

Nos. 23-4354 and 23-4356

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

RENO MAY, ET AL.,  
*Plaintiffs-Appellees,*

v.

ROB BONTA, IN HIS OFFICIAL CAPACITY  
AS ATTORNEY GENERAL OF CALIFORNIA,  
*Defendant-Appellant.*

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**On Appeal from the United States District Court  
for the Central District of California**  
No. 8:23-cv-01696-CJC-ADSx  
The Honorable Cormac J. Carney, Judge

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**APPELLANT'S EXCERPTS OF RECORD  
VOLUME 3 of 11**

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January 19, 2024

*(Additional caption appears on next page)*

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

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MARCO ANTONIO CARRALERO, ET AL.,  
*Plaintiffs-Appellees,*

v.

ROB BONTA, IN HIS OFFICIAL CAPACITY  
AS ATTORNEY GENERAL OF CALIFORNIA,  
*Defendant-Appellant.*

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**On Appeal from the United States District Court  
for the Central District of California**  
No. 8:23-cv-01798-CJC-ADSx  
The Honorable Cormac J. Carney, Judge

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IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

**RENO MAY, an individual, et al.,**  
  
Plaintiffs,  
  
v.  
  
**ROBERT BONTA, in his official  
capacity as Attorney General of the  
State of California, and Does 1-10,**  
  
Defendants.

Case Nos. 8:23-cv-01696 CJC (ADSx)  
8:23-cv-01798 CJC (ADSx)

**SUR-REBUTTAL DECLARATION  
OF LEAH GLASER IN SUPPORT  
OF DEFENDANT’S OPPOSITION  
TO PLAINTIFFS’ MOTIONS FOR  
PRELIMINARY INJUNCTION**

Date: December 20, 2023  
Time: 1:30 p.m.  
Courtroom: 9B  
Judge: Hon. Cormac J. Carney

**MARCO ANTONIO CARRALERO, an  
individual, et al.,**  
  
Plaintiffs,  
  
v.  
  
**ROBERT BONTA, in his official  
capacity as Attorney General of  
California,**  
  
Defendant.

1           **SUR-REBUTTAL DECLARATION OF PROFESSOR LEAH GLASER**

2           I, Leah Glaser, declare under penalty of perjury that the following is true and  
3 correct:

4           1.       This declaration is based on my own personal knowledge and  
5 experience, and if I am called to testify as a witness, I could and would testify  
6 competently to the truth of the matters set forth in this declaration.

7           2.       I previously provided a declaration in support of the State of  
8 California's opposition to the plaintiffs' motions for preliminary injunction filed in  
9 *May v. Bonta*, C.D. Cal. No. 8:23-cv-01696 CJC (ADSx) (Dkt. No. 21-4) and  
10 *Carralero v. Bonta*, C.D. Cal. No. 8:23-cv-01798 CJC (ADSx) (Dkt. No. 20-4).  
11 See Decl. of Professor Leah Glaser (herein the "Declaration" or the "Glaser  
12 Declaration"). My professional background and qualifications, and my retention  
13 and compensation information, are set forth in Paragraphs 3 through 7 and  
14 Paragraph 11 of the Declaration, respectively.

15           3.       The Declaration was prepared pursuant to a request from the Office of  
16 the Attorney General of the State of California to provide an expert opinion on the  
17 history/development of parks and State Parks in the United States and California,  
18 including whether modern day parks and State Parks existed around 1791 or 1868,  
19 and on the history/development of particular cultural spaces/institutions in the  
20 United States and California, including whether modern versions existed around  
21 1791 or 1868.

22           4.       For this declaration, I have been asked by the Office of the Attorney  
23 General to review and provide a response regarding certain statements (discussed  
24 herein below) made in the *May* Plaintiffs' motion to exclude my declaration  
25 testimony. *May* Dkt. No. 29-14. I have reviewed those statements and prepared  
26 this declaration.

27           5.       The opinions I provide in this declaration are based on my review of  
28 the referenced statements and the citations in support thereof and of documents

1 filed in this lawsuit, and on my education, expertise, and research. The opinions  
2 contained herein are made pursuant to a reasonable degree of professional certainty.

3 **I. RESPONSE TO STATEMENTS MADE IN MAY PLAINTIFFS' MOTION TO**  
4 **EXCLUDE TESTIMONY**

5 6. The *May* Plaintiffs' brief motion to exclude summarily dismisses my  
6 my Declaration with erroneous representations of its contents and the conclusory  
7 assertion that "almost all of it is irrelevant" (*May* Dkt. No. 29-14, p. 5); these  
8 unsupported assertions do not merit a response as the Declaration speaks for itself.

9 7. The *May* Plaintiffs' motion also misrepresents in several respects the  
10 evidence cited in and attached as exhibits to my Declaration. First, the *May*  
11 Plaintiffs state that my Declaration references "a couple of Post-Reconstruction and  
12 20th century restrictions on parks discussed in three paragraphs." *May* Dkt. No. 29-  
13 14, p. 5. In fact, the Declaration references more than thirteen different firearm  
14 bans in State Parks. The cited examples included the 1894 firearm ban applicable  
15 in Yosemite when it was a State Park (Glaser Declaration ¶ 40) and numerous  
16 examples from a multi-volume 1936 Digest of State Parks (Glaser Decl. ¶¶ 54-55,  
17 fn. 38-39, Ex. 3, 4).<sup>1</sup>

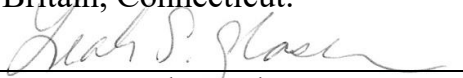
18 8. In addition, the *May* Plaintiffs in the same paragraph suggest that  
19 "most of" the "few" firearm restrictions State Parks that I cited "had to do with  
20 hunting." Yet none of the cited firearm bans are directed at hunting. Glaser Decl.  
21 ¶¶ 54-55, fn. 38-39, Ex. 3, 4.

22 9. In order to correct the record and make clearer the number and nature  
23 of firearm bans enacted for State Parks evidenced in the referenced 1936 Digest,  
24 attached to this declaration are State Park firearm bans set forth in that Digest. See  
25 Exhibits 1 to 15 hereto.

