrying goods, merchandise, manure, soil or other article, or solely used for the carriage of goods, merchandise, manure or other articles, shall be allowed to enter any part of either of the said parks. This, however, does not apply to vehicles engaged in the construction of such parks, nor private family wagons.

14. BOISTEROUS LANGUAGE—FORTUNE TELLING—GAMING—INDECENCY.] No threatening, abusive, insulting or indecent language shall be allowed therein whereby a breach of the peace may be occasioned. No person shall be allowed to tell fortunes or play at any game of chance at or with any table or instrument of gaming, nor to do therein any obscene or indecent act.

15. POWER TO CLOSE PART OF PARKS.] In case of any emergency, where life or property is endangered, all persons, if required so to do by the superintendent or any of his assistants, shall remove from the portion of either of said parks specified by the superintendent or his assistants, and remain off the same until permission is given to return.

16. PARKS—WHEN OPEN.] Lincoln park and Union park shall be open daily to the public during the months of December, January and February from seven o'clock in the morning until eleven o'clock in the evening; during the months of March, April, May, October and November from six o'clock in the morning until ten o'clock in the evening, and during the months of June, July, August and September, from five o'clock in the morning until eleven o'clock in the evening.

17. Power to Open and Close Parks.] The superintendent may, for

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REVISED ORDINANCES.

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cause, direct that any of the entrances to either of the said parks be closed at any time, and may, on special occasions, also direct that any of the said parks or any portion thereof, remain open at other times than those above specified.

18. DUTY OF VISITORS.] No person other than employes in the park shall enter or remain in it except when it is open as above specified. No person other than employes shall bring upon any of the public parks any tree, shrub or plant, nor any newly plucked branch or portion of a tree, shrub or plant.

19. BATHING, FISHING, ETC.] No person shall bathe or fish in, or go, or send, or ride any animal in any of the waters of either of the said public parks, or waters of Lake Michigan in front of any of said parks, nor disturb any of the fish, water fowl or other birds in any of said parks, or any deer, sheep or other animal belonging to and preserved therein, nor throw, or place any article or thing in the waters within either of said parks.

20. FIREWORKS PROHIBITED.] No person shall fire, discharge or set off in any of said public parks any rocket, cracker, torpedo, squib, balloon, snake, chaser or double-header, nor any fireworks or thing under any other name, composed of the same or similar material, or of the same or similar character as the fireworks above specified.

21. PERAMBULATORS.] No person shall place or propel any invalid's chairs or perambulators upon any portion of said parks except upon the walks.

22. POSTING BILLS.] No person shall post or otherwise affix any bills, notice or other paper, upon any structure or thing within either of said parks, nor upon any of the gates or inclosures thereof.

23. MUSIC—FLAGS, ETC.—PROCESSIONS—FIRE APPARATUS.] No person shall, without the consent of the board of public works, play upon any musical instrument, nor shall any person take into, or carry or display in the said public parks, any flag, banner, target or transparency. No military or target company, civic or other, shall be permitted to parade, drill or perform therein any military or other evolutions or movements. No fire engine, hook and ladder truck, hose cart or other machine on wheels commonly used for the extinguishing of fires, shall be allowed on any part of said parks, without the previous consent of the board of public works.

24. FUNERAL PROCESSIONS PROHIBITED.] No funeral procession or hearse or other vehicle carrying the body of a deceased person shall be allowed upon any part of a public park.

25. FIRES PROHIBITED.] No person other than employes shall light, make or use any fire thereon.

26. To KEEP OFF GRASS.] No person on foot shall go upon the grass, lawn or turf of the parks, except when and where the word "common" is posted, by order of the board of public works, indicating that persons are at liberty at that time and place to go on the grass.

27. POLICE, POWER OF.] Rev. Ord. 1866. Any member of the city police shall have power to arrest any person who shall not desist from any violation hereof, when directed, and cause him to be committed for examination.

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28. Application to Squares.] Ord. Jan. 11, 1869. The foregoing sections of this chapter, so far as applicable, shall apply to all the public squares of the city of Chicago.

29. PENALTY.] Any person who shall violate any or either of the provisions of this chapter, or any section, or clause, or any provision of any section thereof, or who shall neglect, or fail, or refuse to comply with any, or either of the requirements thereof, shall, on conviction, pay a fine of not less than five dollars, nor more than one hundred dollars.

The fire marshal may cause **30.** Use of Grass.] *Rev. Ord.* 1866. any grass fit for hay, growing or grown upon any of the public parks or grounds, to be cut and cured, under the direction of the board of public works and appropriated for the use of the teams used by the fire department.

CHAPTER 32.

PAWNBROKERS.

SECTION.

- To be licensed—Penalty.
 Definition of the word pawnbroker.
 How license obtained—Fee—Bond.
 When license to expire.

SECTION. 5. Registration of licenses.

Pawnbroker's record -Penalty for not keeping.
 Inspection of record-Penalty for refusing.
 Dealing with minors prohibited-Penalty.

1. TO BE LICENSED—PENALTY.] Rev. Ord. 1866. No person or persons shall carry on or conduct the business or calling of a pawnbroker, within the city of Chicago, without having first obtained a license so to do, under a penalty of not less than twenty dollars nor more than one hundred dollars for each offense.

2. PAWNBROKER DEFINED.] Any person who loans money on deposit, or pledge of personal property, bonds, notes or other securities, or who deals in the purchasing of personal property or choses in action, on condition of selling the same back again at a stipulated price, is hereby defined and declared to be a pawnbroker.

3. LICENSE-HOW OBTAINED-FEE-BOND.] The mayor is hereby authorized to grant a pawnbroker's license to any person of good character who may apply therefor, on the following conditions: The person so applying shall first pay to the collector a sum of money in proportion to the sum of one hundred dollars per annum for the time such license shall be granted, and shall execute a bond to the city of Chicago in the sum of five hundred dollars conditioned that the said applicant will in every particular conform to the requirements of this chapter, and with the requirements or provisions of any ordinance hereafter to be passed concerning pawnbrokers, and thereupon the clerk shall issue a license in due form, under the corporate seal,

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LAWS AND ORDINANCES

GOVERNING THE

VILLAGE OF HYDE PARK

TOGETHER WITH ITS

CHARTER AND GENERAL LAWS

AFFECTING MUNICIPAL CORPORATIONS; SPECIAL ORDINANCES AND CHARTERS UNDER WHICH CORPORATIONS HAVE VESTED RIGHTS IN THE VILLAGE. ALSO, SUMMARY OF DECISIONS OF THE SUPREME COURT RELATING TO MUNICIPAL CORPO-RATIONS, TAXATION AND ASSESSMENTS.

PRINTED AND PUBLISHED BY AUTHORITY OF THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF HYDE PARK.

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REVISED AND ARRANGED BY CONSIDER H. WILLETT,



HYDE PARK: 1876.

EXHIBIT 26 (McLean)

SOUTH PARK.

§ 2. The bonds authorized to be issued by the act of which this is amendatory and supplemental, may be issued, sold, and the proceeds applied for acquiring said lands, and for any and all purposes in the said act mentioned. Said bonds shall be retired and canceled as fast as the money for that purpose can be obtained, by the collection of the money due upon the special assessment provided for in section seven of the act hereinbefore mentioned, and a sufficient amount of any bonds that may be issued by the city of Chicago under any law now in force or hereinafter enacted, and received by said commissioners, shall be applied to the purpose of retiring the bonds authorized by said act.

§ 3. The ninth section of said act is hereby so amended that the words "during the current year," shall read "during the next succeeding year."

§ 4. That the twelfth section of said act be and the same is hereby amended so as to read as follows: The said commissioners, or either of them, may be removed from office by the judge of the circuit court of Cook county, upon the petition presented to him in term time, or in vacation, by one hundred freeholders of said towns of South Chicago, Hyde Park and Lake, if it shall appear after hearing proof before said judge, that the said commissioners, or either of them, have been guilty of misdemeanor or malfeasance in office under this act ; and if the said 'judge shall remove any one or more of said commissioners from office for any cause before the expiration of their term of office, he is hereby authorized and empowered to fill the vacancy or vacancies thus created by appointing other commissioners in their place, who shall serve during the unexpired terms of the commissioners so removed.

§ 5. The commissioners to be appointed under said act are hereby vested with the same powers and duties as are conferred by said act in relation to lands designated for parks, over all streets running longitudinally along and adjoining any and all of the proposed parks, or strips of land designated in said original act, as are conferred by said act in relation to such parks and strips of land, as may be necessary to improve and keep in repair the same, in connection with the said parks or strips of land without obstructing the fences or other structures, free access to the said streets from existing roads and streets, and by owners of land abutting on the same.

§ 6. The elections held in the towns of South Chicago, Hyde Park and Lake, on the twenty-third day of March, A. D. 1869, under and by virtue of the eighteenth section of the act to which this is an amendment, are hereby legalized and confirmed, and said act shall be held and deemed to have been regularly and legally adopted by the legal voters of said towns, and shall remain in full force and effect, and shall be liberally construed in all courts, with a view to carry out and enforce the intent and meaning of the same.

§ 7. This act is hereby declared a public act, and shall take effect and be in force from and after its passage.

SOUTH PARK ORDINANCES.

Whereas, by an act of the general assembly of the State of Illinois, entitled an act to provide for the location and maintenance of a park for the towns of South Chicago, Hyde Park and Lake, it is provided as follows, to-wit:

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SOUTH PARK ORDINANCES.

"The said board shall have full and exclusive powers to govern, manage and direct said park; to lay out and regulate the same; to pass, ordinances for the regulation and government thereof; to appoint such engineers, surveyors, clerks, and other officers, including a police force, as may be necessary; to define and prescribe their respective duties and authority; to fix the amount of their compensation; and, generally, in regard to said park, they shall possess all the powers and authority now by law conferred upon or possessed by the common council of the city of Chicago, in respect to public squares and places in said city."

Therefore, be it ordained by the South Park Commissioners as follows:

§ 1. The said park, which is under the management and direction of the South Park Commissioners, shall be, and the same is hereby designated, as the South Park.

§ 2. No person shall, without the consent of the superintendent, play at ball, cricket, or any other game or play whatever, in said park.

§ 3. No person shall climb or walk upon any wall or fence of said park.

§ 4. Cattle, horses, goats, swine, or other animals, or domestic fowls, shall not be turned into said park, or allowed to run at large therein.

§ 5. No dog or bitch, or domestic fowl, belonging to any officer or employee of said commissioners residing within the limits of said park, shall be permitted to run at large.

§ 6. All persons are forbidden to carry fire arms, or to throw stones or other missiles within said park. All persons are forbidden to cut, break, or in any way injure or deface the trees, shrubs, plants, turf, or any of the buildings, fences, bridges, or other construction or property within or upon said park.

§ 7. No person shall converse with, or in any manner hinder those engaged in constructing or repairing said park.

§ 8. No animal shall be driven or ridden in said park, at a rate of speed exceeding eight miles per hour.

§ 9. No vehicle, or horse, or other animal, shall be permitted on the foot walks, the same being assigned exclusively to pedestrians; nor shall any vehicle, or horse or other animal of burden, go or be taken upon any part of said park, except upon the carriage drives and upon such places as are, appropriated for carriages at rest.

§ 10. No vehicles or animals shall be permitted to stand upon the drive or carriage roads of said park, or of any part thereof, to the obstruction of the way, or the inconvenience of travel; nor shall any person solicit passengers within said park without consent of the board.

§ 11. No person shall, within said park, expose for sale any article or thing, nor shall any hawking or peddling be allowed therein.

§ 12. No omnibus, wagon, cart, dray, truck, or other vehicle for carrying goods, merchandise, manure, or other articles, except such as are engaged in repairing or constructing said park, shall be allowed to enter the same.

§ 13. No language, abusive, insulting, obscene, or calculated to occasion a breach of the peace, shall be permitted in said park, nor shall persons tell fortunes, play at any game of chance, at any table or instrument, be drunk, or do any indecent acts therein. SOUTH PARK ORDINANCES.

§ 14. No person shall bathe or fish, or go or send, or ride any animals into the waters of said park, nor shall any person disturb any fish, fowl or other animals kept therein, or throw or place any article or thing into the waters or upon the grounds thereof.

§ 15. No person shall discharge, or set, or touch off, or enkindle, or operate any manner of fire, or fireworks in the said park.

§ 16. No person shall, in the said park, post or fix any notice or bill; nor shall such be posted or fixed on any tree, fence, or any place therein.

§ 17. No person shall, in the said park, play any musical instrument, nor carry or display any flags, banners, transparencies, or target.

§ 18. No band or company shall be permitted to parade, drill, or perform any movements, evolutions or ceremony in said park without the consent of the park commissioners.

§ 19. No funeral procession, or hearse carrying a deceased body, shall be in the said park permitted.

§ 20. No horse or other animal shall be permitted to go upon any grass or lawn, nor shall any person be permitted to go thereon except where the word "common" shall be posted to indicate the permission so to do.

§ 21. Any member of the South Park police shall have power to arrest, and commit for examination, any person who shall not, when directed, desist from any violation thereof.

§ 22. Any person who shall disobey, or neglect, fail, or refuse to comply with this ordinance, or any section thereof, except when otherwise herein provided, shall, on conviction thereof, pay a fine of not less than *five*, or more than one hundred dollars.

§ 23. The police force of said South Park Commissioners, shall consist of one captain, three sergeants, and such number of policemen as shall from time to time be appointed, and they shall hold their respective offices during the pleasure of the park commissioners. The captain of police shall have the general charge of the police force, subject to such rules and regulations as shall from time to time be established, and it shall be his duty to report to the commissioners, in writing, the delinquency of any member of the police force, and may suspend any such member, until such delinquency shall be acted upon by the commissioners.

§ 24. The several members of the police force, when on duty, shall devote their time and attention to discharge of the duties of their station according to the ordinance, rules, and regulations and directions of the superintendent, and it shall be their duty, to the best of their ability, to preserve order, peace, and quiet, and to enforce the laws and the ordinances of said commissioners, and they shall not engage in conversation with an employée of the park during working hours, except in the line of duty; they shall have power to arrest any persons in the park found in the act of violating any law or ordinance, or abetting and aiding in any such violation, and shall take all such persons so arrested, as follows, to-wit: when the offense is committed in that portion of the park situated in the town of Hyde Park, to some justice or magistrate in Hyde Park; when the offense is committed in the town of Lake, to some justice or magistrate in said town of Lake; and when the offense

SOUTH PARK ORDINANCES.

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is committed in that portion of the park situated in the town of South Chicago, to some justice of the peace in said town of South Chicago.

§ 25. Whoever, in said park, shall resist any member of the police force in the discharge of his duty, or shall in any way interfere with, or hinder or prevent him from discharging his duty, as such member, or shall offer or endeavor to do so; and whoever shall in any manner assist any person in custody of any member of the police force to escape, or attempt to escape, from such custody, or shall rescue, or attempt to rescue, any person in custody, shall be fined not less than five dollars, or more than one hundred dollars.

§ 26. The superintendent, in cases of emergency, is hereby authorized and empowered to appoint special policemen, and such special policemen shall have the same power and authority of regular policemen, provided the appointment of such special policeman shall in no case continue for a period exceeding twenty-four hours.

27. The sergeant of police shall perform the duties of the captain when the latter shall be absent from duty.

§ 28. The police force shall be uniformed as follows: Gray frock coat, pants and vest, and cap with brass buttons, and black cord on leg of the pants.

§ 29. Any person who shall falsely represent or personate any of the members of the police force, or who shall maliciously, with intent to deceive, use or imitate any of the signs, signals, or devices adopted and used by the police department, or shall wear in public the uniform adopted as the police uniform, after having been removed or suspended, shall be subject to a fine of not less than five dollars nor more than one hundred.

§ 30. These ordinances shall take effect and be in force from and after the 19th day of November, 1875.

Source Citation

Willett, Consider H., and Ordinances, Etc. Hyde Park . Board of Trustees. Laws and Ordinances Governing the Village of Hyde Park Together with Its Charter and General Laws Affecting Municipal Corporations; Special Ordinances and Charters under Which Corporations Have Vested Rights in the Village. Also, Summary of Decisions of the Supreme Court Relating to Municipal Corporations, Taxation and Assessments. Hazlitt & Reed, 1876. The Making of Modern Law: Primary Sources, link.gale.com/apps/doc/DT0106130236/MMLP? u=efgssf&sid=bookmark-MMLP&pg=309. Accessed 6 July 2023.

Gale Document Number: GALE | DT0106130236

cv-00265-LEK-WRP Document 55-60 Filed 07/14/23 Page 1 of 3 Pε

THE

REVISED ORDINANCE

OF THE

CITY OF ST. LOUIS,

TOGETHER WITH

THE CONSTITUTION OF THE UNITED STATES, CONSTITUTION OF THE STATE OF MISSOURI, THE SCHEME FOR THE SEPARATION OF THE GOVERNMENTS OF THE CITY AND COUNTY OF ST. LOUIS, THE CHARTER OF THE CITY, AND A DIGEST OF THE LAWS AP-PLICABLE TO THE CITY.

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M. J. SULLIVAN, REVISER.

ST. LOUIS: TIMES PRINTING HOUSE, FIFTH AND CHESTNUT. 1881.

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MISDEMEANORS.

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ARTICLE XI.

PROTECTION OF BIRDS.

SECTION.