26  
27  
28 <sup>1</sup> The *May* Plaintiffs' reference to three paragraphs is also in error. See  
Glaser Decl. ¶¶ 40, 49, 54, 55, 59.

1 I declare under penalty of perjury under the laws of the United States of  
2 America that the foregoing is true and correct

3 Executed on December 5, 2023, at New Britain, Connecticut.

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5 Leah S. Glaser

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# **Exhibit 1**

## **Alabama (see p. 4)**

**A L A B A M A**

I. STATE PARKS.

Jurisdiction. State parks are under the jurisdiction, control and charge of the State Commission of Forestry (Acts of 1927, 1935).

State Commission of Forestry; how appointed; terms of office. The Commission consists of the Governor (as ex-officio Chairman), the Commissioner of Conservation, three practical lumbermen who are owners of timberland and engaged in the manufacture of lumber, and two farmers who are land-owners. Appointments are made by the Governor. Appointive members are to serve during good behavior, and without compensation, but receive expenses incident to official duties. Vacancies are filled by the remaining members, the same ratio of lumbermen and farmers being maintained. The State Forester serves as Secretary.

Secretary. Note: The State Constitution provides that "no office shall be created, the appointment to which shall be for a longer time than during good behavior."

Duties of Commission; report to Governor. The Commission is directed to inquire into and make annual reports to the Governor upon forest conditions in Alabama, with reference to the development, protection and use of forests; the economic, social and cultural benefits to be derived from the existence and operation of forests, and the use of forests for public purposes (Code of 1923, as amended by Acts of 1935);

Report to Legislature; recommend legislation. Is required to report to each regular session of the Legislature the results of its investigations, and recommend necessary legislation with reference to forestry and other interests devolving upon it by law (Code 1923);

Educate the public. Is directed to promote, so far as it may be able, a proper appreciation, among all classes of the population, of the benefits to be derived from forest culture, preservation and use;

Survey and classify lands. Is required to ascertain the description and location of all lands to which the State holds the legal title for itself, or as Trustee (classified by law as "forest reserves"), and all State parks. The lands are to be classified as "used" or "unused" lands, showing the manner in which title was acquired, character of the land; that is, whether chiefly valuable for agriculture, mining, timber culture or other use, and the use to which it is being put (Acts of 1927);



"Used and "Unused" lands defined.	Note: "Used lands" are those being utilized for the specific and immediate purposes of the State. "Unused lands" those not being so utilized, and which are not contiguous to the premises of any department, institution or State building.
Acquire other lands.	Also ascertain what, if any, lands the State is entitled to have which have not been received, and to take immediate and appropriate action to acquire the same for the State;
Unused lands for State parks.	As to all unused lands owned by the State, it is to determine which are most suitable for forest culture; and at the direction of the Governor, such lands are to be devoted to forest culture as State forests, or to the purposes of State parks;
Consolidate lands.	Where any of the lands of the State are scattered, it is to determine if such ownership may be consolidated by the exchange of such lands with individual owners;
Acquire areas by gift, purchase, condemnation.	For the purpose of establishing, developing, and maintaining State forests and State parks, the Commission may acquire land by donation, purchase or condemnation, and for these purposes may use such funds as may be available to it (Acts of 1935).
Additional areas; made available through tax delinquency.	Under the provisions of an Act of 1933, all lands purchased by the State at tax sales have been subject to redemption at any time before title passed out of the State. In order to make additional areas available for park and forest purposes, this law was superseded by Act of 1935, which provides that real estate bid in by the State at tax sales shall, after three years from date of sale, be subject to conveyance to the Commission of Forestry whenever the Commission determines any such lands to be suitable and desirable for use as a State park or State forest, or for the purpose of exchange for other lands which may be suitable for park or forest purposes. The State Land Commissioner may also transfer lands to the Commission without application by the latter whenever it is deemed to the best interests of the State to do so. Conveyances and transfers may be effected without public advertisement and bids.
Bureaus.	Administrative bureaus have been established by the Commission as follows: <ul style="list-style-type: none"> <li>Bureau of Park Service</li> <li>Bureau of Field Service</li> <li>Bureau of Research and Lands</li> <li>Bureau of Silviculture</li> <li>Bureau of Public Relations</li> <li>Bureau of Administration</li> </ul>

- Bureau of Park Service. The function of the Bureau of Park Service, which is under the direction of the State Forester, is to plan and perfect a State Park System, acquire additional lands for park purposes, the promulgation and enforcement of rules and regulations governing the occupancy and use of State parks, and to provide coordinating personnel and other facilities in connection with State Park ECF activities.
- Rules and regulations. The Commission is authorized to make such rules and regulations for the administration, occupancy, and use of State forests and State parks as it finds necessary (Acts of 1935), and
- Cooperation with Federal Government. Is further authorized to make such rules and regulations for the development, maintenance, management and operation of forest and park enterprises entered upon by the State, counties and municipalities, as will make possible the securing of loans or other financial cooperation from any agencies of the Federal Government (Ib).
- State Forestry Fund. All occupation licenses or privilege taxes imposed for engaging in any business dealing with timber or timber products, and all fines and forfeitures imposed for violation of forestry and timber laws, are designated as the State Forestry Fund, for the exclusive use of the Commission in carrying out the powers and duties devolving upon it by law (Code of 1923). The Legislature has also appropriated
- Appropriations. sums for acquiring park and forest lands.

## II. STATE PLANNING.

- Commission. A State Planning Commission was established by Acts of 1935, to be composed of appointive members and certain State officers, including the State Forester.
- Duties and authorities. It is the duty of the Commission to provide for State planning of all public works and uses of land which are to be constructed or acquired with State funds, or located, constructed, or authorized by the State; all local improvements which under the statutes are required to be submitted to State authorities; also all projects of State magnitude, even though the construction and financing are to be done by local authorities exclusively;
- Such planning is to include, among other things, highways, parks, reservations, forests, and wildlife refuges;
- Following adoption of the master plan, no State public highway, park, forest reservation or other State way or ground may be acquired or constructed until first submitted to the Commission for its report and advice.

## III. RULES AND REGULATIONS GOVERNING CABIN OCCUPANCY.

1. References may be required of applicants prior to leasing cabins.
2. All payments shall be made in cash in advance (checks not acceptable).
3. There will be no rebates or refunds for any reason.
4. Any application for the renting of cabins may be rejected without explanation.
5. The lessee is responsible for maintaining cabin and premises in clean, sanitary and presentable condition.
6. Cabins shall not be used for illegal, immoral or discreditable purposes, either by the lessee or by other occupants or visitors. Violation of this rule shall constitute ground for the cancellation of the contract without rebate or refund.
7. Lessees are required to conduct themselves in an orderly and civil manner with due consideration to other persons on the Park area.
8. Fire-arms are rigidly excluded from State Parks, and the possession of such on the premises by renters or lessees is sufficient ground for cancellation without rebate or refund.
9. Dogs, except constantly under leash, are not permitted in the Parks.
10. Requests for reservations must be accompanied by full payment for the period of occupancy desired. Should the accommodations requested not be available the remittance will be returned to the applicant. Should the accommodations be available, the remittance will be held to apply beginning the date for which the reservation is requested.
11. Any cabin that has been furnished will be available only at the higher rate specified; it is not practicable to move out furniture for the purpose of permitting an applicant to obtain a lower rate. If no unfurnished cabins are vacant only furnished cabins at the higher rate will be leased.
12. During short occupancy periods (one week or less) transfers from one cabin to another will not be permitted except upon full payment of the original contract and execution of a new contract with full cash payment. During longer occupancy periods, consideration will be given requests for such transfers at the discretion of the Park authorities, and no additional charge will be made.
13. It is called to the attention of lessees and other occupants of State Parks that such areas are by law State Forest Reserves and wild life refuges. No trees, wild flowers, shrubs, vines or ferns may be dug up, broken off or removed from the Park area. Birds and wild animals must not be hunted or harmed.

14. Lessees and other occupants are required to refrain from setting fire to State Park property, and in the event of fire breaking out are expected to use every effort to extinguish the fire as quickly as possible.

## IV. SCHEDULE OF CABIN RENTALS

ALABAMA STATE PARKS  
1936

		Regular Rates May 1 - Oct. 31				Special Nov. 1 - Apr. 30		
		Per Night	Per Week	Per Month	6 months Season	Per Week	Per Month	6 Months Season
CHATTahoochee	Unfurnished	\$1.00	\$ 6.00	\$22.50	\$120.00	\$4.75	\$17.00	\$ 90.00
PARK								
Houston County	Furnished	1.50	9.50	30.00	165.00	7.00	22.50	125.00
CHEHA	Unfurnished	1.50	10.00	35.00	190.00	8.00	27.50	150.00
PARK								
Clay & Cleburne	Furnished	2.00	12.50	45.00	240.00	9.75	33.50	180.00
Counties								
DE SOTA	Unfurnished	1.50	10.00	35.00	190.00	8.00	27.50	150.00
PARK								
DeKalb County	Furnished	2.00	12.50	45.00	240.00	9.75	33.50	180.00
GULF	Unfurnished	1.50	10.00	35.00	190.00	8.00	27.50	150.00
PARK								
Baldwin County	Furnished	2.00	12.50	45.00	240.00	9.75	33.50	180.00
LITTLE RIVER								
PARK	Unfurnished	1.00	6.00	22.50	120.00	4.75	17.00	90.00
Escambia & Mon-								
roe Counties	Furnished	1.50	9.50	30.00	165.00	7.00	22.50	125.00
OAK MOUNTAIN								
PARK	Unfurnished	1.25	8.00	28.50	145.00	6.50	22.50	120.00
Shelby County	Furnished	1.75	11.00	37.50	200.00	8.50	28.00	150.00
PANTHER CREEK								
PARK	Unfurnished	1.00	6.00	22.50	120.00	4.75	17.00	90.00
Geneva County	Furnished	1.50	9.50	30.00	165.00	7.00	22.50	125.00
VALLEY CREEK								
PARK	Unfurnished	1.00	6.00	22.50	120.00	4.75	17.00	90.00
Dallas County	Furnished	1.50	9.50	30.00	165.00	7.00	22.50	125.00
WEOGUFKA PARK	Unfurnished	1.25	8.00	28.50	145.00	6.50	22.50	120.00
Coosa County	Furnished	1.75	11.00	37.50	200.00	8.50	28.00	150.00

Note: A "Night" comprises any 24-hour period or portion thereof; no rate is given for "week-ends" but the regular "Night" rate shall apply for each 24-hour period or portion thereof. Winter rates (Nov. 1 - April 30) for less than one week are the same as regular rates, reductions being made only for longer periods. It is not probable that furnished cabins will be available in Alabama State Parks prior to June 1.

# **Exhibit 2**

## **Arkansas (see p. 12)**

**ARKANSAS**

I. STATE PARKS.

State Park Commission. State parks are under the jurisdiction of the Arkansas State Park Commission (Act of March 18, 1927).

Members; how appointed; terms of office. The Commission was created for a period of thirty years, and consists of seven members. The Attorney-General is ex-officio a member and Chairman; the Secretary of the Game and Fish Commission is ex-officio a member and Secretary. The other members are appointed by the Governor for four year terms (rotated). Members serve without compensation, but receive actual expense incident to official duties.

Purposes of Act. The declared purposes of the Act are:

Acquire areas. To provide for the selecting and acquiring of such areas which, by reason of their natural features, scenic beauty, and historical interest, have educational, recreational, health, camping and out-door life advantages;

Preserve natural habitat. To protect and preserve in its original habitat and native beauty the flora, fauna and wildlife therein, and to preserve the same for all future generations;

Promote health and pleasure. Thereby promoting health and pleasure through recreational places, resorts and scenic playgrounds for the people of the State;

Attract visitors. To attract visitors, home-seekers and tourists to the State, and to provide places of recreation and pleasure for them;

Increases wealth of State. To increase the wealth and revenue of the State by means of such parks.