++ TION 1. Disturbance of birds or nests prohibited. 2. Penalty for disturbing same. 3. Throwing stones, wood, &c.,

prohibited.

4. Penalty for throwing same. 5. Protection of all birds, except hawks, &c., intended. 6. Duty of police.

SECTION 1. All persons are forbidden to molest, injure Birds, or nests not or disturb in any way, any small bird in the city of St. ord. s436, sec. 1. Louis, or the nest, young or brood of any small bird in said city.

SEC. 2. If any person shall willfully injure, molest, take Penalty for dis-turbing birds or or disturb in any way, any small bird in the city of St. Louis, or the nest, eggs, young or brood of any such small bird, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall forfeit and pay to said city not less than five dollars for each bird so by him injured, molested, taken or disturbed, and not less than twenty dollars for each nest of eggs or brood of young of any such small bird in the city of St. Louis, so by him injured, molested taken or disturbed.

SEC. 3. No person shall throw from his hand any fragment of stone, wood, metal or other missile capable of inficting injury, in any street, alley, walk or park of the city of St. Louis, or use or have in his possession ready for use in any street, alley, walk or park of the city of St. Louis, any sling, cross bow and arrow, air gun or other contrivance for ejecting, discharging or throwing any fragment, bolt, arrow, pellet, or other missile of stone, metal, wood or other substance capable of inflicting injury or annoyance.

SEC. 4. If any person shall throw from his hand, in any Penalty. alley, street, walk or park of the city of St. Louis, any missile of wood, stone, metal or other substance, or sub-

nests. Ibid. sec. 2.

Throwing stones, wood, &c., prohibited. Ibid. sec. 3.

Ibid. sec. 4.

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All birds to be pro-

tected, except hawks, &c. Ibid. sec. 5.

Duty of police. Ibid. sec. 6. REVISED ORDINANCE. [CHAP. XXV.

stances capable of inflicting injury or annoyance, or use or have in his possession, ready for use in any street, alley, walk or park of the city of St. Louis, any sling, air gun, cross bow and arrow, or other contrivance for ejecting, discharging or throwing any missile, pellet, fragment or bolt of stone, metal, wood or other substance, or substances capable of causing injury or annoyance, he shall be deemed guilty of a misdemeanor, and on conviction thereof, be punished by a fine of not less than one nor more than twenty dollars for each offense.

SEC. 5. The birds intended to be protected by this article shall be and are defined as all varieties of birds except hawks, vultures and owls.

SEC. 6. It is made the special duty of the police force of the city of St. Louis, to enforce the provisions of this article, and arrest and bring to trial, all offenders against the same; and any member of the police force conniving at any breach of the foregoing provisions, by failing to arrest or report the offender, shall, on conviction thereof, be subject to a fine of not less than five dollars.

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THIRTEENTH ANNUAL REPORT

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BOARD OF COMMISSIONERS

FOR THE

YEAR 1887.



PRINTED FOR THE DEPARTMENT. 1888.

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EXHIBIT 28 (McLean)

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PARK ORDINANCES.

IN BOARD OF PARK COMMISSIONERS, Aug. 20, 1886. Voted, That the following rules, under the title of Ordinances, be adopted for the use and government of the Public Parks. Provided, however, that said rules shall not invalidate any pending prosecution or procedure, or any liability of any person for breach of any previous rule.

The Board of Park Commissioners of the City of Boston, by virtue of its authority to make rules for the use and government of the Public Parks of said city, and for breaches of such rules to affix penalties, hereby ordains that within the Public Parks, except with the prior consent of the Board, it is forbidden : —

1. To cut, break, injure, deface, defile or ill use any building, fence, or other construction, or any tree, bush, plant or turf, or any other thing or property.

2. To have possession of any freshly-plucked tree, bush or plant, or portion thereof.

3. To throw stones or other missiles; to discharge or carry fire-arms, except by members of the Police Force in the discharge of their duties; to discharge or carry fire-crackers, torpedoes, or fire-works; to make fires; to play musical instruments; to have any intoxicating beverages; to sell, offer or expose for sale, any goods or wares; to post or display signs, placards, flags, or advertising devices; to solicit subscriptions or contributions; to play games of chance, or have possession of instruments of gambling; to make orations, harangues or loud outcries; to enter into political canvassing of any kind; to utter profane, threatening, abusive, or indecent language, or to do any obscene or indecent act; to bathe or fish; to solicit the acquaintance of, or follow, or otherwise annoy other visitors.

4. To allow cattle, horses, or other animals, to pass over or stray upon the Park lands; provided that this shall not apply to

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PASSED AT A

General Affembly

OF THE

GOMMONWEALTH

VIRGINIA.

BEGUN and held at the PUBLIC BUILDINGS in the CITY of RICHMOND, on Monday the fixteenth Day of October, in the Year of our LORD, One Thousand Seven Hundred and Eighty-fix.

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R I C H M O N D; PRINTED BY DIXON, HOLT, NICOLSON AND DAVIES.

EXHIBIT 29 (McLean)

faine offenders come not as afore is faid, and the proclamation made and returned, they fhall be convict and attainted of the riot, affembly, or rout aforefaid: And moreover the Juffices of Peace in every county or corporation; where fuch riot, affembly, or rout of people fhall be made, in cafe the famebe made in their prefence, or if none be prefent, then the juffices having notice thereof, together with the fheriff, under fheriff, or ferjeant, of the fame county or corporation, fhall do execution of this act, every one upon pain of twenty pounds, to be paid to the Commonwealth, as often as they fhall be found in default of the execution of the faid act; and on tuch default of the juffices and theriff, under fheriff, or ferjeant, a committion fhall go from the General Court at the inftance of the party grieved, to enquire as well of the truth of the cafe, and of the original matter for the party complainant, as of the default or defaults of the faid juffices, fheriff; under fheriff, or ferjeant, in this behalf fuppofed, to be directed to fufficient and indifferent perfons at the nomination of the Judges; and the faid commitfioners prefently fhall return into the General Court the inquefts and matters before them in this behalf taken and found: But no perfons convicted of a riot, rout, and unlawful affembly, fhall be imprifoned for fuch offence by a longer (pace of time than one year. Perfons legally convicted of a riot, rout, or unlawful affembly, otherwile than in the manner directed by this act, fhall be punified by impriforment and amercement, at the different of a jury, under the like limitation.

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C H A P. XLIX.

An ACT forbidding and punishing AFFRAYS.

B it inacted by the General Affembly, That no man; great nor finall, of what condition fover he be, except the Minifters of Juffice in executing the precepts of the courts of juffice, or in executing of their office, and fuch as be in their company affifting them, be to hardy to come before the juffices of any court, or either of their Minifters of Juffice, doing their office, with force and arms; on pain, to forfeit their armour to the Commonwealth, and their bodies to prifon, at the pleafure 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 county, upon pain of being arrefted and committed to prifon by any Juffice on his. own view, or proof by others, there to abide for fo long a time as a jury, to be foorn for that purpole by the faid Juffice, fhall direct, and in like manner to forfeit his armour to the Commonwealth; but no perfon fhall be imprifoned for fuch offence by a longer fpace of time than one month:

CHAP. L.

An ACT, against CONSPIRATORS.

B it declared and enacted by the General Affembly, That confpirators be they that do confederate and bind themfelves by oath, covenant, or other alliance, that every of them shall aid and bear the other fallely and maliciously, to move or cause to be moved any enticement or information against another on the part of the Commonwealth, and those who are convicted thereof at the fuit of the Commonwealth, shall be punished by imprisonment and amercement, at the differentiation of a jury:

CHAP. LI.

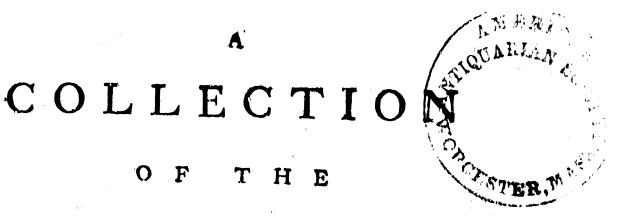
An ACT against conveying or taking PRETENSED TITLES.

 \mathbf{B}^{E} it enacted by the General Affembly, That no perfon fiall convey or take, or bargain to convey or take, any pretenfed title to any lands or tenements, unlefs the perfon conveying or bargaining to convey, or thole under whom he claims fhall have been in polleffion of the fame, or of the reversion or remainder thereof one whole year next before; and he who offendeth herein knowingly, shall forfeit the whole value of the lands or tenements; the one moiety to the Commonwealth, and the other to him who will fue as well for himfelf as for the Commonwealth : But any perfon lawfully polleffeld of lands or tenements; or of the reversion or remainder thereof, may neverthelefs take or bargain to take the pretended title of any other perfon, fo far and fo far only as it may confirm his former eftate.

CHAP. LII.

An ACT to punif BRIBERY and EXTORTION.

BE it enacted by the General Affembly, That no Treashirer, Keeper of any Public Seal, Councillot of State, Council for the Commonwealth, Judge, or Attornies at law, prashifing either in the General Court, High Court of Chancery, Court of Appeals, Court of Admiralty, or Inferior Courts, Clerk of the Peace, Shetiff, Coroner, Etcheator, nor any officer of the Commonwealth, fhall, in time to come, take, in any form, any manner of gift, brokage, or reward for doing his office, other than is, or fhall be allowed by fome act of General Affembly, palled after the Inflictution of the Commonwealth, that is to fay, after the literath day of May; in the year of our Lord, one thouland feven hundred and feventy fix; and he that doth, thall pay unto the party grieved, the treble value of that he hath received, fhall be amerced and imprifoned atthe different of a jury, and fhall be different his office forever; and he who will fue in the faid matter, ihall have fuit as well for the Commonwealth as for himfelf, and the third part of the amercement.



STATUTE

OFTHE

OF THE PARLIAMENT O.

E N G L A N D

IN FORCE IN THE STATE OF

NORTH-CAROLINA,

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

NEWBERN:

FROM THE EDITOR'S PRESS.

1792. EXHIBIT 30 (McLean)

Case 1:23-cv-00265-LEK-WRP Document 55-63 Filed 07/14/23 Page 2 of 3 PageID.1121

(60)

CHAP. VIII.

Nothing Shuli be taken for Beaupleader.

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

$\mathbf{C} = \mathbf{H} = \mathbf{A} = \mathbf{P} \mathbf{A} = \mathbf{X} \mathbf{I} \mathbf{V}$

None shall commit Maintenance.

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

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

CHAP. I.

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

[Unneceffory to be inferted.]

CHAP. III,

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

TEM, It is enacted, that no man great nor finall, of what condition focker he be, except the King's fervants in his prefence, and his Miniflers in executing of the King's precepts, or of their office, and fuch as be in their company affifting them, and also upon a cry made for arms to keep the peace, and the fame in fuch places where fuch acts happen, be to hardy to come before the King's Judices, or other of the King's (61)

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

CHAP. V.

Let a second with the

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

TEM where it was ordained by the statute of Westminster the second, that they which will deliver their writs to the Sheriff shall deliver them in the full county, or in the rere county, and that the Sheriff or Under-Sheriff shall thereupon make a bill : it is accorded and established, that at what time or place in the county a man doth deliver any writ to the Sheriff or to the Under-Sheriff, that they shall receive the fame 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 faid writs, they shall be punlished after the form contained in the faid statute. And also the Justices of Affize shall have power to enquire thereof at every man's complaint, and to award damages, as having refpect to the delay, and to the loss and peril that might happen.

C H A P. VI.

Juffices shall have Power to punif Breakers of the Peace.

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

THE

STATUTES

OF

THE REALM.

PRINTED BY COMMAND

OF HIS MAJESTY

KING GEORGE THE THIRD.

IN PURSUANCE OF AN ADDRESS OF

THE HOUSE OF COMMONS

OF GREAT BRITAIN.

the first part of the second

from Original Records and Authentic Manuscripts.

VOLUME THE FIRST.

M D C C C X

REPRINTED 1963

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LONDON

EXHIBIT 31 (McLean)

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PENN STATE

A.D.1326-7.

1° EDW. III. Stat. 2. c. 15-17.

XVI.

Keepers of the Peace in each County.

shali be

cecritz de venir au Roi a force & armes, en chescun temps qils furent maundez, sur peine de vie & de membre, & de q'nt qil p'roient forfaire; p force des queux escritz plusours de la Pre ount este divsement destrutz; Le Roi eyaunt regard q tieux escritz furent faitz a deshonour du Roi, desicome chescun feust tenu de faire au Roi come a seign' lige ceo q a luy appendoit sanz escrit, Voet q tieuz escritz desormes ne soient faitz; et q ceux q sont faitz, p la veue de Chanceller & Tresorer, soient monstrez au Roi; & le Roi fra dampner ceux q sont faitz contre droit & reson. Iim pur la pees meultz garder & meyntener, le Roi veot qen chescun Countee q bones gentz & loialx,

queux ne sont mye meyntenours de malveis baretz en pays, soient assignez a la garde de la pees. Itm le Roi comaunde q les viscontes & Baillifs des franchises, & toutz autrs q pnent enditementz a lor

tourns, ou ailliours ou enditementz 'srount faitz, preig. nent tieux enditementz p roule endente dount Lune ptie demeorge vs les enditours, & lautre ptie devs cely qi prendra Lenqueste, issint q les enditementz ne soient beseleez come avant ces houres ount este, & issint q un de lenqueste peut monstrer lune ptie de lendenture a la Justice q'nt il vendra p' la delivaunce faire.

Memorand qd ista duo statuta pcedencia missa fuerunt in Hibn in forma patenti, cum quodam bri inferi⁹ seqñ.

themselves by Writing, to come to the King with Force and Arms, whensoever they should be sent for, upon Pain of Life and Limb, and to forfeit all that ever they might forfeit; by virtue of which Writings divers None shall be of this Land have been often destroyed : The King, con-sidering that such Writings were made to the King's None bound by Writing to come with 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 Arms to the King. such as be made, by the sight of the Chancellor and Treasurer, shall be shewed to the King; and the King shall cause all such as be made against Right and Reason to be cancelled.

ITEM, For the better keeping and maintenance of the Peace, the King will, that in every County good Men and lawful, which be [no Maintainers of Evil, or Barretors '] in the Country, shall be assigned to keep the

Peace. ITEM, The King commandeth, That the Sheriffs and XVII. Indictment Bailiffs of Franchises, and all other that do take Indictshall taken by ments in their Turns, or elsewhere, where Indictments ought to be made, shall take such Indicament by Roll indented, whereof the one Part shall remain with the Indent 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.

' No Maintainers of cursed Barretors MS. Tr. 2.

Be it Remembered, that the two preceding Statutes were sent into Ireland in form of Letters Patent, with a certain Writ hereunder following.2

² See Memorandum at the End of Stat. 5 Edw. III.

Anno 2° EDWARDI, III. A.D.1328.

Statutu editu apud Mozh't', anno r. B. E. t'cii post conquestu sc'do.

STATUTE made at NORTHAMPTON;

In the SECOND Year of the Reign of K. EDWARD the THIRD after the Conquest.

Ex magno Rot. Stai. in Turr. Lond. m. 28.

N re seign' le Roi Edward, le tierz aps le con-queste, a son planer queste, a son plement tenuz a Norfit as trois semeins de Pasch, Lan de son regne secund, desiraunt q la pees de sa tre, & les leis & estatuz avant ces heures ordenez & usez, soient gardez & meintenuz en touz poyntz, Al hon' de dieu & de seinte eglise, & a cõe pfit du poeple, p assent des Prelatz, Countes & Barons & autres g'ntz, & tote la cue du roialme, au dit plement somons, ordena & establit en meisme le plement les choses southescrites en la forme q sensuit. En primes q la g'nte Chartre & la Chartre de

la foreste soient tenuz en touz pointz.

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

UR 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 sum-moned to the same Parliament, hath ordained and established in the said Parliament these Things under-written, 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 encou-raged, because [the '] Charters of Pardon have been so casily granted in times pass, 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 en-couraged, because that ['the Justices of Gaol-delivery, and of Oyer and Terminer, have been procured by great Men'] against the Form of the Statute made in the xxvij year of the reign of King Edward, that

² Commissions of Gaol Delivery and of Over and Terminer bave been granted to Persons procured

1. The Charters Ħ.

for Felony.

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Driginal from PENN STATE

258

Riding or going armed in Affray of the Peace,

2° EDW. III. Stat. Northampt. c. 2—5.

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27 Ed. I. e. 3. Grandfather to our Lord the King that now is, wherein is contained, that Justices assigned to take Assises, if they be Laymen, shall make Deliverance; and if the one be a Clerk, and the other a Layman, that the Lay Judge, with another of the Country associate to him, shall deliver the Gaols: Wherefore it is enacted, That Justices of Assise such [Justices '] shall not be made against the Form of and Gaol the said Statute; and that the Assises, Attaints, and delivery. Certifications be taken before the Justices commonly assigned, which should be good Men and lawful, hav-ing Knowledge of the Law, and none other, after the Form of another Statute made in the Time of the said [King Edward the First ; 2] and that the Oyers and Ter-Oyers and miners shall not be granted but before Justices of the 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. III.