Commission's duties. The Commission is directed:

Make survey. To make a survey of the State with relation to its needs of public parks;

Compile data. To procure information and compile data concerning same;

Evaluate areas. To determine the desirability and value of areas offered to the State;

Acquire lands; how.	To receive and acquire lands and areas by donation, gift, or by eminent domain;
Expenditure of income.	To administer all funds coming into its hands as a result of the rules and regulations governing the use and occupancy of the property;
Rules and regulations.	To make and enforce rules and regulations for the management, care and control of properties acquired.
Reservations prohibited.	The Attorney-General is to pass upon and approve the title to all property before acceptance. No conveyance may be accepted which contains a reservation of title to timber or mineral rights.
Use of State lands.	Upon recommendation and application by the Commission for the use of State lands as parks (subject to approval by the Governor), the Commissioner of State lands is required to issue certificates dedicating such lands to park purposes forever.
Reports.	The Commission is required to make biennial reports to the Governor and General Assembly, including all business transacted, and making such recommendations as may be deemed necessary.
Roads to State parks.	By Act of the 1935 Legislature, the State Highway Commission is directed to include and maintain as a part of the State Highway system the roads most used connecting the various State parks with an established State highway.
State Park Fund.	In addition to appropriations to the Commission, certain receipts from licenses issued by the Federal government under the Water Power Act are credited to the State Park Fund. For the fiscal years 1936 and 1937 fixed sums are to be transferred from the Game Protection Fund and from the General Revenue Special Fund, with the proviso that before any of the moneys appropriated from the Game Protection Fund are expended in the acquisition or development of any park area, the Governor is to approve of such expenditure after he is assured that it will be of value to the wildlife resources in the section or park where the money is to be expended.

## II. FOREST RECREATION AREAS.

Under the authority of an Act of 1935, the State Forestry Commission, with the approval of the Governor, may:

Establish recreational areas.	Set aside for the public welfare State-owned lands which are suitable for the purpose of growing timber, demonstrating proper forestry practices, providing public recreation, and establishing forest nurseries
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and experimental stations;

Tax reversion and mineral lands.

To designate and set aside lands suitable for these purposes which have or may hereafter revert to the State on account of delinquent taxes; also surface rights to State-owned lands held primarily for minerals; and

Land acquired by gift.

Any lands held by or which may be given to the State by donation or otherwise;

Acquire areas by condemnation, leases, etc.

To acquire lands suitable for the above purposes by purchase, exchange, condemnation, lease or agreement;

Accept by gift, grant or devise.

To accept on behalf of the State by gift, grant or devise, lands suitable for such purposes;

Exchange State lands.

To exchange State-owned lands for Federal-owned lands for forestry purposes.

Sub-marginal areas; transfer to Government.

In order to cooperate with the Federal government in its program of acquiring sub-marginal lands to be set aside as parks, recreational or other appropriate uses, the State Land Commissioner is authorized to grant and convey to the United States Government all State-owned lands in any area designated as a sub-marginal land project (Act of 1935).

### III. PUBLIC HUNTING AND FISHING GROUNDS.

Use of public and private lands.

By Acts of 1935, the Game and Fish Commission is authorized to utilize public lands, and with the consent of the owner, private lands as fish or game refuges or public hunting grounds with respect to any species of game, fish or other wildlife; and to cooperate with the State Park Commission, and other agencies and persons in the acquisition, development and maintenance of any area for wildlife or recreational purposes.

Cooperate with other Commissions.

### IV. ARKANSAS CENTENNIAL COMMISSION.

Creation; Purposes.

Act of March 21, 1935 created the Arkansas Centennial Commission

(a) To foster, develop and conduct a befitting celebration of the 100th Anniversary of the State;

(b) To select, procure, construct, finance and manage recreational areas in the State.

Acquire recreational areas.

In order to carry out the purposes of the Act, the Commission is empowered to contract, select, acquire, build, construct, own, manage, operate and finance recreational

areas devoted to the public use and desirable in the public interest, and for which funds may be made available to be loaned or granted by the Federal government or any other Federal agency, or by any other source.

- Method of financing. Upon completion of the recreational areas the Commission may charge reasonable rents, rates, licenses and taxes for the uses thereof by the public sufficient to provide for payment of the interest upon all bonds, notes and other evidences of indebtedness; also to create a sinking fund to pay the principal thereof and to provide for the operation and maintenance of said recreational areas, and to create an adequate depreciation fund.
- Recreational areas defined. Recreational areas for the purpose of the Act are defined as follows: A plot or parcel of land comprising from 40 to 320 acres to be located adjacent or convenient to an improved State highway, selected for its scenic beauty where possible, improved with buildings, lodges, and other facilities suitable for outdoor recreation designed for the purpose of vocational and community centers in the territory in which they are located, and for the comfort and pleasure of touring motorists, and as a medium of favorably advertising the State, and suitable to ultimately become a part of the permanent park system of the State;
- Added powers. May exercise the power of eminent domain; solicit and receive contributions; accept grants of money from and to borrow money from the Federal government or any Federal agency, or from any other source.
- V. STATE PLANNING.
- Planning Board. A State Planning Board was established by Acts of 1935, consisting of fifteen members, including representation from the State Park Commission and the State Forestry Commission.
- Official State plan. The functions and duties of the Board are to prepare and adopt a plan for the physical development of the State, including the location, character and extent of forest reservations, parks, wildlife refuges, conservation projects, land utilization program for forestry, and other purposes;
- Purpose of plan. To guide and accomplish a coordinated, adjusted, efficient and economic development which will increase with present and future needs and resources, and best promote the health, safety, comfort, convenience, prosperity and welfare of the public;

Recreational matters.	To make recommendations, among other things, respecting the conservation of natural resources, and such uses of land as will tend to create greater opportunities for recreational, educational and cultural advances;
General powers and duties.	To confer and cooperate with authorities of neighboring States and within the State on planning matters; make studies and reports on planning problems as requested, or at its own initiative furnish advice to any public agency falling within the field of State planning; submit drafts of legislation or regulations for carrying out the official State plan; prepare and recommend to the Governor and General Assembly a comprehensive public works program.
Enforcement of State plan.	After the adoption of the State plan, no improvements are to be authorized, and no property acquired, by any State or public agency which may have definite part in or relation to the official State plan, unless the proposed location, character and extent thereof be first submitted to the Board for its report and advice.

#### VI. STATE PARK RULES AND REGULATIONS.

The following rules and regulations relating to flora, fauna, fish, other wild life, the carrying of fire arms, the building or kindling of fires on state parks, and the mutilating of property, were promulgated pursuant to the authority granted by Act 172 of the Acts of the General Assembly for the year 1927.