ITEM, It is enacted, That no Man great nor small, of what Condition soever he be, except the King's Ser-vants 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,3] be so hardy to come before the King's Justices, or other of the King's Ministers doing their office, with force and arms, nor bring no force in affray of the peace, nor to go nor ride armed by night nor by day, in Fairs, Markets, nor in the presence of the Justices or other Ministers, nor in no part elsewhere, upon pain to forfeit their Armour to the King, and their Bodies to Prison at the King's pleasure. And that the King's Justices in their presence, Sheriffs, and other Ministers (*) in their Baili-wicks, Lords of Franchises, and their Bailiffs in the same, and Mayors and Bailiffs of Cities and Boroughs, within the same Cities and Boroughs, and Borough Holders, Constables, and Wardens of the Peace within their Wards, shall have Power to execute this Act. And that the Justices assigned, at their coming down into the Country, shall have Power to enquire how such Officers and Lords have exercised their Offices in this Case, and to punish them whom they find that have not done that which pertained to their Office.

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 Lauds 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 Groudfather apon a Proclamation of Deeds of Arms'in time of Peace, and that in Places where such Deeds are to le done,—See Lib. Rub. Seas, Westön, fo. 122 b. a Writ reciting a Grant of K. Richard L. "qel Torncaüta simt in Angt in v, placias: In⁹ Sarī & Wilton i In⁶ Warnewich & Kenelingworth: In⁹ Stanford & Warneford : In⁶ Warnewich & Kenelingworth: In⁹ Stanford & Warneford : In⁶ Warneford : In⁹ Blic & Tykkhilt. Ita qd pax fre aire nö infringet, n' potestas Justiciaria minorabit' Nee de trestis niis däpnü inferet¹. 'of the King

nre Seign' le Roi qore est, en quele est contenuz q les Justices as assises Pndre assignez sils soient lais, facent les delivances; et si lun soit clerc, & lautre lis, q le dit lais, associe a lui un autre du pais, facent la delivance des gaols; p qoi acorde est & establi, q tids Justiceries ne soient mes g'ntees countre la forme du dit estatut, & q les assises, atteintes, & difications soient p'ses devant les Justices comunement assignez, q soient bones gentz & loialx & conissantz de la lei, & nemie autres; solonc la forme dun autre statut fait en temps meisme le ael ; et q les oiers & fminers ne soient grantees forsq, ---- devant les Justices de lun Baunk & de lautre, ou les Justices errantz ; & ce p' led & orrible tres. pas, & de lespeciale g'ce le Roi, solone forme de statut de ce ordene en temps meisme le ael; & nemie autrement.

Ensement acorde est & establi, q nul, g'nt ne petit de quele condicion qil soit, sauve les sjantz le Roi en la psence le Roi, & les Ministres le Roi, enfesantz execucion des mandementz le Roi, ou de lour office, & ceux qi sont en lour compaignies, cidantz 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 sutres Ministres le Roi enfesant lour office, a force & armes; ne force mesner en affrai de la pees, ne de chivaucher ne daler arme, ne de nuit ne de jour, en faires, marchees, nen psence des Justices, ne dautres Ministres, ne nule part aillours, sur peine de pdre lour armures au Roi & de lour corps a la prisone a la volunte le Roi. Et q Justices le Roi en lour psences, viscountes & autres Ministres le Roi en lour baillies, seign's des fraunchises & lour baillifs en yceles, & Meire & Baillifs des Citees & Burghs deinz meismes les Citees & Burghs, Burghaldres, conestables, & gardeins de la pees deinz lour gardes, eient poair affaire execucion de cest acord. Et q les Justices assignez, a lour venu en pais, eient poair denquere coment tielx Ministres & seign's ont use lour office en ce, & de punir ceux qils trovont, qi nount mie fait ce q a lour office appent.

Et p'ce \tilde{q} la pees ne poet mie estre bien garde sauntz bons ministres, come Viscountes, Baillifs, & Hundreders qi deivent faire execucion, auxibien des p'vetez le Roi come dautres choses tochantes le Roi & son poeple, acorde est & establi q lestatut fait en temps le Roi Edward, piere le Roi qore est, a Nicole, contenant q Viscontes, Hundreders & Baillifs soient des gentz eantz Pres en meismes les Countez, ou baillies, soit garde en touz pointz solone la forme dycel, & auxint q les Viscountes & Baillifs de fee, facent garder meismet lour Countez & Baillies p gentz cantz Pres en yceles.

Ensement la ou ordine est, p statut de Westmonst le secund, q ceux q liver volent lour briefs as viscountes, les livent en plein Counte, ou en rerecounte, & q visconte ou southvisconte facent sur ce bille; acorde est & establi q a quele heure ou a queu lieu deinz le Counte home livre a viscountes, ou a southviscontes, briefs, qils les resceivent & facent bille en la forme contenue en le dit estatut, & ce sanz rien p'ndre; et sils refusent de faire bille, mettent autres lour seals qi Bront Psentz; et si le Viscounte ou le Southviscounte ne retorne mie les briefs, soient puniz solone la forme contenue en le dit estatut; & jadumeins eient les Justices as assises pndre assignez poair denquer de ce a chescuny pleinte & de agarder damages, cant regard au delai, & a les ptes & pils qi p'ront avenir.

V. The Statute Westminster the Second. (3 Ldw. I. chapter 39

concerning the Delivery

of Writsto the Sheriff,

confirmed

IV.

The Statute of Lincoln, 9 Edw. 11.

concerning Sheriffs, %c.

confirmed.



A.D.1328.

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2° EDW. III. Stat. Northampt. c.6-12.

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 Wyncesti, soient tenuz & gardez en touz pointz ; ajouste au dit estatut de Wyncestr, la ou contenuz est en la fin, q Justices assignez eient poair denquere des defautes & des reporter au Roi en plement, dont home nad pas veu issue, q les ditz Justices assignez cient poair de punir les desobeissantz & contrevenantz.

Et q'nt au punissement de felonies, robies, homicides, trespas & oppssions du poeple, faitz en temps passe; acorde est q nre Seign' le Roi assigne Justices en divs lieux de sa Pre, ove le Baunk le Roi p aillours, come estoit faite en temps de son dit ael, des g'ntz de la Pre qi sont de g'nt poair, ovesqs ascuns des Justices de lun Baunk ou de lautre, ou autres sages de la lei, denquere, auxibien a seute de ptie, come a la seute le Roi, et doier & Uminer totes manies des felonies, roties, homicides, larcins, oppssions, conspiracies, & grevances faitz au poeple, countre la lei, Les estatuz & la custume de la Pre, auxibien p ministres le Roi come pautres, qi qils soient, & ce auxibien dedeinz fraunchises come dehors. Et auxint denquere des Viscontes, Coroners, Southeschetours, Hundreders, Baillifs, Conestables, & touz autres Ministres deinz franchise & dehors, & lour southministres, & doier & miner a la seute le Roi & de ptie. Et nre Seign' le Roi & touz les g'ntz du Roialme en plein plement ont empris de meintenir la pees, garder & sauver les 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 sront p cux covitz ne meintenuz en p've nen apt : Mes nest pas lentencion du Roi ne de son conseil q p ceste acord Pjudice aveigne a les g'ntz de la Pre, eantz franchises, ne a la Citee de Loundres, ne as autres Citees ne Burghs, ne a les Cynkportz en droit de lour fraunchises.

Ensement acorde est & establi q mande ne soit, p le g'nt seal ne p le petit seal, a destourber ou delayer cue droit; & mesq, tielx mandementz veignent q p tant les Justices ne s'sessent pas de faire droit en nul point.

Ensement est acorde & establi q les estaples p decea & p delaa, ordeinez p les Rois en temps passe, & les peines sur ce ordeinees, cessent ; & q touz marchantz aliens & p'veez peussent aler & venir od lour marchandises en Engletre, solonc la tenour de la g'nte Chartre; & q s' ceo briefs soient mandez a touz les viscontes Dengle-Pre & as Meires & baillifs des bones villes ou mestier Bra.

Ensement come le Roi Edward, piere le Roi qore est, pdona a son poeple amciementz & issues forfaitz, jesqs al vintisme an du regne son piere ael le Roi quore est, le Roi p' ces de son poeple ad pdone touz les fins q ont este faitz en Chauncellerie p' briefs avoir, tang, al vintisme an avantdit.

Et p' ce q p remuement du coe Bank les pleez bien sovent ont demore saunz jour, a g'ntz damage, & en pil de destitance des pluseurs; acorde est & establi q desore en avant les Justices, avant ce q le Bank se remuera, soient garniz p temps, issint queux peussent ajorner les ptics si p temps qeles ne pdent mie lour pces.

Et come touz les Countez Denglerre furent auncienement assis a éteine ferme, & adonqs furent touz les Hundredz & les Wapentakes, en les meins des viscountes, aporcionez a cele ferme, et puis furont approwours mandez en divs Contez, les queux encrustrent les fermes dascuns Hundredz & Wapentakes, et puis les Rois en divs temps out g'niez as dive gentz pues des Hundredz & Wapentakes, p' les auncienes fermes tantsoulement, & jatardeis les viscountes sont chargez entierment del

ITEM, As to the keeping of the Peace in Time to come, It is ordained and enacted, that the Statutes made in Time past, with the Statute of Winchester, shall be observed and kept in every point; [and where it is contained in the End of the said Statute of Winchester,] that the Justices assigned shall have power to enquire of Defaults, and to report to the King in his Parliament, [and the King to remedy it,'] which no Man hath yet seen (3) 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 else-where,'] as it was done in the Time of his said Grandgreat father, 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,⁶] Hun-dreders, 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 Com-mandments do come, the Justices shall not therefore Commands shall not be in delay of Justice 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 All Staple fhall cease. 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 Amercia-Pardon of ments, that were forfeit till the twenty year of the Fines for Writs in Reign of his Father, Grandfather to the King that now Chancery. is: The King for ease of his People, hath pardoned all the Fincs 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 XI. The Commo great hurt, and peril of Disherison of divers; It is Bench not to be remo without enacted, That from henceforth the Justices before that the Common Bench be removed, shall be warned by a Warning. 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 XII. old Time assessed to a certain Ferm, and then were all the Hundreds and Wapentakes in the Sheriffs Hands Hundreds and Wapontakes shall be rated to this Ferm; and after were Approvers sent into divers Counties, which did increase the Ferms of some annexed to Counties, and not let to 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 Ferms only; Ferm. and now late the Sheriffs be wholly charged of the

add to the said Statute of Winchester, where it is contained at the ena

add 10 the runs thereof Not in the Original. * with the King's Bench besides, * with the King's Bench besides, * or * add some the King's Junices with i to maintain the power, to kep and some the King's Junices with power they came, and to aid by themselves, and theirs, that the Judgen s the effect of that or Sub-Eschediors

VL. The Statute of Wynton, 13 Edw. I. airmed

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VII Justice assigned to enquire of Felonies, Robberies

VIII

IX

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2° EDW. III. Stat. Northampt. c. 12-16.

Increase, which amounteth to a great Sum, to the great hurt of the People, and Disherison of the Sheriffs and their Heirs: It is ordained, That the Hundreds and Wapentakes let to Ferm by the King that now is, be it for Term of Life or otherwise, which were sometimes annexed to the Ferms of the Counties where the Sheriffs be charged, shall be joined again to the Counties; and that the Sheriffs and their Heirs have Allowance for the Time that is past; and that from henceforth such Hundreds and Wapentakes shall not be given nor severed from the Counties.

XIII. ITE Trespass shall b in the late Edwar King's Time. done in

XIV. Measure and Assise of Cloths imported. ITEM, It is accorded and enacted, that like process shall be made of Trespass done in the Time of King Edward, father to the King that now is, as of Trespass done in the Time of the King that now is.

ITEM, It is enacted by our Sovereign Lord the King, and his Council, that from the Feast of Saint Michael, next coming forward, all Cloths in such Places where they shall be put to Land, shall be measured by the King's Aulnegeours in the presence of the Mayor and Bailiffs, where there is a Mayor, and where no Mayor is, in presence of the Bailiffs of the same Places; that is to say, the Length of every Cloth of Ray, by a Line of seven Yards, four times measured by the List, and the Breadth of every Ray Cloth six Quarters of measure by the Yard; and of coloured Cloths the Length shall be measured by the Back, by a Line of six Yards and a half, four times measured, and the breadth six Quarters and an half measured by the yard without defoiling '] the Cloths; and that the Mayor and Bailiffs where a Mayor is, or the Bailiffs where no Mayor is, of the Towns or Places where such Cloths shall come, shall be ready to make Proof what time they shall be required by the Meter, without taking any thing of the Merchants; and Cloths which be of the said 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 morrrow after the Feast of Saint Michael, for to charge the said Aulnegeour; and at the same time shall the Aulnegeour be put to answer at the Ex-chequer 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.

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 other-wise, 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.

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 luquests and Juries, which be and shall be hereafter taken, requiring no great Examination, 'defouling MS. 7r. 2.—some old Printed Copies read "marring." encrees q amount a g'nte sume, a g'nt damage du poeple & deshitance de viscountes & de lour heire; a corde et & establi q des Hundredz & Wapentakes baillez a ferme p le Roi qore est, soit il a 'ime de vie ou autrement, q auncienement furent annex as fermes des Countez, ou les viscontes sont chargez, soient rejointz as Countez, et q de temps passe eient les viscountes ou lour heires allowance; & q desore en avant teux Wapentakes, ne Hundredz ne soient donez ne sevez des Countez,

Ensement est acorde & establi q a tieu pces suit fait des trespas fait en temps le Roi Edward, piere le Roi qore est, come de de trespas fait en temps le Roi qore est.

Ensement est acorde & establi p nie Seign' le Roi & son conseil, q de la seint Michel pschein arenir en avant, touz les draps es lieux ou ils sront mis a Pre, soient aunez p le auneour le Roi, en prence des Meire & Baillifs ou Meire y est, ou des baillifs ou meire nyest, de meisme les lieux; cest assavoir la longure de chescun drap de Raye p une corde de sept aunes quatrefoitz mesure p le list, & la laoure de chescun drap de Reye sis q'rters de lee, mesure p laune; et de draps de colour la longure soit mesure p le dos p un corde de sis aunes & demi q'tre. foitz mesure; & la laoure sis quarts & demi mesure o laune sanz defoler les draps; et q Meire & Baillifs ou Meire y est, ou Baillifs ou Meire nest pas, des villes ou lieux ou les draps vendront, soient pstz a lassai faire, quele heure qils soient requis p launeour, saunz rien pndre des marchauntz; et q touz les draps q front trovez de la dite assise, soient michez auxibien p Meire & Baillifs ou Meire y est, ou p baillifs ou Meire nest pas, come p launeour, et les draps q ne front pas trovez de lassise avantdite, soient forfaitz au Roi, & p'sez a la Preie value, en psence des ditz Meire & Baillifs, & demoergent devs launeour p endenture entre eux faite, a respondre des ditz draps issint forfaitz au Roi; et q les ditz Meire & Bailiffs, les endentures issint faites de tieux draps forfaitz, facent liver chescun an a Lescheqr a lendemeyn de Seint Michel, p' charger le dit auneour; & a meisme le temps soit le dit auneour a Lescheqr a respondre des dites forfaitures. Et est lentencion de nre dit Seign' le Roi & de son conseil q cest acord se tiegne des draps q vendront en la tre ap's la dite feste de Seint Michel; & q cest acord soit publie & crie p tout le Roialme, Issint q les Marchauntz ne p'vez nestraunges soient supp's p meisme lacord.

Ensement est acorde & establi q maunde soit a touz les viscountes Dengletre, & p aillours ou mestier sra, a crier & publier, deinz f'unchises & dehors, q touz les Seign's q feires enount, soit il p' cheine ferme ent rendant au Roi, ou autrement, les tiegnent p' le temps qils devont, & nemie outre; cest asavoir ceux qi les ount p chres des Rois p' les temps a eux g'unter p les dites chires; et ceux qi les ount sanz chire p' temps queux ils les deivent tenir de droit. Et q chescun Seign' au comencement de sa feire face crier & publier en ycele come longement sa feire se tendra, Issint q les Marchantz ne secssent es dites feires outre le temps issint publicz, sur peine destre grevement puniz devs le Roi; ne q les ditz Seign's outre les droitz temps les tiegnent, sur peine apndre les feires en la meyn le Roi, a demorer tangils eient fait fia au Roi p' le trespas, aps ceo q trove sra duement qe les Seign's les ount tenuz plus longement qils devont, ou q les marchauntz ount sis outre le temps issint publiez & crizz.

Et come en un estatut fait a Evwyk, en temps le piere nre Scign' le Roi Gore est, soit contenuz q les enquestes & jurees qe sont & sront apadre, q ne sont mie de g'nt examinement, soient p'ses derant

XVI. See Stat. 11 Edw. II.

XV.

Keeping of Fain, for the Time

limited by

Charter, &c.

j)]

2° EDW. III. Stat. Northampt. c. 16, 17.

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XVII.

un Justice de la place ou la plee est, associe a lui un pdhome du pais, Chivaler ou autre, issint q 2tein jour soit done en Bank, & ctein jour & lieu en pais en psence de pties, si le demandant le p'e; & auxint les enquestes & jurces en plee de Pre, qe demandent g'nt examinement, soient p'ses en pais en la forme susdite devant deux Justices du Bank : acorde est & establi q totes tiels enquestes, q sont ou en temps avenir a pndre Bront, en plee de tre, soient p'ses auxibien a la p'ere le tenant come le demandant; tout lautre pces acorde en dit estatut, en tieu cas sauve & garde.

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

Be Vič Norfit, saltm. Quoddam statutū p nos & conciliù nrm in pleno pliamento nro apud Norhamptoñ convocato, ad emendacoem stat9 populi regni nri, editū, sigillo nro consignatū tibi mittim⁹; mandantes qd statutu illud, & omes articulos in eo contentos, in pleno Com tuo & in Civitatib3, Burgis, villis mcatoriis, & aliis locis in balliva tua ubi expedire videris, tam infra libtates q'm ext", legi & publice pclamari & observari fač. T.R. apud Norht xxii die Junii.

Eodem modo mand est singulis vicecomitib3 p Angl. Memorand od istud statutum missum fuit in Hibn in forma patenti cum quodam bri inferius seqn.

shall be taken before one Justice of the Place where the Plea is, adjoining to him one discreet Man of the Country, Knight, or other, so that a certain Day be given in the Bench, and a certain Day and Place in the Country, in the presence of the Paries, if the Demandant pray the same; and also the Inquests and Juries in Place Inquesta in the Country shall be granted on Request of the Tenant. of Land, which require great Examination, shall be taken in the Country in the said Form before Two Jus-tices 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 Gar-Writ of Deceit. nishment is given, as in case of Summons in Plea of Land. [Dated at Northampton.]

The King to the Sheriff of Northampton, Greeting. A certain Statute, by Us and our Council, in our full Parliament called at Northampton, for the Amendment of the State of the People of our Realm, set forth, We do send to you under our Seal; Commanding that the same Statute, and all the Articles therein contained, in your full County Court, and in the Cities, Boroughs, Market Towns, and other Places in your Bailiwick, where you shall see meet, as well within Liberties as without, you do cause to be read and to be publicly proclaimed and observed. Witness the King at Northampton the twenty-second day of June.

In the same manner it was commanded to the several Sheriffs throughout England.

Be it Remembered, that this Statute was sent into Ireland, in form of Letters Patent with a certain Writ hereunder following." ' See Memorandum at the end of Stat. 5 Edw. III.

Anno 4° EDWARDI, III. A.D.1330.

Statutu editu apud Mestm, anno regni B. C. t'cii post conquest' quarto.

STATUTE made at WESTMINSTER;

In the FOURTH Year of the Reign of K. EDWARD the THIRD after the Conquest.

Ex magno Rot. Stat. in Turr. Lond. m. 27.

U Parlement somons a Westmostier, le Lundy A pscheyn aps la feste de Seinte Katine, lan du regne nie Seign' le Roi Edward, tierz aps le Conquest, quart, Si sont les choses soutzescriptes, a la requeste de la Comunalte, assentuz & acordez p nre Seign' le Roi, Prelatz, Countes, Barons, & autres g'ntz de mesme le plement, les queux choses nre Seign' le Roi voet qen touz les Counteez de Engletre soient mandez, a publier & formement garder.

Adep'mes acorde est q la G'nde Chartre & la Chartre de la Foreste, & les estatuz faitz en temps des pgenitours nie Seign' le Roi, & auxint en son temps demeigne, soient gardez & meyntenuz en touz pointz.

Ensement est acorde q bones gentz & sages, autres q des places si home les puisse trover suffisantz, soient assignez en touz les Counteez Denglettre apadre les assises, jureez & Rificacions, & a deliver les gaoles; et q les ditz Justices preignent les assises, jurces, & Etificacions, & delivent les gaules, au meyns troiz foitz p an, & plus sovent si mestier Bra, & soient auxint assignez

T the Parliament, summoned at Westminster, the A T the Parliament, summoned at Westminster, the Monday next after the Feast of Saint Katherine, in the Fourth Year of the Reign of King Edward, the Third after the Conquest, these Things underwritten, at the request of the Commons be established and enacted by our Lord the King, his Prelates, Earls, and Barons, and other (') of the same Parliament ; which Things our Lord the King will (1) to be published, and surely ob-served 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 suf-ficient, 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

* that they be read

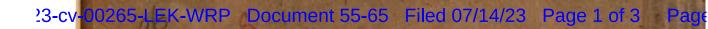
s great men

Charters and Statutes confirmed.

II. Justices of Assise, Gaol-delivery, and Justices of the Prace



Driginal from PENN STATE



101110

GENERAL DIGEST

OF THE

ORDINANCES AND RESOLUTIONS

OF THE

Corporation of New=Orleans.

MADE BY ORDER OF THE CITY COUNCIL. BY THEIR SECRETARY, D. AUGUSTIN, ESQ. COUNSELLOR AT LAW.

PRINTED BY JEROME BAYON, 2.5 % CORNER OF CHARTRES AND FT. LOUIS STREETS.

1831.

EXHIBIT 32 (McLean)

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THEATRES AND BALLS.

trate invited by the Mayor to replace him thereto in case of his absence. Provided that the place so reserved for the Mayor or other persons sent in his place shall be furnished without said managers being entitled to any compensation, and they shall adhere to this condition before obtaining a license to open their theatres.

ART. 14. The Mayor, as often as he may deem it necessary, shall examine whether the theatres, places of public resort be constructed with the requisite solidity, and carefully kept in repair, so that the public may assemble there without danger; and he shall take suitable measures to prevent the accidents that might result from any negligence in that respect on the part of the proprietors, tenants or other persons having the management or direction of the said theatres, places of public spectacles, or other places of public resort.

ART. 15. The manager, acting manager or other person having the management or direction of a theatre, shall place and constantly keep, within the play-house, several large tubs, and at least one fire-engine in good repair, which must be filled on days of performance; and on failure of complying with this requisite, and until the manager shall have complied with it, the Mayor shall order the theatre to be and remain shut up.

ART. 16. By virtue of the powers granted by law to the Mayor and City Council, the Mayor shall cause to be shut up any place of public resort, whenever the maintenance of order, the public safety or tranquillity may require it.

Approved, June 8, 1816.

An Ordinance respecting public Balls. THE CITY COUNCIL ORDAINS AS FOLLOWS :

ART. 1. It shall not be lawful for any person to enter into a public ballroom with any cane, stick, sword or any other weapon, and every person having either a cane, stick, sword or any other weapon, shall, before he enter the ball-room, deposite the same at the office which shall be at the door of the entrance of said ball-room, where there will be a person appointed to receive and take care of such articles which he shall carefully keep, affixing to each article a number, a check of which he shall give to the owner; and said articles shall not be returned to the persons respectively depositing them, until said persons are quitting the balls and produce their checks.

ART. 2. Every person entering in any public ball-room, in contravention to the above provision, shall pay a fine of five dollars; and every person giving a public ball without having previously established an office at the door of the entrance of said ball-room, and without appointing a person to receive and take care, in the manner aforesaid, of the articles before mentioned shall pay a fine of twenty-five dollars, and if the offence is repeated, the offender shall forfeit the right to hold any further permission to give such public balls.

THEATRES AND BALLS.

ART. 3. Every person who shall commit any disorder, tumult, violence, insult, indecency, or shall commit an assault or battery in a public ball-room shall be taken before the Mayor, or any other justice of the peace, to be dealt with according to law.

ART. 4. Any person giving a public ball, who shall prolong the duration of the same beyond the hour fixed by the license or permit which he must obtain, for this purpose, of the Mayor of this city, shall pay a fine of twenty-five dollars, for each and every offence.

Approved October 27, 1817.

An Ordinance to authorize the Mayor to appoint constables for the police of the theatres, public exhibitions and balls.

THE CITY COUNCIL ORDAINS AS FOLLWS :

ART. 1. The Mayor shall nominate and appoint a sufficient number of men tobe constables, and to form, under that denomination, a guard for the theatres, public exhibitions and balls, in order there to receive and execute the orders and directions of the Mayor, or of the commissaries of police, as to what concerns the maintenance of good order in the aforesaid premises : provided always, that the said constables shall be employed as a guard only at authorised theatres, spectacles and balls, and that their number shall not exceed five men for each of said theatres, exhibitions and balls.

ART. 2. The constables on guard at said theatres or exhibitions, shall be paid by the managers, acting-managers or other persons having the direction of the exhibition, at the rate of one dollar for each constable, every time of performance; and every constable on duty at a ball, shall be entitled to require from the person keeping such balls, the said compensation of one dollar, when the ball ends at midnight, and that of two dollars in case of any ball authorised for a later hour of the night.

ART. 3. In no case shall the above mentioned service be at the expense of the city, nor shall any of the men composing the city guard, be employed on that duty, unless in case of any disturbance breaking out in any of the aforesaid places, and then only till tranquillity be restored.

ART. 4. All persons are forbidden to oppose or obstruct any of the aforesaid constables in the legal execution of his office, or to utter against them invectives or opprobrious language in the discharge of their duty; and every person herein offending, shall pay a fine of from ten to fifty dollars for every such offence.

Approved, November 5, 1817.

An Ordinance laying a tax on public balls and public exhibitions.

THE CITY COUNCIL ORDAINS AS FOLLOWS :

ABT. 1. It shall not be lawful for any person to give any public ball, either to white persons or free persons of colour, at any place within the extent of the city, or to exhibit any inferior spectacle where the public are admitted for money, such as a circus, for equestrian exhibitions, panoramas, :23-cv-00265-LEK-WRP Document 55-66 Filed 07/14/23 Page 1 of 3 Pagel

ACTS

OF THE

STATE OF TENNESSEE,

PASSED BY THE FIRST SESSION OF

THE THIRTY-SIXTH GENERAL ASSEMBLY

FOR THE YEARS 1869-70.

PUBLISHED BY AUTHORITY.

NASHVILLE, TENN.: JONES, PURVIS & CO., PRINTERS TO THE STATE. 1870.

EXHIBIT 33 (McLean)

:23-cv-00265-LEK-WRP Document 55-66 Filed 07/14/23 Page 2 of 3 Pagel

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CHAPTER XXI.

AN ACT to Amend An Act, passed on the 13th of March, 1868, entitled "An Act to amend the revenue laws of the State."

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That An Act to amend the revenue laws of the State, passed on the 13th day of March, 1868, Hotels and be so amended as to impose a tax of fifty cents on each Livery Stable room except two in a hotel or tavern, and a tax of fifty cents on each stall in a livery stable, or stable kept by hotel or tavern keepers, instead of one dollar, as now imposed by law.

SEC. 2. Be it further enacted, That this Act take effect from and after its passage.

W. O'N. PERKINS, Speaker of the House of Representives. D. B. THOMAS, Speaker of the Senate.

Passed November 27, 1869.

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CHAPTER XXII.

AN ACT to Amend the Criminal Laws of the State.

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That all voters in this State shall be To vote in required to vote in the civil district or ward in which they or Ward. may reside. Any person violating this Act shall be guilty of a misdemeanor, and upon conviction thereof shall not be fined less than twenty nor more than fifty dollars; Provided, that sheriffs and other officers holding elections shall be permitted to vote at any ward or precinct in which they may hold an election.

SEC. 2. Be it further enacted, That it shall not be lawful for any qualified voter or other person attending any election in this State, or for any person attending any fair, Deadly race course, or other public assembly of the people, to carry Weapons. about his person, concealed or otherwise, any pistol, dirk, bowie-knife, Arkansas tooth-pick, or weapon in form, shape :23-cv-00265-LEK-WRP Document 55-66 Filed 07/14/23 Page 3 of 3 Pagel

 $\mathbf{24}$

or size, resembling a bowie-knife, or Arkansas tooth-pick, or other deadly or dangerous weapon.

SEC. 3. Be it further enacted, That all persons convicted under the second section of this Act shall he punished by fine of not less than fifty dollars, and by imprisonment, or both, at the discretion of the Court.

SEC. 4. Be it further enacted, That no liquor shop in Liquor Shops. this State, shall be kept open on election days, nor shall any person, on said days, give or sell intoxicating liquors to any person for any purpose at or near an election ground.

SEC. 5. Be it further enacted, That the grand juries of Grand Juries. this State shall have inquisitorial powers concerning the commission of the offenses created by these Acts, and may send for witnesses, as in cases of gaming, illegal voting, tippling and offenses now prescribed by law.

> SEC. 6. Be it further enacted, That it shall be the duty of the Circuit and Criminal Judges of this State to give the above in special charge to the several grand juries of the courts.

> SEC. 7. Be it further enacted, That there shall be no property exempt from execution for fines and costs for this offense; Provided, That, if from any cause, there should be a failure to hold an election in any civil district or ward, then nothing in this Act shall be so construed as to prevent any voter from voting in any other civil district or ward in his county or town, for State or county officers, at the time prescribed by law.

> SEC. 8. Be it further enacted, That this Act shall take effect from and after its passage.

W. O'N. PERKINS.

Speaker of the House of Representatives.

D. B. THOMAS, Speaker of the Senate.

Passed December 1, 1869.

Judges.

Penalty.

Proviso.

:23-cv-00265-LEK-WRP Document 55-67 Filed 07/14/23 Page 1 of 3 Pagel

ACTS AND RESOLUTIONS

OF THE

GENERAL ASSEMBLY

OF THE

STATE OF GEORGIA,

PASSED IN ATLANTA, GEORGIA,

AT THE

SESSION OF 1870.

COMPILED AND PUBLISHED BY AUTHORITY.

ATLANTA, GEORGIA: PRINTED BY THE PUBLIC PRINTER. 1870.

EXHIBIT 34 (McLean)

:23-cv-00265-LEK-WRP Document 55-67 Filed 07/14/23 Page 2 of 3 PageI

PUBLIC LAWS.—PENAL CODE—AMENDMENTS TO.

To preserve the peace and harmony of the people of this State, etc.

TITLE XVI.

PENAL CODE-AMENDMENTS TO.

SECTIONS.

SECTIONS.

- 1. Carrying deadly weapons to certain places prohibited.
- 2. Violation-misdemeanor-penalty.
- 3. Chain-gang punishment prohibited.
- 4. Punishment in lieu of chain-gang.
- 5. Section 415 of the Code changed nolle prosequi.
- 6. All indictments, etc., submitted to a jury.

(No. 285.)

An Act to preserve the peace and harmony of the people of this State, and for other purposes.

SECTION 1. Be it enacted, etc., That, from and immediately after the Carrying passage of this act, no person in said State of Georgia be permitted or allowed to carry about his or her person any dirk, bowieted or allowed to carry about his or her person any dirk, bowietain places knife, pistol or revolver, or any kind of deadly weapon, to any court of justice, or any election ground or precinct, or any place of public worship, or any other public gathering in this State, Exception. except militia muster-grounds.

SEC. 2. Be it further enacted, That if any person or persons shall Violation a violate any portion of the above recited section of this act, he, or penalty she or they shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty nor more than fifty dollars for each and every such offense, or imprisonment in the common jail of the county not less than ten nor more than twenty days, or both, at the discretion of the court.

SEC. 3. All laws and parts of laws militating against this act are hereby repealed.

Approved October 18, 1870.

(No. 286.)

An Act to alter and amend section 4245 of Irwin's Revised Code, by striking out of said section the words "to work in a chain-gang on the public works," and for other purposes.

SECTION 1. Be it enacted, etc., That the words "to work in a chain-gang chain-gang on the public works," which occur in fourth and fifth punishment lines of section 4245 of Irwin's Code, be, and the same are hereby,

To repeal Section 415 of the Revised Code.

stricken from said section, and chain-gangs shall no longer exist, or be tolerated in the State of Georgia, for persons convicted of misdemeanors.

SEC. 2. Be it further enacted, That said section be further amend-Punishment ed, by substituting for the words herein stricken out, the words in lieu of "to work on the city or town streets, or county roads, not longer than six months; but in no case shall such prisoners be chained or otherwise confined in a gang, but shall be guarded."

SEC. 3. Be it further enacted, That all laws and parts of laws in conflict with this act be, and they are hereby, repealed.

Approved October 27, 1870.

(No. 287.)

An Act to repeal section four hundred and fifteen (415) of Irwin's Revised Code, in relation to entering nolle prosequis, and to prescribe the mode of settlement in criminal cases.

SECTION 1. Be it enacted, etc., That section four hundred and Section 415 fifteen (415) of Irwin's Revised Code of Georgia, which said section of Code, as authorizes Solicitors-General in this State to enter a nolle proseequi, repeal qui on indictments, be, and the same is hereby repealed, and no ed.

nolle prosequi shall be allowed, except it be in open court, for some fatal defect in the bill of indictment, to be judged of by the court, Judge shall in which case the presiding Judge shall order another bill of inorder see dictment to be forthwith submitted to the grand jury.

SEC. 2. And be it further enacted by the authority aforesaid, That All indict- all cases of indictments, or special presentments, shall be submitmitted to ted to and passed upon by the jury, under the direction of the presiding Judge, unless there is a settlement thereof between the settle prosecutor and defendant, which settlement shall be good and

ment-when valid only by the approval and order of the court on examination into the merits of the case.

SEC. 3. And be it further enacted, etc., That all laws and parts of laws conflicting with this act be, and the same are hereby, repealed.

Approved October 28, 1870.

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GENERAL LAWS

OF THE

TWELFTH LEGISLATURE,

OF THE

STATE OF TEXAS.

CALLED SESSION.

BY AUTHORITY.



A U S T I N : PRINTED BY TRACY, SIEMERING & CO. 1870.

EXHIBIT 35 (McLean)

1 ...

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GENERAL LAWS.

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CHAPTER XLVI.

AN ACT REGULATING THE RIGHT TO KEEP AND BEAR ARMS.