1. There shall be no hunting, shooting or killing of wild life of any kind upon a state park at any season of the year.
2. No fire arms shall be possessed or carried within the boundaries of a state park except that same be cased or broken down so that the same could not be fired, unless written permission is first secured from the park superintendent or his duly authorized representative. The discharging of fire arms within the boundary of a state park is prohibited at all times.
3. There shall be no fishing at any time in any manner within the boundaries of any state park.
4. The cutting down, mutilating, scarring, taking or gathering in any manner, destroying, injuring or harming of any shrub, tree, plant, vine, flower or grass in any state park is prohibited.
5. The tearing down, destroying, mutilating, disfiguring or in any manner injuring any sign, building, structure or improvement within or bordering the boundary of a state park is prohibited.
6. The setting of any forest fire or building of a fire, except in the places provided therefor within a state park is prohibited, and any person who starts a

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fire in an oven, barbeque pit, or other place provided for fires within a park shall not leave the same without taking due precaution to prevent the burning of the surrounding woods or area.

Adopted April 27, 1935.

# **Exhibit 3**

## **California (see p. 20)**

## C A L I F O R N I A

## I. STATE PARKS.

Jurisdiction. State parks are under the jurisdiction of the Department of Natural Resources, acting through the State Parks Commission (Acts of 1927).

Director; appointment; term. The Department is under the control of an executive officer designated as the Director of Natural Resources, and who is appointed by and to hold office at the pleasure of the Governor.

Organization of Department. The work of the Department is divided among Divisions, as follows:

Division of Parks. Division of Parks, to be administered through a Chief appointed by the Director upon nomination by the State Parks Commission.

State Parks Commission; appointment; terms. General policies for the administration of the State park system are to be determined by the State Parks Commission. The Commission consists of five members, appointed by and to hold office at the pleasure of the Governor.

Division of Forestry. Division of Forestry, to be administered through a Chief (who is also designated as State Forester) appointed by the Director upon nomination by the State Board of Forestry.

State Forestry Board; appointment; terms. The Board of Forestry consists of seven members, appointed by and to hold office at the pleasure of the Governor. It determines general policies for the guidance of the Division.

Division of Fish and Game; Commission. Division of Fish and Game, to be administered through a Fish and Game Commission of three members, appointed by and to hold office at the pleasure of the Governor (1933).

Division of Mines; Board. Division of Mines, administered through a Chief appointed by the Director upon the nomination of the State Mining Board. General policies of the Division are determined by the Board, consisting of five members appointed by and to hold office at the pleasure of the Governor.

Compensation. The Director is paid a salary fixed by law. The Chiefs of Division are paid such salaries as may be determined by the Director, with the approval of the Governor. The members of the Commissions and Boards serve without compensation, but are entitled to their actual and necessary expenses incurred in the performance of their duties.

That constitutes State Park system.	All parks, public camp grounds, monument sites, landmark sites, and sites of historical interest created or acquired by the State, or which are under its control, constitute the State Park system; except the grounds known as Sutter's Fort property, the State Fair Grounds in the City of Sacramento, and Balboa Park in the City of San Diego (as amended 1931).
Administration.	The State Parks Commission is directed to administer and develop the State Park system for the use and enjoyment of the public, and is empowered as follows:
Expend funds.	To expend all monies from whatever source derived for the care, protection, supervision, extension and improvement or development of the system;
Acquire property by purchase and condemnation.	With the consent of the Governor and the Board of Control, may acquire by purchase or by condemnation proceedings such real and personal property or any interest therein as it deems necessary or proper for the extension, improvement, or development of the system;
Gifts of land, money, property	May, within its discretion, accept any gift, devise, grant or other conveyance of real property or any interest therein, including water rights, roads, trails and rights of way, to be added to or used in connection with the park system; also to accept by gift, donation, contribution or bequest, money to be used in acquiring real property or any interest therein, or for improving the same as a part of or in connection with the park system, or for any of the purposes for which the Commission is created; also may accept personal property in the same manner for purposes connected with the park system;
City or county may assist State.	Any county, city and county, or city, may assist the State in acquiring any park, playground, recreational center, or beach, to be used for recreational purposes, by donating to the State any real property owned by it or subsequently acquired; and for such purpose may use such of its funds, including funds received by bequest, gift and donation, and those received in trust for the acquisition of such properties, as may be deemed necessary (Acts of 1931);
Counties may condemn lands.	Supervisors of counties are also authorized to use the power of eminent domain to acquire lands for park property for transfer to the State Park system;
State Park Contingent Fund.	All money collected or received from gifts or bequests, or from municipal or county appropriations or donations for the improvement and/or additions to the State Park system are to be deposited in the State treasury to the

credit of the State Park Contingent Fund. All moneys so deposited to be used for the improvement and/or administration of State parks and/or the acquisition of additional lands and properties for the State Park system, in accordance with the terms of the gift, bequest or municipal or county appropriation or donation from which such moneys are derived (as amended 1933);

Contract with cities, counties, etc., for care of lands.

Contracts may be entered into between cities, counties and other political subdivisions of the State for the care, maintenance, and control, for the purposes of the State Park system, by either party to such a contract, of lands under the jurisdiction of the other party, and the expenses of such care, maintenance and control may be paid from the general fund of such city, county or other political subdivision of the State, or from the funds of the Commission, as the case may be;

Revolving Fund.

A Revolving Fund is also created for the use of the Commission. With the approval of the State Board of Control, the Commission may draw from the funds appropriated or the contingent fund without first submitting vouchers and itemized accounts, to a sum not to exceed five thousand dollars, to be used for cash advances, which sum must at any time upon demand of the State Board of Control or State Comptroller be accounted for by the Commission;

Fees and rentals.

Whenever in its judgment it is practicable to do so, the Commission is directed to collect fees, rental and other return for the use of all State park areas. The amount of such fees to be determined by the Commission and paid into the State treasury to the credit of the State Park Maintenance Fund, to be available for construction, improvements, equipment and maintenance of State parks in such amounts as may be appropriated by the Legislature (Acts of 1933);

State Park Maintenance Fund.

Rules and regulations; police powers; penalties.