SECTION 1. Be it enacted by the Legislature of the State of Texas, That 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 bowieknife, dirk or butcher-knife, or fire-arms, whether known as a six shooter, gun or pistel 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 oceasions in discharge of dutics imposed by law.

SEC. 2. That this act take effect and be in force in sixty days from the passage thereof.

Approved August 12, 1870.

CHAPTER XLVII.

AN ACT AUTHORIZING THE GOVERNOR TO ORDER AN ELECTION TO BE HELD IN HILL COUNTY FOR THE PERMANENT LOCATION OF THEIR COUNTY SEAT.

SECTION 1. Be it enacted by the Legislature of the State of Texas, That the Governor of the State of Texas be, and is hereby authorized to order an election to be held in the county of Hill, on the second Monday in September, A. D. 1870, (or as soon thereafter as possible), for the permanent location of the county seat of the :23-cv-00265-LEK-WRP Document 55-69 Filed 07/14/23 Page 1 of 3 PageI

LAWS OF MISSOURI.

GENERAL AND LOCAL LAWS

PASSED AT THE

REGULAR SESSION

OF THE

TWENTY-EIGHTH GENERAL ASSEMBLY,

EEGUN AND HELD AT

THE CITY OF JEFFERSON, WEDNESDAY, JANUARY 6, 1875.

BY AUTHORITY.



JEFFERSON CITY: REGAN & CARTER, STATE PRINTERS AND BINDERS. 1875.

EXHIBIT 36 (McLean)

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GENERAL LAWS.

same is hereby amended so as to read as follows: Section 56. Every person who shall willfully and maliciously break, destroy or injure the door or window of any dwelling house, shop, store, or other house or building, or sever therefrom, or from the gate, fence or inclosure, or any part thereof, any material of which it is formed, or sever from the freehold any produce thereof, or anything attached thereto, or pull down, injure or destroy any gate, post, railing or fence, or any part thereof, or cut down, lap, girdle, or otherwise injure or destroy any fruit or ornamental or shade tree, being the property of another, or who shall cut down, lap, girdle, or otherwise injure or destroy any ornamental or shade tree standing or growing on any common or public ground, or any street, alley, sidewalk or promenade, or who shall, without the consent of the owner, cut down, destroy or carry any timber or trees whatsoever, being on any land not his own, and not the property of the United States, or who shall buy or in any way receive any timber, wood or trees that shall have been cut down upon or carried away from the lands of another, without the consent of the owner thereof, knowing the same to have been so cut down or taken away as aforesaid, or who shall willfully break, destroy or injure any goods, wares, merchandise or other personal property of another, shall, upon conviction, be adjudged guilty of a misdemeanor.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved March 18, 1875.

CRIMES AND PUNISHMENTS: CARRYING CONCEALED WEAPONS.

AN ACT to prevent the carrying of weapons in public assemblies of the people, and to repeal "An act to prevent the carrying concealed weapons," approved March 26, 1874.

SECTION

1. General provisions; penalty.

2. Inconsistent act repealed.

SECTION 3. Act to take effect.

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Re it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Whoever shall, in this state, go into any church or place where people have assembled for religious worship, or into any school room, or into any place where people be assembled for educational, literary or social purposes, or to any election precinct on any election day, or into any court room during the sitting of court, or into any other public assemblage of persons met for other than militia drill, or meetings called under the militia law of this state, having upon or about his person any kind of fire arms, bowie knife, dirk, dagger, slung shot, or other deadly weapon, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail not to exceed six months, or by a fine not less than ten nor more than one hundred dollars, or by both such fine and imprisonment: Provided, That this act shall not apply to any person whose duty it is to bear arms in the discharge of duties imposed by law.

SEC. 2. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

This bill having remained with the Governor ten days (Sundays excepted), and the General Assembly being in session, it has become a law this thirtieth day of March, A. D. eighteen hundred and seventy-five.

MICH'L K. McGRATH, Secretary of State.

ELECTIONS: REGULATING BALLOTS, POLL-BOOKS, ETC.

AN ACT to amend sections 14 and 17 of chapter 2 of the General Statutes of Missouri, relating to elections, the same being sections 14 and 17 of chapter 51 of Wagner's Statutes.

SECTION

1. Ballots, how prepared.

2. Ballots, how to be counted.

SECTION 3. Inconsistent acts repealed. 4. Act to take effect.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. That section fourteen of the above recited act be amended so as to read as follows: Section 14. Each voter at any election shall, in full view, deliver to one of the judges of election a single ballot, which shall be a piece of white paper, on which shall be written or printed the names of the persons voted for, with a designation of the office which he or they may be intended to fill: *Provided*, That in counties having a population of one hundred thousand and over, said ballot shall not bear upon it any device whatever, nor shall there be any writing or printing thereon, except the names of persons, and the designations of the office to be filled, leaving a margin on either side of the printed matter for substituting names. Each ballot may bear a plain written or printed caption thereon, composed of not more than three words, expressing its political character, but on all such ballots the said caption or headlines shall not, in any manner, be designed to mislead the voter as to the name or names thereunder. Any ballot not conforming to the provisions of this act shall be considered fraudulent, and the same shall not be counted.

SEC. 2. That section seventeen of the above recited act be amended so as to read as follows: Section 17. After the poll books are signed in the manner hereinafter provided in the form of the pollbooks, the ballot boxes shall be opened and the tickets shall be taken Pagel

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SESSION LAWS

OF THE

FIFTEENTH

•

LEGISLATIVE ASSEMBLY

OF THE

TERRITORY OF ARIZONA.

SESSION BEGUN ON THE TWENTY-FIRST DAY OF JANUARY, A. D. 1889.

EXHIBIT 37 (McLean)

CERTIFICATE.

TERRITORY OF ARIZONA, SS

I, Charles M. Bruce, Secretary of the Territory of Arizona, do hereby certify that the Acts herein contained of the Fifteenth, Sixteenth, Seventeenth, Eighteenth and Nineteenth Sessions of the Legislative Assembly of Arizona are printed and bound as required by Section 1 of an Act of the Nineteenth Legislative Assembly of Arizona, entitled: An Act Providing for the Printing of the Session Laws of the Territory of Arizona, and approved the 18th day of March, A. D. 1897.



Witness my hand and Seal of the Territory of Arizona, given at Phoenix, this twenty-first day of April, A. D. Eighteen Hundred and Ninety-Seven.

> CHARLES M. BRUCE, SECRETARY OF ARIZONA.

Entered according to Act of Congress in the year 1897, By the Territory of Arizona, In the office of the Librarian of Congress, at Washington. 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

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LAWS OF ARIZONA.

or policeman, or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one's own premises or place of business, nor to persons traveling, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack upon legal process.

SEC. 3. If any person shall go into any church or religious assembly, any school room, or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into a ball room, social party or social gathering, or to any election precinct on the day or days of any election, where any portion of the people of this Territory are collected to vote at any election, or to any other place where people may be assembled to minister or to perform any other public duty, or to any other public assembly, and shall have or carry about his person a pistol or other firearm, dirk, dagger, slung shot, sword cane, spear, brass knuckles, bowie knife, or any other kind of a knife manufactured and sold for the purposes of offense or defense, he shall be punished by a fine not less than fifty nor more than five hundred dollars, and shall forfeit to the County the weapon or weapons so found on his person.

SEC. 4. The preceding article shall not apply to peace officers, or other persons authorized or permitted by law to carry arms at the places therein designated.

SEC. 5. Any person violating any of the provisions of Articles 1 and 3, may be arrested without warrant by any peace officer and carried before the nearest Justice of the Peace for trial; and any peace officer who shall fail or refuse to arrest such person on his own knowledge, or upon information from some credible person, shall be punished by a fine not exceeding three hundred dollars.

SEC. 6. Persons traveling may be permitted to carry arms within settlements or towns of the Territory for one-half hour after arriving in such settlements or town, and while going out of such towns or settlements; and Sheriffs and Constables of the various Counties of this Territory and their lawfully appointed deputies may carry weapons in the legal discharge of the duties of their respective offices.

SEC. 7. It shall be the duty of the keeper of each and every hotel, boarding house and drinking saloon, to keep posted up in a conspicuous place in his bar room, or reception room if there be no bar in the house, a plain notice to travelers to divest themselves of their weapons in accordance with Section 9 of this Act, and the Sheriffs of the various Counties

LAWS OF ARIZONA.

shall notify the keepers of hotels, boarding houses and drinking saloons in their respective Counties of their duties under this law, and if after such notification any keeper of a hotel, boarding house or drinking saloon, shall fail to keep notices posted as required by this Act, he shall, on conviction thereof before a Justice of the Peace, be fined in the sum of five dollars to go to the County Treasury.

SEC. 8. All Acts or parts of Acts in conflict with this Act are hereby repealed.

SEC. 9. This Act shall take effect upon the first day of Apr 1, 1889.

Approved March 18, 1889.

No. 14.

AN ACT

To Amend Paragraph 492, Revised Statutes.

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

SECTION I. That Paragraph 492, Chapter 5, Title 13, of the R vised Statutes, be amended so as to read as follows: "If he fail to attend in person or by deputy any term of the District Court, the Court may designate some other person to perform the duties of District Attorney during his absence from Court, who shall receive a reasonable compensation to be certified by the Court, and paid out of the 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.

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

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1 GEORGE I.

CHAP. XXVI.

An ACT for the speedy trial of criminals, and ascertaining their punishment in the county courts when prosecuted there, and for payment of fees due from criminal persons.

A Supplementary act, May 1766, ch. 6.

Preamble.

Justices of

the county

what crimes

courts, of

they may hold plea.

WHEREAS many acts of assembly have been heretofore made against thieving and stealing, which at this present are not sufficient to prevent the committing those crimes, or to punish them when committed ;

II. BE IT THEREFORE ENACTED, by the King's most excellent majesty, by and with the advice and consent of his majesty's Governor, Council and Assembly of this province, and the authority of the same, That it shall and may be lawful to and for the several justices of the county courts of this province to hold. plea of, adjudge, and in lawful manner determine, all thieving and stealing of any goods or chattels whatsoever, not being above the value of one thousand pounds of tobacco (robbery, burglary, and house-breaking excepted,) (a) and every person or persons legally convicted of any such thieving and stealing (except before excepted,) by testimony of one sufficient evidence, not being the party grieved, before any such county court as aforesaid, shall and may cause to be punished, by paying fourfold of the value of the goods so thieved or stolen as aforesaid, and the stolen goods returned to the party or parties grieved thereby, and by putting in the pillory, and whipping so many stripes as the court before whom such matter is tried, shall adjudge, not exceeding forty; which court shall always adjudge the value of the goods so thieved and stolen as aforesaid; and if any such person, so convicted, have not sufficient goods and chattels, or be a servant, whereby he is incapable to have goods and chattels to satisfy and pay the said fourfold, in every such case, such person or persons shall receive the corporal punishment as aforesaid, and satisfy the fourfold, and fees of conviction, by servitude.

Time of service, when to commence.

III. AND BE IT HEREBY ENACTED AND DECLARED, by the authority, advice and consent aforesaid, That the time of service of a free person convict as aforesaid, not having goods and chattels as aforesaid, shall commence from the time of his eonviction as aforesaid; and the time of service of a servant, convict as aforesaid, shall commence at the expiration of such time of servitude, to which, at the time of his conviction, he stood bound, which time of servitude, for satisfaction for the

(a) By 1785, ch. 87, section 7, the justices of the county courts are empowered, (unless in cases particularly directed by law to be tried in the general court) to try all persons who have committed any manner nfoffence, although it may subject such person to the pains of death.

EXHIBIT 38 (McLean)

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April, 1715.

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JOHN HARF, Esq. Governor.

stolen goods, and fees accrued as aforesaid, shall be adjudged by such county court, either to the party grieved, or any other person the court shall order such convict to, that will then and there pay, or secure to be paid, the fourfold and costs aforesaid, at the discretion of the court ; and if any person or persons shall receive or take part of such stolen goods, or assist the person so stealing as aforesaid to make away or conceal them, being legally convicted as aforesaid, shall suffer the same corporal pains with the party stealing as aforesaid, any law, statute, usage or custom to the con rary notwithstanding.

IV. AND, If any person or persons have been once convicted Persons of any such thieving and stealing, (except before excepted,) and shall after be again presented for thieving and stealing of be tried in any goods or chattels, laid to be above the value of twelve- the provinpence, it shall not be tried and determined by any county court, the presentbut the party presented, upon such presentment, shall be pro- ment charceeded against in the provincial court as a felon for simple fel- ges them ony, but shall not be punished by death, but only paying the with stealfourfold, branding with a hot iron, or such other corporal pun- the value of ishment as the court shall adjudge, saving life; and such pre- 12 pence. sentment shall be, by the clerk of every such county court, immediately sent to the then next provincial court, together with a transcript of his former conviction, if such conviction was in the same court where the presentment aforesaid shall be, or otherwise, made known to the attorney-general in what other court such former conviction was, if to him known, under the penalty of five hundred pounds of tobacco to our sovereign lord the king, his heirs and successors, for the support of government; and the parties witnesses against such felons, if in court at the time of such presentment, shall be bound over to give evidence as aforesaid, or otherwise, if not in court, an account of their names and places of dwelling to be sent to the attorney-general, to be summoned against the then next provincial court, in order to such trial; and the party presented, if in court, to be bound over also, by due course of law, to answer such presentment, or, if not in court, proceeded against by due course of law as aforesaid.

V. AND BE IT FURTHER ENACTED, by the authority, advice Penalty for and consent aforesaid, That any person or persons whatsoever killing unthat shall kill any unmarked swine above three months old, if swine. not upon his or their own land, or not in company with his or their own stock, shall and is hereby adjudged an hog stealer, and shall be liable to restore fourfold, and suffer such corporal pains as against the first offence in this act mentioned.

VI. AND, to prevent any person or persons concealing or For disfigdisfiguring the mark of any swine killed as aforesaid, BE IT using their FURTHER ENACTED, by the authority advice and consent afore- mark, &c. said, That if any person or persons killing any such unmarked swine in the woods, or elsewhere, and shall wilfully disfigure the mark, or cut off the ears of such swine, so as to con-

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April,

1715.

again prosecuted must ing above .

marked

1 GEORGE I.

April, 1715. And on persons convicted for

hunting, &c.

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ceal the true and real mark, or whether it were marked or not, shall be deemed and adjudged a hog stealer within the purview of this act, and shall suffer accordingly.

VII. AND, to prevent the abusing, hurting or worrying of any stock of hogs, cattle or horses, with dogs, or otherwise, BE IT ENACTED, That if any person or persons whatsoever, that have been convicted of any of the crimes aforesaid, or other crimes, or that shall be of evil fame, or a vagrant, or dissolute liver, that shall shoot, kill or hunt, or be seen to carry a gun, upon any person's land, whereon there shall be a seated plantation, without the owner's leave, having been once before warned, shall forfeit and pay one thousand pounds of tobacco, one half to our sovereign lord the king, his heirs and successors, the other half to the party grieved, or those who shall sue for the same, to be recovered in any county court of this province by action of debt, bill, plaint or information, wherein no essoin, protection or wager of law to be allowed.

Criminals to pay their own fees, by not otherwise capable.

VIII. AND BE IT FURTHER ENACTED, by the authority, advice and consent aforesaid, That from henceforth no sheriff, servitude, if gaoler, clerk, crier, or other officer, shall charge either their own county, to which they belong, or the public, with any fees for any criminal committed to the charge of the said sheriff or gaoler, having sufficient estate in this province wherewith to pay the same, or being capable to pay the same by servitude, but that such criminals, being discharged by order and due course of law, shall pay their own fees to the sheriff, gaoler, clerk and crier, and other officers, being such as they may demand according to law, either out of his estate, or by servitude, or otherwise.

Vide 1781, ch 11.

Proviso.

IX. PROVIDED ALWAYS, That this act shall not extend to malefactors that are executed, or to such other persons who are banished, having no estate in this province, or to servants criminals, for whom the county shall pay such fees as are due by the acts of assembly to the sheriff, gaoler, clerk, crier, or other officers of such court where such criminal shall be convicted.

X. AND BE IT FURTHER ENACTED, by the authority aforesaid, That all officers' fees due by law from (a) criminal servants, shall be paid by the county where the facts shall be committed; and that all and every such criminal servants for

(a) By the act of 1727, ch. 2, all fees due on the prosecution of imported servants, were to be paid by the masters, &c. of such servants, and not by the public or county; and the owners (unless in case of conviction and execution for capital offences,) to have recompence for such fees, by such servitude of the servants (not exceeding three years) as should be thought reasonable by the county court, &c. By May, 1766, ch. 6, the legal fees on the prosecution of any negro, or other slave, in any county court, (whether convicted or acquitted,) shall be paid by and assessed in the levy of the respective counties where prosecuted.

Officers fees, how to be paid.

JOHN HART, Esq. Governor.

whom the county shall pay the fees due by law to such officers as aforesaid, shall, after the end and expiration of their time of servitude to their master or mistress, satisfy and pay unto the commissioners of the county who paid such fees for them to the sheriff, and other officers as aforesaid, for the use of the county, such sums as they have paid as aforesaid : and the several commissioners of the several counties shall, and are hereby empowered to make inquisition after all such servants, criminals, for whom the county hath defrayed the said tees to the sheriff, and other officers as aforesaid; and they, the said commissioners, according to their best discretion, shall cause to be entered rules for the servants to make such reasonable satisfaction to the county as they shall think fit, and in such manner as they shall find convenient.

XI. AND, for the better security of the county which shall Masters, &c. pay such fees for such criminal servants as aforesaid, BE IT to deliver up ENACTED, by the authority aforesaid, That the master, mistress servants, criminalsunor dame of all such servants, be and are hereby enjoined and der penalty required, at the expiration of the time of such servant's ser- of paying the vitude to such master, or mistress or dame, to render and de-fees, paid liver up to the sheriff of the county, for the use of the county criminal by for the atoresaid, such servants criminals as aforesaid, under the pen- the county. alties to such master, mistress or dame, refusing or neglecting to deliver up such servants as aforesaid, of making satisfaction to the county for all such fees as by the county aforesaid have been paid for such criminal as aforesaid; and such sheriff to whom such criminal servant shall be delivered as aforesaid, is hereby required to receive and secure such servants criminals as aforesaid, so that he be and appear at the then next county court to be held for the said county, to be disposed of as the said court shall consider.

Vide list of acts respecting crimes and punishments, 1692, ch. 16.

CHAP. XXVII.

An ACT for the punishing the offences of adultery and fornication.

Other acts: 1749, ch. 12-Nov. 1781, ch. 13-1785, ch. 47.-1796, ch. 34.

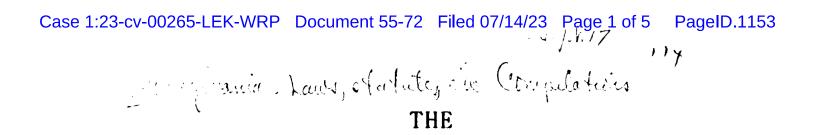
B^E IT ENACTED, by the King's most excellent majesty, by Certain per-and with the advice and consent of his majesty's Governor, sons to be Council and Assembly of this province, and the authority of the adjudged same, That after the end of this session of assembly, whosoever shall, directly or indirectly, entertain, provide for, or cause to be entertained or provided for, any lewd woman or women, or that shall frequent her or their company, after that admonition to him or them be given by the minister, or the vestry, or the churchwarden or churchwardens of the parish where such person or persons shall inhabit, shall be adjudged

fornicators, àс.

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April, 1715.

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PENNSYLVANIA

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EXHIBIT 39 (McLean)

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The Statutes at Large of Pennsylvania. [1721

five shillings, one-half to the use of the poor of the said city, and the other half to the use of him or them who shall prosecute and cause such offender to be as aforesaid convicted: which forfeitures shall be levied by distress and sale of the offender's goods as aforesaid; and for want of such distress, if the offender refuse to pay the said forfeiture, he shall be committed to prison for every such offense the space of two days, without bail or mainprise.

Provided, That such conviction be made within ten days after such offense committed. And if such offender be a negro or Indian slave, he shall, instead of imprisonment, be publicly whipped, at the discretion of the magistrate.

Passed August 26, 1721. Apparently never considered by the Crown, but allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix IV, Section II, and Hill's letter and Fane's opinion in Appendix V, Section I, and the Acts of Assembly passed August 14, 1725, Chapter 287; February 6. 1730-31, Chapter 322; March 29, 1735-36, Chapter 338; February 9. 1750-51, Chapter 388; March 26, 1762, Chapter 481; March 9, 1771, Chapter 624; March 21, 1772, Chapter 648; December 24, 1774, Chapter 705; November 25, 1779, Chapter 867; March 28, 1787, Chapter 1279; September 29, 1787, Chapter 1318; April 13, 1791, Chapter 1573; April 11, 1793, Chapter 1698; April 18, 1794, Chapter 1743; April 18, 1795, Chapter 1857; March 29, 1802, P. L. 127; March 29, 1803, P. L. 542; April 4, 1807, P. L. 132; March 30, 1812, P. L. 182; March 14, 1818, P. L. 189; March 29, 1824, P. L. 152; February 10, 1832, P. L. 64; June 13, 1836, P. L. 551; March 16, 1847, P. L. 473; April 11, 1848, P. L. 504; April 8, 1851, P. L. 382; April 14, 1851. P. J. 549; March 20, 1856, P. L. 137; May 5, 1864, P. L. 841; March 23. 1865. P. L. 744; March 12. 1866. P. L. 160; June 2, 1870. P. L. 1314; April 17, 1878, P. L. 23; June 10, 1881, P. L. 111; June 11, 1885, P. L. 111.

CHAPTER CCXLVI.

N AN ACT TO PREVENT THE KILLING OF DEER OUT OF SEASON, AND AGAINST CARRYING OF GUNS OR HUNTING BY PERSONS NOT QUALI-FIED.

[Section I.] Be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That if

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1721] The Statutes at Large of Pennsylvania.

any person or persons, after the publication hereof, shall kill or destroy any buck, doe, fawn, or any other sort of deer whatsoever, at any other time or season except only betwixt the first day of July and first day of January, he shall forfeit and pay for every such buck, doe, fawn, or other deer so killed or destroyed as aforesaid, the sum of twenty shillings; one-half thereof to the poor of the township where the offense is committed, and the other half to him who shall inform or sue for the same, before any justice of the peace of this province, who is hereby empowered and authorized to hear and determine the same, and to convict the offender, by the oath or affirmation of one or more witnesses.

Provided, That such conviction be made within two months after such offense is committed.

And for the better conviction of offenders against this act: [Section II.] Be it enacted, That every person in whose custody shall be found, or who shall expose to sale any green deer skins, fresh venison, or deer's flesh, at any other time of the year than what is before excepted, and shall be convicted thereof as aforesaid, shall be deemed guilty of the said offense. And that the same green deer skins, fresh venison or deer's flesh so found as aforesaid shall be held to be good evidence in the

Provided always, That nothing contained in this act shall be deemed or construed to extend to any free native Indians carrying guns, hunting, killing, and having in their custody any skins or deer's flesh for their own use, anything in this act to the contrary notwithstanding.

And whereas divers abuses, damages and inconveniencies have arose by persons carrying guns and presuming to hunt on other people's lands, for remedy whereof for the future:

[Section III.] Be it enacted by the authority aforesaid, That if any person or persons shall presume, at any time after the sixteenth day of November, in this present year one thousand seven hundred and twenty-one, to carry any gun or hunt on the improved or inclosed lands of any plantation other than his own, unless he have license or permission from the owner of such lands or plantation, and shall be thereof convicted, either

cases aforesaid.

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The Statutes at Large of Pennsylvania. 1721

upon view of any justice of the peace within this province, or by the oath or affirmation of any one or more witnesses, before any justice of the peace, he shall for every such offense forfeit the sum of ten shillings. And if any person whatsoever, who is not owner of fifty acres of land and otherwise qualified in the same manner as persons are or ought to be by the laws of this province for electing of members to serve in assembly, shall, at any time after the said sixteenth day of November, carry any gun, or hunt in the woods or uninclosed lands, without license or permission obtained from the owner or owners of such lands, and shall be thereof convicted in manner aforesaid, such offender shall forfeit and pay the sum of five shillings for every such offense.

[Section IV.] And be it further enacted by the authority aforesaid, That no person whatsoever shall presume to shoot at or kill with a firearm any pigeon, dove, partridge, or other fowl in the open streets of the city of Philadelphia, or in the gardens, orchards and inclosures adjoining upon and belonging to any of the dwelling houses within the limits of the said city, upon the forfeiture of five shillings for every such offense, to be convicted in manner aforesaid.

All which penalties and forfeitures shall go, one moiety to the informer, and the other to the poor of the township where such offense is committed. But if convicted upon view of a justice of the peace, the whole forfeiture shall be to the use of the poor. And if the offender refuse to pay, the same shall be levied by distress and sale of the offender's goods, by warrant under the hand and seal of the justice before whom such offender shall be convicted, returning the overplus, if any be, the charge of distraining being first deducted. And for want of such distress he shall be committed to prison, where the forfeiture is twenty shillings, for the space of ten days; and, where the forfeiture is ten shillings, for the space of five days; and, if the forfeiture is five shillings, for the space of two days, without bail or mainprise.

Passed August 26, 1721. Apparently never considered by the Crown, but allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix IV, Section II, and Hill's letter and Fane's opinion in Appendix V, Section I, and

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the Acts of Assembly passed Fobruary 6, 1730-31, Chapter 323; January 27, 1749-50, Chapter 383. Repealed by Act passed April 9, 1760, Chapter 456.

CHAPTER CCXLVII.

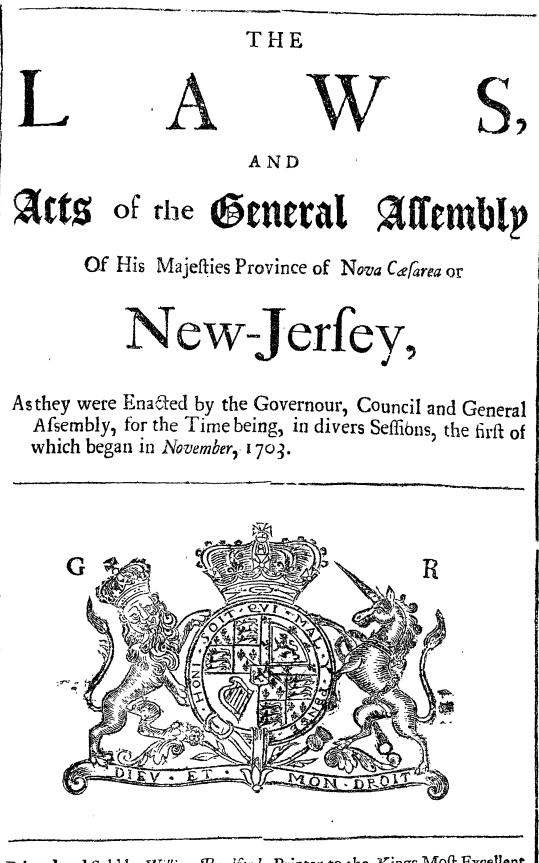
AN ACT FOR THE WELL TANNING AND CURRYING OF LEATHER, AND REGULATING OF CORDWAINERS, AND OTHER ARTIFICERS, USING AND OCCUPYING LEATHER WITHIN THIS PROVINCE.

Whereas very great abuses have been committed by tanners, cutters and other persons, using and working of leather within this government, and the prices of leather become very exorbitant and burdensome to the people of this province: To the intent therefore that a reasonable and indifferent course for the true and well tanning, currying and working of leather, may be from henceforth established and appointed, and yet the persons using the several crafts and mysteries aforesaid may not be more strictly bound or limited than the necessary regard of the welfare and general commodity of all His Majesty's subjects within the said province requireth:

[Section I.] Be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the twenty-fifth day of November next, in this present year of our Lord one thousand seven hundred and twenty-one, if any person or persons using, or which shall use, the mystery or faculty of tanning, or any person or persons importing, or who shall import, any leather into this province, shall at any time or times hereafter offer or put to sale any kind of leather which shall be insufficiently and not thoroughly tanned, so that the same, by the triers of leather lawfully appointed by virtue of this present act, for the time being, shall be found to be insufficiently not thoroughly tanned, that then all and every such person and persons so offending shall forfeit such leather, as shall be found insufficiently and not thoroughly tanned, unless the party importing the same will give

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Printed and Sold by William Bradford, Printer to the Kings Most Excellent Majelly for the Province of New-Jersey, 1717.

EXHIBIT 40 (McLean)

Anno Regni Octavo Georgii Regis.

14 i

An Act to prevent the Killing of Deer out of Seafon, and against Carrying of Guns and Hunting by Perfons not qualified.

E it Enacted by the Governour Council and General Affembly, and it is hereby Enacted by the Authority of the fame, That if any Perion or Perions, after the Publication hereof, fhall kill or Deftroy any wild Buck, Die or Fawn, or any other Sort of Deer whatloever, at any Time in the Months of January, February, March, April, May or June, every fuch Perion shall, for every fuch Offence, forfeit and pay the Sum of Thirty Shillings, for every fuch Buck, Doe or Fawn, or other Deer, so killed or deftroyed as aforefaid, contrary to the true Intent and Meaning of this Act; one half thereof to the Poor of the Township'or Precinct where the Offince is committed, and the other half to him who shall Inform or Sue for the fame before any Justice of the Peace of this Province, who is hereby impowered and Authorized to hear and determine the same, and to convict the Offender by the Oath Or Artirmation of one or more Witness. Provided, That such Conviction be made within two Months after such Offence committed.

And for the better Convicting of Offenders against this A&, Be it Enacted by the Authority aforifaid, That every Person in whose Custody shall be sound, or who shall expose to Sale, any Green Deer Skins, Fresh Venison or Deers Flesh, at any Time in any of the Months of January, February, March, April, May, or June afore-mentioned, and shall be convicted thereof, as aforesaid; shall be deemed Guilty of the said Offence.

Provided always, That nothing contained in this Act shall be deemed or construed to hinder any Person from killing any Kind of Deer, within his Field where Corn is Growing, at any Time in the Month of January, nor to extend to any Free Native Indians Carrying Guns, Hunting, Killing or having in their Custody any Skins or Deers Flesh for their own Use, any Thing in this Act to the contrary notwithstanding.

And whereas divers Abuses have been committed, and great Damages and Inconveniences arisen by Persons carrying of Guns and prefuming to Hunt on other Peoples Land; for Remedy whereof for the Future, Be it Enacted by the Authority atorefaid, That if any Person or Persons shall presume, at any Time after the Publication hereof; to carry any Gun, or Hunt on the Improved or Inclosed Lands in any Plantation, and on other than his own, unless he have Lifence or Permission from the owner of such Lands or Plantation, and shall be thereof Convicted, either upon the View of any Justice of the Peace within this Province, or by the Oath or Affirmation of any one or more Witneffes, before any Jultice of the Peace, he shall, for every fuch Offence, forfeit the Sum of Fifteen Shillings, with Cofts attending fuch Conviction. And if any Perfor whatfoever, who is not Owner of one Hundred Acres of Land, or otherwife Qualfied, in the fame Manner as Perfons are or ought to be, for Electing of Representatives to serve in General Assembly, shall at any Time, after the Publication hereo', carry any Gun, or Hunt in the Woods or Uninclosed Lands, without Lifecne or Permillion obtained from the Owner or Owners of fuch Lands

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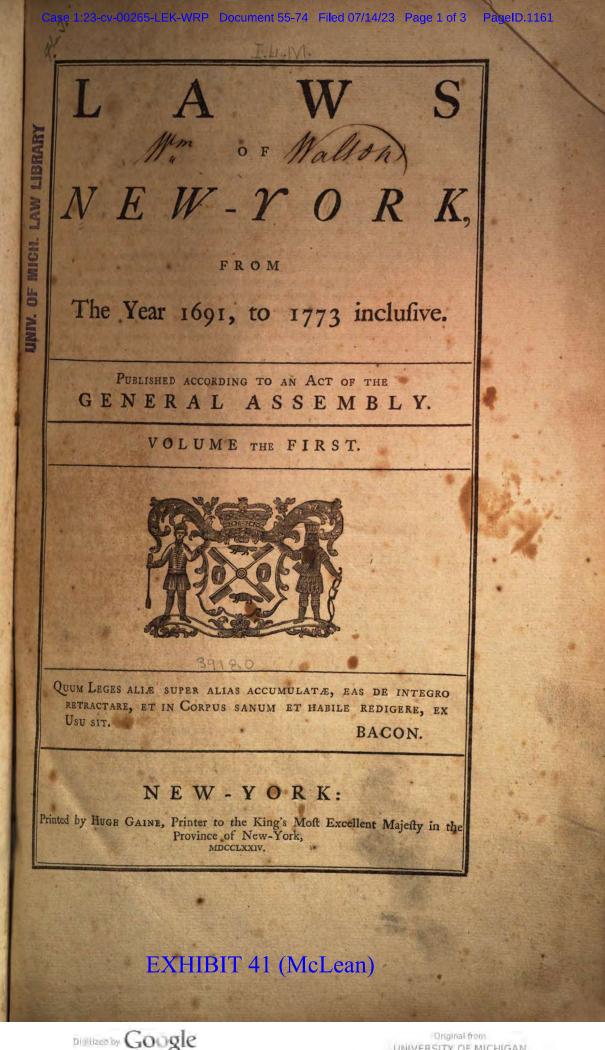
Anno Regni Octavo Georgii Regis.

Lands, and shall be thereof Convicted, in manner aforefaid, fuch Offender shall forfeit and pay the Sum of *Ten Shillings*, with Cofts as aforefaid, for every fuch Offence. All which Penalties and Forfeitures shall go one Moiety to the Informer, and the other to the Poor of the Township or Precinct where the Offence is committed; but if convicted upon View of a Juffice of the Peace, the whole Forfeiture shall be to the Ufe of the Poor. And if the Offender refufe to pay the fame, with Cofts, as aforefaid, shall be levyed on by Diftrefs and Sale of the Offenders Goods, by Warrant under the Hand and Seal of the Juffice before whom fuch Offender shall be Convicted, returning the Over-plufs, if any be, the Charge of Diftraining being firft deducted. And for want of Effects where on to make fuch Diftrefs, every Perfon fo offending contrary to the true Intent and Meaning of this Act, shall be committed to Prilon, when the Forfeiture is *Thirty Shillings*, for the Space of fifteen Days; and when the Forfeiture is *Teiftien Shillings*, for the fpace of eight Days; and when the Forfeiture is *Teiftien Shillings*, for the fpace of eight Days; and when the Forfeiture is *Teiftien Shillings*, for the fpace of eight Days; and when the Forfeiture is *Teiftien Shillings*, for the fpace of eight Days; and when the Forfeiture is *Teiftien Shillings*, for the fpace of eight Days; and when the Forfeiture is *Teiftien Shillings*.