Is authorized to establish rules and regulations for the government and administration of the park system not inconsistent with law; and may confer on the Chief of the Division of Parks and such other employees as they may designate full authority and powers of peace officers for the parks. Any person who violates the established rules and regulations to be guilty of a misdemeanor;

Reports to Governor; contents.

To gather, digest and summarize in its annual reports to the Governor information concerning the park system and the relation thereto of other available means for conserving, developing and utilizing the scenic and recreational resources of the State;



Closing camping areas in State parks. The Director of Natural Resources, with the consent of the Governor, may declare closed to camping any area in any State park or forest when, in the judgment of the Director, such declaration is necessary in the interest of public peace or safety.

Jurisdiction of State forests. Note: All State-owned forests are under the jurisdiction of the Division of Parks; the Division of Forestry is charged with the fire protection of State park areas.

Hunting on parks. Note: The State Parks Commission has set aside all State parks as game reservations.

Roadside parks. The Department of Public Works may acquire in fee or in any lesser estate or interest, by condemnation, purchase, lease, donation or dedication, any real property (a) for parks adjoining or near any State highway and/or (b) for the culture and support of trees which aid in the maintenance of the attractiveness of the scenic beauties of such highway (Acts of 1935).

Park roads. The above Act also provides that whenever jurisdiction over any highway within a State park has been relinquished to the authority charged with the management and control of such park, the State Highway Department may construct, improve or maintain such highway, such construction, etc., to be subject to the approval of the park authority. The cost of construction, improvement and maintenance to be paid from the State highway fund.

Easements over State park land. The Director of Natural Resources is authorized, upon application by proper authorities and on such terms and conditions as the State Parks Commission may prescribe, to grant easements for public highways over and across State park lands under the jurisdiction of the Department of Natural Resources and the State Parks Commission (Acts of 1933).

Jurisdiction over State burial grounds. By Acts of 1933, all duties, powers, purposes, responsibilities and jurisdiction of the Department of Finance concerning the State Burial Grounds are transferred to and vested in the Division of Parks.

## II. STATE SURVEY.

State park site survey. Acts of 1927 directed the Department of Natural Resources, through the State Parks Commission, to make a survey to determine what lands to be suitable and desirable for the ultimate development of a comprehensive, well-balanced State Park System, and to define the relations of such a system to other means of conserving and utilizing the scenic and recreational resources of the State; to make a report to the Secretary of State embodying the results of the survey and to make recommendations regarding the

means by which such a park system can be acquired. This Act carried an appropriation to be used for the purposes of the Act; also authorized the Commission to accept gifts of money to be similarly used.

Acquire lands for park purposes. A companion Act also authorized the Commission to acquire, as a part of the State Park System, such lands and other properties as in its judgment are suitable for park purposes.

State Park bonds authorized. For the purpose of meeting the costs of such acquisitions, State bonds in the amount of \$6,000,000 were authorized to be issued, and to be sold from time to time at the direction of the State Park Finance Board (created by the Act), upon resolution presented by the State Parks Commission that such sum is needed in furtherance of the purposes of the Act; Provided, bonds are to be sold only when there has been deposited with the State treasury a fund from private gift, city or county appropriation, or from some source other than appropriation by the State, or the sale of state bonds, equal to the amount to be realized for the project intended to be accomplished from the sale of bonds; except, that the sale of bonds may be authorized when it is shown that half the total value involved in such project has been provided from sources other than State appropriation or the sale of State bonds, in the form of land, timber, or other properties, or in money, or in any or all such properties.

Funds to be matched. Exception. Referendum. Note: This Act contained a referendum clause, and received a majority vote.

III. PUBLIC SHOOTING GROUNDS.

Establishment. For the purpose of propagating, feeding and protecting birds, mammals and fish, and establishing public shooting grounds, the Fish and Game Commission may (as amended 1933)-

Acquire land and water. Acquire by purchase, lease, rental or otherwise, and occupy, develop, maintain, use and administer land, or land and water, or land and water rights, suitable for State game refuges, game farms, or public shooting grounds;

Funds for acquiring. Is directed to expend, in addition to any other money made available by law, for a period of ten years beginning January 1, 1928, not less than one-third of all moneys collected annually from the sale of hunting licenses for the purposes of establishing and maintaining game refuges and public shooting grounds;

Regulations. Any property acquired to be subject to rules and regulations of the Commission:

Title to property.	The acquisition of such property is in no case prohibited because of rights of way, easements and reservations which from their nature, will, in the opinion of the Commission, in no manner interfere with the use of the property for the purpose for which acquired;
Advisory committee.	The appointment of a committee to be known as the Game Refuge and Public Shooting Grounds Committee is authorized, to consist of the Director of the California Academy of Sciences, Director of Hooper Foundation for Medical Research of the University of California, and five other members to be appointed by the Commission with the approval of the Governor. Appointive members are to serve at the pleasure of the appointive power and without pay. The Committee is allowed necessary expenses incurred in the discharge of their duties.
Survey.	The Committee is directed to make a survey of the State for the purpose of ascertaining the needs for game refuges and public shooting grounds, and report its recommendations to the Commission.
IV. STATE PLANNING.	
State Planning Board.	Acts of 1935 created as a division of the Department of Finance, a State Planning Board, to consist of the Director of Finance, the Director of Public Works, and the Director of Natural Resources, all ex-officio, and five citizens to be appointed by the Governor. The members receive no compensation other than for their reasonable expenses incurred in the performance of their duties. Appointive members serve for three years (rotated). The Board employs a Director of Planning qualified by special training, experience and demonstrated ability in the field of planning;
Members; appointments; terms.	
Director.	
Authority of Board.	Is authorized to cooperate with any persons or organizations interested for devising means to develop the natural and economic resources of the State, and may accept grants from the Federal and State governments or their agencies; also may accept gifts for the purposes of State planning;
Correlation.	Is directed to encourage the extension and correlation of State planning by agencies of the State government and participate in interstate and National planning efforts, both with a view to the benefit to be derived by the larger region or Nation, and by the State. The Board may not exercise any of the powers or duties of any other State department or agency.

V. STATE PARK RULES AND REGULATIONS.

California State Park System

This is Your Park

All of California's State Parks have been established for the purpose of preserving outstanding examples of nature's handiwork, for future generations, whether it be Redwood groves, beaches or other areas set aside for the use and enjoyment of all of the people.

That this enjoyment may not be destroyed it is necessary that certain restrictions governing the use of the parks be effected.

In order to preserve the natural beauty of the parks so that the public may enjoy them, please observe the following:

Do not pick flowers nor remove shrubs or small trees and please explain to others you may see violating this rule that these areas are being preserved, not only for our use but for posterity.

Do not destroy State property. It is your property.

Place all garbage and other refuse in garbage cans.

Protect human and wild life from danger by driving vehicles within the limit prescribed by the caution signs. Dogs are not permitted to run loose.

Note: In some parks, dogs are not allowed; therefore, suitable facilities are provided for caring for them at a small cost to the owner.

**Firearms are not allowed, and must be sealed or checked at the Warden's Office.**

Please confine travel to paths and roads.

Please confine campfires to camp stoves which are provided for this purpose.

Please report to the Warden any suggestions you may have to offer in order that he may use every effort to make your stay in the park enjoyable and comfortable.

# **Exhibit 4**

## **Connecticut (see p. 27)**

## C O N N E C T I C U T

## I. STATE PARKS.

Jurisdiction.	All lands acquired by the State as public reservations, for the purposes of public recreation, or the preservation of natural beauty or historic association (except such lands as may be placed by law under the supervision of other commissions or officials), are under the supervision of the State Park and Forest Commission. (R.S. 1930).
Members appointment; terms.	The Commission is composed of six members, two of whom are appointed by the Governor during each regular session of the General Assembly, with the advice and consent of the Senate. Appointments are for six years. Members serve without compensation but receive expenses incurred in the discharge of official duties. The Forester of the Agricultural Experiment Station is ex-officio member. A Chairman is annually elected from its members.
Divisions.	Administrative divisions have been established as follows: <div style="margin-left: 100px;">Division of Parks</div> <div style="margin-left: 100px;">Division of Forests</div>
Powers and duties.	The powers and duties of the Commission are as follows:
Acquire recreation areas.	Acting by itself, or with local authorities, to acquire, maintain and make available to the public, open spaces for recreation;
By purchase, gift, condemnation,	May take for the benefit of the public, by purchase, gift, devise, or condemnation, lands and rights in land for public open spaces, or take bonds for the conveyance thereof;
By lease.	May lease lands for a period not to exceed five years, with an option to buy;
Administer other open spaces.	In its discretion, and upon such terms as it may approve, may preserve and care for such other open spaces as may be entrusted, given or devised to the State by the United States, or by cities, towns, corporations or individuals for the purposes of public recreation, or for the preservation of natural beauty or historic association;

Limitation.	May not take or contract to take by purchase or lease any land or other property for an amount beyond such sums as may be appropriated or contributed for such purposes;
Maintenance when adjoining other States.	May cooperate with any official or agency having similar authority in any adjoining State for the care and maintenance of State park and forest lands lying along the boundary of the State and adjoining States, and may enter into agreement for the joint care and maintenance of such lands;
Memorials in State Parks.	With the approval of the Governor, may erect upon any State park, ground or reservation, or permit to be erected, any suitable monument, memorial or memorial tablet in commemoration of the services of any soldier, sailor or marine, or any organization of soldiers, sailors or marines who participated in any war or engagement in which any of the forces of the United States were engaged; may assume the care and maintenance of any public monument offered to it, or any public monument which is not under the care of any commission or department of the State, if it deems such action advisable, the expense of such care and maintenance to be paid by the State; and no order may be drawn for the purpose of building, rebuilding, caring for or maintaining any public monument which is not under the jurisdiction of the Commission of Sculpture, a State department, or an organized board of trustees, without the approval of the Commission;
Animals for parks.	May accept, either by purchase or gift, for free exhibition purposes only, any fish, crustacean, bird or animal;
Lease of camp sites; use of income.	May execute leases of camping sites and buildings on the State parks for limited periods, and use the proceeds from such leases and any other income resulting from the use of State parks for the care, maintenance and improvement of the same; ✓
Trust funds.	With the approval of the Commission, the Comptroller may receive and hold in trust for the State, exempt from taxation, any grant or devise of land or rights in land, and any gift or bequest of money or other personal property, and shall preserve and properly invest any funds so received.
State Park Fund.	Such invested funds are to be known as the State Park Fund, to be used under the direction of the Commission and subject to its orders.
Transfer of Control over open spaces.	Any town or other municipality may transfer the care and control of any open spaces owned or controlled by it to the Commission, or enter into any agreement with the Commission for the joint care or preservation of open spaces within or adjacent to such town or municipality;

- and the Commission may, in like manner, transfer the care and control of any open spaces controlled by it to any local public authorities.
- Rules and regulations. The Commission may, with the approval of the Governor, make and alter rules and regulations for the maintenance of order, safety and sanitation upon the lands in its control, and for the protection of trees and other property and the preservation of their natural beauty, and to fix penalties not exceeding a fine of \$20.00 for violation thereof;
- State Park police. Upon application of the Commission, the Governor may appoint at his pleasure, one or more persons employed upon the public reservations in charge of the Commission who may arrest any person in such reservation for any offense committed therein. Each such policeman, when on duty, must wear in plain view a shield bearing the words, "State Park Police."
- State Forester. The Commission is directed to appoint a technically trained Forester who has had not less than two years' experience in professional forestry work, and who is to administer the statutes relating to forestry and the protection of forests;
- Forester may purchase State Forests. The State Forester, with the advice and consent of the Commission, may buy land suitable for the growth of timber at a price not exceeding \$5.00 per acre; such areas are to be deeded to the State without cost; and, with the consent of the Commission and the approval of the Board of Finance and Control, may sell or exchange any land acquired for State forests. By Act of 1933 (Sec. 583b) he is further authorized, with the advice and consent of the Commission, to acquire land adjoining or in close proximity to an established State forest by exchanging for title in fee simple to such land the right to cut and remove wood, lumber or other forest products from State forest land to an amount equal in value to that of the land to be acquired.
- Revolving Fund. By Act of 1931 (Sec. 865c) the sum of \$30,000 was appropriated to establish a service and sales fund for the Commission, to be used as a revolving fund for the purchase of supplies for resale, and for labor or equipment required for service and sales operations in the State parks. The proceeds of all sales of material and equipment purchased from said fund, together with all receipts from service operations in the parks, are to be credited to the fund. At the end of each calendar year any balance of said fund in excess of \$30,000 reverts to the State treasury.
- To oversee Indian tribes. The Commission is authorized to act as overseer of any tribe of Indians residing in the State and is charged with the management of their lands and money; and is authorized to sell or exchange any real or personal property belonging to any member of any such tribe of Indians. (R.S. 1930, Sec. 5058, as amended, Acts of 1935).