And be it Enacted by the Authority aforefaid, That every Juffice of the Peace. before whom any Perfon or Perfons is convicted of having committed any of the Offences in and by this Act prohibited, is hereby directed and required to Iffue his Warants for the bringing fuch Offender before him, and in Cafe of the want of Effects whereon to make Diffress, to make out his Mittimus to commit fuch Offender to the Goal of the County in which fuch Conviction is made; and the Sheriff, Under-Sheriff or Goal-keeper is hereby directed and required to keep the taid Offender in close Goal; according to the Direction of this A& and Tenor of such Mittimus to such Sheriff, Under-Sheriff or Goaler directed. And every Justice of the Peace neglecting or refusing to Issue fuch Warrant, or make fuch Mistimus, and every Sheriff, Under-Sheriff or Goal-keeper who shall not receive fuch Offender and him keep in clofe Goal, according to the true Intent and Meaning of this Act, shall, for every fuch Neglect or Refutal, or undue discharge of his Office in the Premiles, forfeit the Sum of Six Pounds, to be recovered in any Court of Record within this Province, in which there shall be no Elfoyn or Protection, the one half to fuch perfon as shall fue for and profecute the fume to Efect, the other half to the Kings Majefty, His Heirs and Succeffors, for and towards the Support of the Government of this province.

And be it further Enacted by the Authority atorefaid. That this A& nor any part thereof, shall be conftrued to extend to N gro, Indian or Mullato Slaves, to as to commit them to prifon, during the Time in this A& limitted, in cafe they should be Guilty of any of the Offences in this A& prohibited, but that and in tuch cafe tuch Lidian; Negro or Mullato Slave killing and deftroying any Deer as aforefaid; o. currying or Hunting with any Gun, without Lifence from his Mafter, shall, at the Publick Whip.ng poft; on the bare Back, be Whipt, not exceeding twenty Lashes for every fuch Offence, for which Whipping the Mafter shall pay to the Whipper the Sum of Three Shillings, and pay no greater or other Colt whatfoever, any Thing in this A& to the contrary hereof in any wile notwithftanding.

The fore-going five Acts were Published the fifth of May, 1722.



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UNIVERSITY OF MICHIGAN

CADWALLADER COLDEN, Efq; Lieut. Governor.

also be necessary to annex to the faid Certificate, an Affidavit of the fol- 4th GEORGE III. lowing Tenor, fworn to before any Magistrate in the City of New-York : A. B. being duly fworn, deposetb and faith, That be certainly knows [or has Affidavits to prove, as the Cafe may be] that the Hemp mentioned in the above, or the annexed Certificate, was all raifed after the first of March, One thousand seven hundred and sixty-four, in the Colony of New-York, in the County of [here mentioning the County] and that no Bounty has yet been paid for it, or any Part of it, to the best of his Knowledge and Behef: And further faith not. The Infpectors above mentioned, before they enter on the Execution of their Office, shall take an Oath, faithfully to difcharge the Duty of Inspectors, according to the Meaning of this Act.

[The Reft of this Act is OBSOLETE.]

C H A P. MCCXXIX.

An ACT to regulate the guaging of Wine, Rum, and other Spirituous Liquors, Molaffes, and other Purpofes therein mentioned. Pafs'd the 20th December, 1763.

CHAP. MCCXXX. An ACT to lay a Duty of Tonnage on Veffels for defraying the Expence of the Light-Houfe on Sandy-Hook. Pafs'd the 20th December, 1763.

CHAP. MCCXXXI.

An ACT impowering John Cruger, Robert R. Livingston, Philip Livingston, Leonard Lifpenard, and William Bayard, Efquires, to receive from the Colony of Pennfilvania, the Sum of Four Thousand Three Hundred and Sixty-eight Pounds Two Shillings and Six-pence, Sterling, overpaid to the faid Colony, out of the Parliamentary Grant for the Service of the Year One thousand seven bundred and sixty.

País'd the 20th December, 1763.

C H A P. MCCXXXII.

An ACT to continue an Act, entitled, An AA for the Relief of Infolvent Debtors, and for repealing the AEts therein mentioned, with an Addition thereto. Pass'd the 20th December, 1763.

C H A P. MCCXXXIII.

An ACT to prevent bunting with Fire-Arms in the City of New-York, and the Liberties thereof. País'd the 20th December, 1763.

HEREAS it has long been the Practice of great Numbers of idle and diforderly Perfons in and about the City of New-York, and the Liberties thereof, to hunt with Fire-Arms, and to tread down the Grafs, and Corn and other Grain standing and growing in the Fields and Inclofures there, to the great Danger of the Lives of his Majesty's Subjects, the Ruin and Destruction of the most valuable Improvements, the grievous Injury of the Proprietors, and the great Difcouragement of their Industry.

5 T

I. In

A. D. 1763. Form of Affidavit to be fivorn to before the Bounty fhall be paid.

44I

Expired Ift January, 1771.

Continued Chap.

Expired 1ft January, 17.72. Provided for Ch. 1515.

This Money being received and paid into the Treafury, the Act is therefore Obfolete.

See Chap. 1148. Continued Ch. 1309.

Preamble.

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LAWS of NEW-YORK.

I. In order therefore the more effectually to punish and prevent fuch

Abuses as forefaid, Be it Enaded by his Honour the Lieutenant Governor,

the Council, and the General Affembly, and it is hereby Enacted by the Authority of the fame, That if any Perfon or Perfons whatfoever, other than

the Owner, Proprietor, or Poffetfor, or his or her white Servant or Servants, do and fhall, at any Time or Times from and after the Publication of this

Act, carry, fhoot, or difcharge any Mufket, Fowling-Piece, or other Fire-

Arm whatfoever, into, upon, or through any Orchard, Garden, Corn-

Field, or other inclosed Land whatfoever, within the City of New-York, or the Liberties thereof, without Licence in Writing first had and obtained for that Purpole from fuch Owner, Proprietor, or Possessfor of fuch Orchard,

Garden, Corn-Field, or other inclosed Land ; or shall enter into, or pais

through any Orchard, Garden, Corn-Field or Mowing-Ground, in any of

the aforefaid Places without Fire-Arms, and thereof shall be convicted be-

fore any Member of his Majefty's Council, either of the Juffices of the

Supreme Court, or the Mayor, Recorder, or any one of the Aldermen of

the City of New-York, for the Time being, by the Oath of one credible

Witnefs, or by Confession of the Party offending, he, she, or they fo

offending, shall feverally forfeit and pay for every fuch Offence, the Sum of Twenty Sbillings; to be recovered and applied in the Manner herein

II. And be it further Enacted by the Authority aforefaid, That every

Fine and Forfeiture, which shall accrue upon or by Virtue of this Act, shall

be recovered, with reasonable Costs, not exceeding Ten Shillings, by any Person or Persons who shall and will sue, and profecute for the same; One Half of such Fine and Forfeiture when recovered and received, to be ap-

plied to his, her, or their own Ufe; and the other Half thereof to be paid by him, her, or them, to the Church Wardens of the faid City for the

4th GEORGE III. A. D. 1763.

442

Penalty for entering with Fire-Arms into any inclosed Land within this City or its Liberties.

Or paffing thro' Orchards, Gc. without Arms.

Before whom Offenders to be convicted.

Fonfeitures how to be recovered and applied. after directed.

Offenders to be imprifoned if the Fines are not paid,

Provilo.

Time being, for the Use of the Poor thereof. III. and be it further Enafted by the Authority aforefaid, That every Offender, who shall incur any such Fine or Forfeiture as aforefaid, shall, by Warrant under the Hand and Seal of any Member of his Majesty's Council, Justice of the Supreme Court, or the Mayor, Recorder, or Aldermen before whom he or they shall be convicted, stand and be committed to the Common Goal of the faid City, there to remain for the Space of three Months, unless the Fine or Forfeiture, with Costs, be fooner paid. 1900 uited always, That the Members of his Majesty's Council, and the Justices of the Supreme Court, shall be at Liberty to act in the Execution of this Law or not, as to them shall feem fitting.

C H A P. MCCXXXIV.

Expired 1ft Ja- A nuary, 1770. Provided for Ch.

 An ACT to establish the Rates to be taken for Wharfage of Ships and other
 Ch. Vessel using the Wharfs within the Limits therein mentioned, Pass'd the 20th December, 1763.

CHAP. MCCXXXV.

An ACT to raife, levy, and collect, the Sum of Sixty-one Pounds Nineteen Shillings, in the City and County of New-York, for Services performed by the Coroner of the faid City and County.

País'd the 20th December, 1763.

CHAP.

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UNIVERSITY OF MICHIGAN

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At a GENERAL ASSEMBLY held at

Burlington from the Twentieth Day of November to the Twenty-first Day of December 1771, in the Twelfth Year of the Reign of King George the Third, the following Laws were paffed.

SESSION THE FOURTH.

C H A P. DXXXIX.

An ACT to continue and amend an ASt, entitled, An Act for better fettling and regulating the Militia of this Colony of New-Jerfey; for the repelling Invahons, and suppresfing Infurrections and Rebellions.*

Passed Dec. 21, 1771.

W HEREAS the Act passed in the Nineteenth Year of the Reign Preamble. of our late Sovereign Lord King George the Second, entitled, An AA for better fettling and regulating the Militia of this Colony of New-Jerfey; for the repelling Invafions, and fuppreffing Infurrections and *Rebellions*, will expire at the End of this Sellion of Affembly;

Sect. 1. BE IT ENACTED by the Governor, Council and General Affem- Limitation. bly, and it is hereby Enacted by the Authority of the fame, That the faid Act, entitled, An Act for better fettling and regulating the Militia of this Colony of New-Jerley; for the repelling Invalions, and suppressing Infurrections and Rebellions,* shall be, and hereby is continued, and every Article and Clause therein contained shall be and remain in full Force, from the Publication hereof, to the first Day of May which will be in the Year of our Lord One Thousand Seven Hundred and Seventy-feven, and from thence to the End of the next Selfion of the General Alfembly of this Colony, and no longer.

2. AND WHEREAS it has been a Cuftom of late, in fome of the Counties of this Colony, to choose the Militia Officers Constables; for preventing the fame for the Future, BE IT ENACTED by the Autho- Committionity aforefaid, That, during the Continuance of this Act, it shall not be ed Officers not to be cholawful for any Court of General Quarter-Selfions of the Peace, or for fen Conftaany of the Inhabitants of this Colony, at their annual Town-meetings, to appoint or choose any commissioned Officer, while in Commission, to be a Constable; any Law, Usage or Custom to the contrary notwithstanding.

bles.

С HAP. DXL.

An ACT for the Prefervation of Deer and other Game, and to prevent trefpaffing with Guns.

Passed Dec. 21, 1771.

HEREAS the Laws heretofore paffed in this Colony for the Preamble. Prefervation of Deer and other Game, and to prevent trefpaff-* Chap. CC. ıng

> 42 (McLean) Digitized from Best Copy Available $\dashv X \dashv$

Case 1.23-cv-00265-LI Document 5 Filed 07/14/23 Page 2 of 5 PageID.1165 WRI GEORGE XII Ш. A. D.1771.

ing with Guns, Traps and Dogs, have, by Experience, been found infufficient to answer the falutary Purposes thereby intended ; Therefore,

Sect. I. BE IT ENACTED by the Governor, Council and General Af-No Perfon to carry a Gun on Lands not fembly of this Colony of New-Jerfey, and it is hereby Enacted by the Authority of the fame, That if any Perfon or Perfons shall prefume, at his own, except, Oc. any Time after the Publication hereof, to carry any Gun on any Lands not his own, and for which the Owner pays Taxes, or is in his lawful Poffeffion, unlefs he hath Licenfe or Permiffion in Writing from the Owner or Owners or legal Poffeffor, every fuch Perfon fo offending, and convicted thereof, either upon the View of any Juffice of the Peace within this Colony, or by the Oath or Affirmation of one or more Witneffes, before any Justice of the Peace of either of the Counties, Cities or Towns-corporate of this Colony, in which the Offender or Offenders may be taken or relide, he, the or they, thall, for every fuch Offence, forfeit and pay to the Owner of the Soil, or his Tenant in Poffession, the Sum of Forty Shillings, with Cofts of Suit; which Forfeiture shall and may be fued for and recovered by the Owner of the Soil, or Tenant in Poffeffion, before any Justice of the Peace in this Colony, for the Ufe of fuch Owner or Tenant in Pollellion.

> 2. AND BE IT ENACTED by the Authority afore faid, That if any Perfon shall prefume, at any Time after the Publication of this Act, to hunt or watch for Deer with a Gun, or fet in any Dog or Dogs to drive Deer, or any other Game, on any Lands not his own, and for which the Owner or Poffeffor pays Taxes, or is in his lawful Poffeffion, unlefs he hath Licenfe or Permiffion in Writing from fuch Owner or Owners or legal Poffeffor; every fuch Perfon fo offending, and being convicted thereof in Manner aforefaid, shall, for every such Offence, forfeit and pay to the Owner of the Soil, or Tenant in Posseffion, the Sum of Forty Shillings, with Cofts of Suit; provided, that nothing herein contained shall be construed to extend to prevent any Person carrying a Gun upon the King's Highway in this Colony.

3. AND BE IT FURTHER ENACTED by the Authority afore aid, That

if the Perfon or Perfons offending against this Act be Non-Refidents

of this Colony, he or they shall forfeit and pay for every fuch Offence *Five Pounds*, and thall forfeit his or their Gun or Guns to any Perforor Perfons who shall inform and profecute the fame to Effect, before any Juffice of the Peace in any County of this Colony, wherein the

Offender or Offenders may be taken or apprehended.

Penalty.

Penalty on Non-Refidents.

Penalty for killing, Oc. Deer out of Scafon.

4. AND BE IT ENACTED by the Authority aforefaid, That if any Perfon or Perfons shall kill, destroy, hunt or take any Doe, Buck, Fawn, or any Sort of Deer whatfoever, at any other Time or Seafon, except only between the first Day of September and the first Day of January yearly and every Year, he, flue or they fo offending, fhall forfeit and pay the Sum of Forty Shillings for each and every Ottence; to be fued for, recovered and applied as hereafter is directed.

What fhall be Evidence of fuch Killing, రాం.

5. AND, for the better and more effectual convicting of Offenders against this Act, BE IT ENACTED by the Authority aforefaid, That any and every Perfon or Perfons in whofe Cuftody shall be found, or who fhall

Penalty.

No Perfon to drive Deer or

other Game,

except, Oc.

fhall expose to Sale, any green Deerskins, or fresh Venison killed at any Time after the first Day of January, and before the first Day of September aforefaid, and shall be thereof convicted by the Oath or Affirmation of one or more credible Witneffes, shall be deemed guilty of offending against this Act, and be subjected to the Penalties of killing Deer out of Seafon.

6. AND WHEREAS great Numbers of idle and diforderly Perfons make a Practice of hunting on the wafte and unimproved Lands in this Colony, whereby their Families are neglected, and the Publick is prejudiced by the Lofs of their Labour, BEIT THEREFORE EN- Who may ACTED by the Authority aforefaid, That, from and after the first Day improved of January next, no Perfon or Perfons whatfoever (except fuch Perfons Lands. as are by the Laws of this Colony qualified to vote for Reprefentatives in General Affembly, in Right of their Freeholds, and their Sons being of the Age of eighteen Years or upwards, and living with their Parent or Parents, or being Freeholders) Ihall, on any Pretence whatever, hunt on the wafte and unimproved Lands in this Colony ; and if any Perfon or Perfons, not qualified as aforefaid, fhall prefume to hunt as aforefaid, he or they to offending thall forfeit and pay, for every fuch Offence, the Sum- of Twenty Shillings; to be recovered by Action of Penalty on Offenders. Debt, with Cofts, by any Perfon who shall fue for the same; to be applied one Half to the Profecutor, and the other Half to the Use of the Poor of the Township or Precinct where the Fact was committed.

7. AND BE IT ENACTED by the Authority aforefaid, That if any Per- Penalty on fon or Perfons within this Colony shall fet any Trap or other Device $\overset{\text{lettill}}{\overset{\text{tran}}{\overset{\text{ct}}{\overset{\text{ct}}}}$. whatfoever, larger than what is ufually and commonly fet for Foxes and Muskrats, such Person, setting such Trap or other Device, shall pay the Sum of Five Pounds, and forfeit the Trap or other Device. fhall fuffer three Months Imprifonment, and fhall alfo be liable to make good all Damages any Perfon fhall fuftain by fetting fuch Trap or other Device, and the Owner of fuch Trap or other Device, or Person to whom it was lent, shall be esteemed the Setter thereof, unless it shall be proved, on Oath or Affirmation, what other Perfon fet the fame, or that fuch Trap or other Device was loft by faid Owner or Perfon to whom it was lent, and abfolutely out of his Power; and if the Setter Penalty on a of the Trap or other Device be a Slave, and it be his own voluntary Act, Slave fetting he shall (unless the Master or Mistress shall pay the Fine) in Lieu of such &. Fine, be publickly whipped with thirty Lashes, and committed till the Cofts are paid; and that the faid Trap or other Device shall be broken. and destroyed in the View and Presence of the Justice of the Peace before whom they are brought: And if any Person or Persons shall have Penalty on Possession of, or there shall be found in his or their House, any Trap keeping such Trap, Ge. or Traps, Device or Devices whatfoever, for taking of Deer, fuch Perfon or Perfons shall be subjected to the same Penalty as if he or they were convicted of fetting fuch Trap or Traps, or other Device.

8. AND, for encouraging the Destruction of fuch Traps and De- Reward for vices, BE IT ENACTED by the Authority aforefaid, That if any Perfon feizing a Trap, Gr. fhall feize any Trap or other Device for the taking Deer, and fhall carry fuch Trap or other Device to any Magistrate of the County where fuch Trap or Device was feized, fuch Perfon shall be entitled to

hunt on un.

fetting Traps,

an

Case 1:23-cv-00265-LEK-WRP Document 55-75 Filed 07/14/23 Page 4 of 5 PageID.1167 346 XII G E O R G E III. A. D. 1771.

an Order from the faid Magistrate to the Collector of fuch County, to pay him the Sum of *Ten Shillings*, out of any Money in his Hands raifed for the Use of the County; which Sums shall be allowed to such Collector on the Settlement of his Accounts.

Penalty on a Smithmaking or mending fuch Trap, crc.

Penalty on bringing fuch Trap, &c. into the Colony. 9. AND BE IT FURTHER ENACTED by the Authority aforefaid, That every Smith or other Artificer, who shall hereafter make or mend any fuch Trap or other Device aforefaid, he shall forfeit and pay the Sum of Forty Shillings; and the Person carrying such Trap or other Device to the Artificer aforesaid, shall forfeit and pay the Sum of Twenty Shillings. And every Person who shall bring into this Colony any such Trap or Device as aforesaid shall forfeit and pay the Sum of Forty Shillings. And if the Person who shall carry the sum of Forty Shillings. And if the Person who shall carry the soure of Forty Shillings. And if the Person who shall carry the soure of Forfeiture aforesaid, he shall be committed to the common Gaol, until he shall prove who is Owner of such Trap or Device, or who delivered the same to him; and in such Case the Forfeiture aforesaid shall be levied on the Goods, or in Failure of Goods, on the Body of the Owner of such Trap or Device, or the Person who delivered the same to the Pauper, and the Trap or Device shall be forfeited and destroyed.

Penalty for fetting loaded Guns. 10. AND WHEREAS a most dangerous Method of fetting Guns has too much prevailed in this Province, BE IT ENACTED by the Authority aforefaid, That if any Perfon or Perfons within this Colony shall prefume to fet any loaded Gun in such Manner as that the fame shall be intended to go off or discharge itself, or be discharged by any String, Rope, or other Contrivance, such Person or Persons shall forfeit and pay the Sum of Six Pounds; and on Non-payment thereof shall be committed to the common Gaol of the County for fix Months.

11. AND BE IT FURTHER ENACTED by the Authority aforefaid. That

the Fines and Forfeitures in this Act expressed, and not particularly appropriated, shall be paid, one Half to the Profecutor, and the other Half to and for the Use of the Poor of the Town, Precinct or District, where the Offence is committed; and that the Execution of this Act, and every Part thereof, shall be within the Cognizance and Jurisdic-

tion of any one Magistrate or Justice of the Peace, without any Re-

ference to the Act for Trial of finall Caufes in this Colony.

Application of Penalties.

Jurifdiction given to one Magistrate.

This Act not to affect Parks.

12. AND BE IT ENACTED, That nothing in this Law shall be conftrued to extend to restrain the Owners of Parks, or of tame Deer, from killing, hunting or driving their own Deer.

Penalty on Magistrate neglecting his Duty. 13. AND BE IT ALSO ENACTED by the Authority aforefaid, That if any Justice of the Peace or other Magistrate, within this Province, shall have Information of any Perfons offending against this Act, in killing Deer out of Season, fetting and making Traps, Non-Refidents killing Deer, and Perfons setting of Guns, and shall not prosecute the fame to Effect within two Months after such Information, he shall forfeit and pay the Sum or Sums to which the Offender against this Act would have been liable.

14. And

14. AND BE IT ENACTED by the Authority aforefaid, That the Juf- This Act to tices at every Quarter-Seffions of the Peace shall cause this Act to be be published and executed. publickly read; and give in Charge to the Grand-Jury to particularly inquire and prefent all Perfons for killing Deer out of Seafon, fetting or making Traps, and all Non-Refidents killing, deftroying, hunting and taking any Sort of Deer, and all Perfons letting of Guns; and, upon Conviction for either of the faid Offences, the faid Juffices fhall fet and impose the Fines and Penalties herein before-mentioned, with Cofts of Suit.

15. AND BE IT ENACTED by the Authority aforefaid, That if any Appealgiven Perion or Perions whatfoever, whether the Accufed or Accufer, Plaintiff to next Sefor Defendant, shall think themselves aggrieved by any of the Judgments given by the faid Juffices or other Magistrates, for any Suit commenced by Virtue of this Act; then it shall and may be lawful for fuch Perfon or Perfons to appeal, on giving fufficient Security for the Forfeitures and Cofts, to the next Court of General Quarter-Seffions, held for fuch County where fuch Judgment shall be given ; which Court is hereby empowered to hear and determine all and every fuch Appeal or Appeals.

16. AND BE IT ENACTED by the Authority aforefaid, That if any Penalty for Perfon or Perfons, within this Colony, fhall, after the Publication of this watching in Act, watch with a Gun, on any uninclofed Land within two Hun- neura Road. dred Yards of any Road or Path, in the Night Time, whether the faid Road is laid out by Law or not, or shall stand or station him or themfelves upon or within two Hundred Yards of any Road as aforefaid, for fhooting at Deer driven by Dogs, he or they fo offending, fhall, on Conviction, forfeit and pay the Sum of *Five Pounds* for every fuch Offence; to be recovered by Action of Debt, or Prefentment of the Grand-Jury as aforefaid, and pay all Damages.

17. PROVIDED ALWAYS, That the fixth Section of this Act shall Not to affect not be construed to affect any Native Indian; and that nothing in this Efex, Bergen, Act thall be conftrued to prevent the Inhabitants of Effex, Bergen, Mor- Morris or Suffex. ris and Suffex, from making, having in their Houses, or setting Traps of five Pounds Weight or more for Bears, Wolves, Foxes, or any other wild Bcafts, Deer only excepted.

18. AND BE IT FURTHER ENACTED by the Authority aforefaid, That Repeal of all former Laws made in this Colony for the Prefervation of Deer and other Game, and to prevent trefpailing with Guns, and regulating the Size of Traps, shall be, and they are hereby repealed.

C H A P. DXLI.

An ACT declaring the River Delaware a common Highway, and for improving the Navigation in the faid River.

Paffed Dec. 21, 1771.

HEREAS the improving the Navigation in Rivers is of great Preamble. Importance to Trade and Commerce; AND WHEREAS the River Delaware

the Night

Former Laws.

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ACTS

PASSED BY THE GENERAL ASSEMBLY

OF THE

STATE OF LOUISIANA,

AT THE

EXTRA SESSION,

HELD AND BEGUN IN THE CITY OF NEW ORLEANS,

ON THE 23d OF NOVEMBER, 1865.

PUBLISHED BY AUTHORITY,

NEW ORLEANS: J. O. NIXON, STATE PRINTER, 1866.

EXHIBIT 43 (McLean)

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 14°

incurred by his Excellency, J. Madison Wells, Governor of the State of Louisiana, in fitting up the Mechanics' Institute for the use of the General Assembly, the said amount to be paid on the warrant of the Auditor of Public Accounts, to the following persons, and as follows:

C. W. Grandjean, two thousand three hundred and twenty-

seven dollars and eighteen cents......\$2,327 18 Allen Hill, two thousand and seventy-six dollars and fifty A. Brosseau & Co., one thousand six hundred and thirtynine dollars and ninety-two cents...... 1,639 92 Selby & Donlan, two hundred and eighty-four dollars and thirty-five cents..... $284 \ 35$ J. P. Coulon, three hundred and seventy-one dollars and sixty-five cents $371 \ 65$ P. Ward, one hundred dollars..... $100 \ 00$ John Gauche, twenty dollars and fifty cents..... 20 50Sampson & Kean, thirty dollars..... 30.00 $200 \ 00$ G. W. R. Bailey, two hundred dollars Total

Sec. 2. Be it enacted, &c., That this act shall take effect from and after its passage.

DUNCAN S. CAGE,

Speaker of the House of Representatives. ALBERT VOORHIES,

Lieutenant Governor and President of the Senate. Approved December 18, 1865.

J. MADISON WELLS, Governor of the State of Louisiana.

A true copy:

J. H. HARDY, Secretary of State.

No. 10.]

AN ACT

To prohibit the carrying of fire-arms on premises or plantations of any citizen, without the consent of the owner.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana, in General Assembly convened, That it shall not be lawful for any person or persons to carry fire-arms on the premises or plantations of any citizen, without the consent of the owner or proprietor, other than in lawful discharge of a civil or military order; and any person or persons so offending shall be fined a sum not less than one dollar nor more than ten dollars, or imprisoned not less than one day nor more than ten days in the parish jail, or both, at the discretion of any court of competent jurisdiction.

Penalty.

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préparer, pour l'usage de l'Assemblée Générale, les salles de l'Institut des Artisans. Le susdit montant sera payé sur le mandat de l'Auditeur des Comptes Publics, aux personnes ci-après désignées, ainsi que suit:

C. W. Grandjean, deux mille trois cent vingt-sept piastres		
et dix-huit cents.	\$2,327	18
Allen Hill, deux mille soixante-seize piastres et cinquante		
cents	2,076	50
A. Brousseau & Cie., mille six cent trente-neuf piastres et	•	
quatre-vingt-douze cents.	1,639	92
Selby & Donlaw, deux cent quatrevingt-quatre piastres	•	•
et trente-cinq cents	284	35°
J. P. Coulon, trois cent soixante-onze piastres et soixante-		
cinq cents.	371	65
P. Ward, cent piastres.	100	00
John Gauche, vingt piastres et cinquante cents	20	50
Sampson & Keen, trente piastres.	30	00
G. W. R. Bailey, deux cents piastres.	200	00

DUNCAN S. CAGE,

Orateur de la Chambre des Représentants. ALBERT VOORHIES,

Lieutenant-Gouverneur et Président du Sénat. Approuvé le 18 décembre 1865.

J. MADISON WELLS,

Gouverneur de l'Etat de la Louisiane.

Pour copie conforme:

J. H. HARDY,

Secrétaire d'Etat.

No. 10.]

ACTE

Défendant le port d'armes à feu dans le domaine ou l'habitation de tout citoyen sans le consentement du propriétaire.

SECTION 1. Le Sénat et la Chambre des Représentants de l'Etat de la Louisiane, réunis en Assemblée Générale, décrètent: La loi défend à toute personne de porter des armes à feu dans le domaine ou l'habitation de tout citoyen, sans le consentement du propriétaire, excepté Peine contre le dans l'accomplissement légitime d'un ordre civil ou militaire; toute mes à feu. contravention à cette loi sera punie d'une amende d'au moins une piastre et de dix au plus, ou d'un emprisonnement d'un jour au moins, et qui n'en excèdera pas dix, dans la prison de paroisse; les deux peines pourront être infligées à la fois, à la discrétion de toute cour de juridiction compétente. :23-cv-00265-LEK-WRP Document 55-76 Filed 07/14/23 Page 4 of 4

SEC. 2. Be it further enacted, &c., That all laws, or parts of laws, to the contrary notwithstanding, be and the same are hereby repealed. DUNCAN S. CAGE,

 $\mathbf{16}$

Speaker of the House of Representatives. ALBERT VOORHIES,

Lieutenant Governor and President of the Senate. Approved December 20, 1865.

J. MADISON WELLS,

Governor of the State of Louisiana.

A true copy: J. H. HARDY,

Secretary of State.

No. 11.]

AN ACT

To Prevent Trespassing,

SECTION 1. Be it enacted by the Senate and House of Representa-Persons offend. tives of the State of Louisiana, in General Assembly convened, That are against this whosoever shall enter upon any plantation without the permission of Act, before the owner or agent, shall be deemed guilty of a misdemeanor, and whom tried. shall be liable to be arrested and brought before any court of competent jurisdiction, and upon proof of the fact shall be fined in a sum not exceeding one hundred dollars, or imprisoned for a term not exceeding one month, and may, moreover, be required to give bond for good behavior during six months.

SEC. 2. Be it further enacted, &c., That all laws, or parts of laws, contrary to the provisions of this act, be and the same are hereby repealed.

Sec. 3. Be it further enacted, &c., That this act shall take effect from and after its passage.

DUNCAN S. CAGE,

Speaker of the House of Representatives. ALBERT VOORHIES,

Lieutenant Governor and President of the Senate. Approved December 20, 1865.

J. MADISON WELLS,

Governor of the State of Louisiana.

A true copy:

J. H. HARDY,

Secretary of State.

No. 12.]

AN ACT

To amend and recunct the one hundred and twenty-first section of an act entitled "An Act rela-tive to crimes and offences;" approved March 14, 1855.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That

Fine,

Repealing clause.

Repealing clause.

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THE CONSTITUTION, AS AMENDED,

AND

ORDINANCES OF THE CONVENTION OF 1866,

TOGETHER WITH THE PROCLAMATION OF THE GOVERNOR DE-CLARING THE RATIFICATION OF THE AMENDMENTS TO THE CONSTITUTION,

AND THE

GENERAL LAWS

OF THE

REGULAR SESSION OF THE ELEVENTH LEGISLATURE

STATE OF TEXAS.

OF THE

•

BY ADTHORITY.

AUSTIN : PRINTED AT GAZETTE OFFICE, BY JO. WALKER, STATE PRINTER. 1866.

EXHIBIT 44 (McLean)

90

GENERAL LAWS.

ported to and confirmed by the County Judge; and that this Act take effect and be in force from and after its passage. Approved November 5, 1866.

CHAPTER XCI.

An Act concerning Disorganized Counties.

SECTION 1. Be it enacted by the Legislature of the State of Texas, That all counties that have heretofore been legally organized, and that have 'lost their county organization by reason of Indian incursions, or from any other cause, shall be, for all judicial purposes, and for the registration of deeds, mortgages and all other instruments that are now or may hereafter be required or allowed by law to be recorded, attached to the organized county, whose county seat is nearest the county seat of such disorganized county, and so remain attached until such disorganized county shall again be legally organized.

SEC 2. That this Act take effect and be in force from and after its passage.

Approved November 5, 1866.

CHAPTER XCII.

An Act to prohibit the carrying of Fire-Arms on premises or plantations of any citizen without the consent of the owner.

SECTION 1. Be it enacted by the Legislature of the State of Texas, That it shall not be lawful for any person or persons to carry fire-arms on the enclosed premises or plantation of any citizen, without the consent of the owner or proprietor, other than in the lawful discharge of a civil or military duty, and any person or persons so offending shall be fined a sum not less than one nor more than ten dollars, or imprisoment in the county jail not 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.

Passed November 6, 1866.

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THE STATE OF OREGON.

GENERAL AND SPECIAL LAWS

AND

JOINT RESOLUTIONS AND MEMORIALS

PASSED AND ADOPTED BY THE

SEVENTEENTH REGULAR SESSION,

1893.

Begun on the ninth day of January, A. D. 1893, and ended on the eighteenth day of February thereof.



SALEM, OREGON: FRANK C. BAKER, STATE PRINTER. 1893.

EXHIBIT 45 (McLean)

:23-cv-00265-LEK-WRP Document 55-78 Filed 07/14/23 Page 2 of 2 Pagel

GENERAL LAWS,

of Multnomah. All acts and parts of acts in conflict with this act are hereby repealed.

Section 2. The county court of Multnomah county, Oregon, shall procure or cause to be procured properly attested copies of the records of Clackamas county, Oregon, affecting the title to real estate situated in the territory described in section one of this act, and have the same recorded in the records of Multnomah county, Oregon, and thereafter such records shall be recognized and become a part of the official records of said Multnomah county, Oregon.

Filed in the office of the secretary of state, February 20, 1893.

AN ACT

[S. B. 15.]

To Prevent a Person from Trespassing upon any Enclosed Premises or Lands not His Own Being Armed with a Gun, Pistol, or other Firearm, and to Prevent Shooting upon or from the Public Highway.

Be it enacted by the Legislative Assembly of the State of Oregon:

Section 1. It shall be unlawful for any person, other than an officer on lawful business, being armed with a gun, pistol, or other firearm, to go or trespass upon any enclosed premises or lands without the consent of the owner or possessor thereof.

Section 2. It shall be unlawful for any person to shoot upon or from the public highways.

Section 3. It shall be unlawful for any person, being armed with a gun or other firearm, to cause, permit, or suffer any dog, accompanying such person, to go or enter upon any enclosed premises without the consent of the owner or possessor thereof; *provided*, that this section shall not apply to dogs in pursuit of deer or varmints.

Section 4. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than fifteen dollars nor more than fifty dollars, and in default of the payment of the fine imposed shall be committed to the county jail of the county in which the offense is committed, one day for every two dollars of the said fine.

Section 5. Justices of the peace for the proper county shall have jurisdiction of the trial of offenses herein defined.

Filed in the office of the secretary of state, February 20, 1893.