## II. COMMISSION ON FORESTS AND WILDLIFE.

The Park and Forest Commission and the Board of Fisheries and Game constitutes a Commission on Forests and Wildlife. (R.S. 1930, Sec. 2167).

Powers.

The Commission may accept any gift or any interest in real or personal property to be used by the Park and Forest Commission, the Board of Fisheries and Game, or the Commission on Forests and Wildlife, as may be determined by the latter, for any park or forest purpose, for the propagation and protection of wildlife, for public shooting and fishing grounds, or for recreation, upon such terms and conditions as may be agreed upon by the donor and the Commission;

Purchase or lease lands.

May also purchase or lease real or personal property to be used for any of said purposes, but may not purchase real estate at a cost in excess of \$10 per acre without the approval of the Board of Finance and Control; and

May authorize the State Forester or the Board of Fisheries and Game to repair and construct dams; to open up and abandon roads for fire control or to make any other improvement which in its judgment is necessary for the immediate use or protection of lands acquired by it. Expenditures for such purposes may be ordered by the Commission from any appropriation made to it for the purchase of land, provided not more than 1% of such appropriation may be spent for such improvements in any one fiscal year. (Acts of 1931, Sec. 584b).

## III. PUBLIC HUNTING AND FISHING GROUNDS.

Hunting and fishing grounds.

Act of June 9, 1933, appropriated the sum of \$20,000 to the State Board of Fisheries and Game for the purchase of land and acquisition of rights of way to permit access by the public to lakes and ponds; for the renewal of public fishing and hunting rights, for the lease or purchase of areas required for the consolidation of areas held by the Board, and for the protection of public interests in hunting and fishing rights.

## IV. STATE PLANNING.

Act of April 18, 1935, established a State Planning Board.

Powers and duties.

The Board is directed to: (1) collect information concerning the State, its natural resources, its people, its industries and other matters of public interest; (2) correlate the results of the researches of State departments and other organizations; (3) conduct studies in which counties, towns, and municipalities are interested and advise such units in connection with local planning problems; (4) cooperate with

the research divisions of public and private agencies; (5) act in the capacity of a research clearing house; (6) formulate plans for advancing the wise use of the resources of the State and assist in carrying out such plans.

#### V. STATE PARK RULES AND REGULATIONS.

This is a State Park. It belongs to you. It was paid for out of the State money, your money, or given to the State, for the preservation of natural beauty or historical association, and for the recreation of yourselves and your guests from other States.

The custodian of the State Park is the State Park Commission established by your representatives in the General Assembly, whose members are appointed by the Governor with the approval of the Senate. They are your servants, to see that the State Parks are properly cared for, rightly used and not abused.

There is a reason for every rule and regulation made, and they should be complied with, even though the reason is not evident. If the rules seem onerous or unnecessary, your criticisms or suggestions made in writing, will receive careful consideration.

It is desired that this park shall be used for picnic parties, camping and outdoor life by the people of Connecticut, provided the park is used in a wholesome and reasonable way, and that the trees, shrubs and plants are not injured, and all rubbish is placed in receptacles prepared for it, or buried or burned.

People using this State park should not monopolize it, nor disturb, nor unpleasantly intrude upon other parties using it. Fires are a source of danger to the forest, and must not be built in dry times, but at other times they may be made in stone fireplaces built by the Commission or acceptable to them; the fire should never be left alone, and must be put out on leaving.

The use of firearms or having them in possession is forbidden, also the killing or disturbing of wild animals, birds or birds' nests.

The directions of the caretakers should be followed. If they seem unreasonable or undesirable, or if suggestions are to be offered, please write to the Secretary or any member of the Commission.

No park employee is permitted to accept tips.

#### It is Permitted:

1. To fish in accordance with the Public Statutes.
2. To gather nuts, berries or wild flowers except for market.
3. To use any dead wood for the fireplace.
4. To camp for two nights without a permit, camping for longer periods to be by special permit.

# **Exhibit 5**

## **Florida (see p. 35)**

**F L O R I D A****I. STATE PARKS.**

Jurisdiction.	State parks are under the jurisdiction of the Board of Forestry, operating through the "Florida Park Service."
Board of Forestry; members; terms; officers.	The Board was created by an Act of 1927, and is composed of five members appointed by the Governor for four year terms, (rotated). Members receive no compensation, but are paid actual expenses necessarily incurred in connection with official duties. Official headquarters are designated as Tallahassee, but meetings may be held at other points in the State. The Board annually elects a President, Vice-President and Secretary from its members.
Federal Aid; CCC camps.	For the declared purpose of cooperating with Federal agencies; to enable the State to more fully qualify for the aid and assistance offered by Presidential Executive orders and Federal legislation providing for the establishment and operation of CCC camps; for the acquisition of State forests and parks by Federal purchases to be paid for by income from the forests or otherwise; and for the establishment, development and maintenance of a system of State forests and parks, the Board is authorized (Act of June 4, 1935);
Acquire lands.	To accept gifts, donations or contributions of lands suitable for forest or park purposes, and to enter into agreements with the Federal Government, or any other agencies, for acquiring by gift, purchase or otherwise, such lands as in the judgment of the Board are desirable and suited for State forests and State parks;
Funds.	For such purposes, and the utilization and development of such lands, the Board is authorized (a) to use the proceeds of the sale of any product therefrom, (b) the proceeds of the sale of any such land (except the State School Fund's 25%), and (c) such other funds as may be appropriated and available for such uses and purposes;  Note: The State Constitution provides that 25% of the sale of State-owned lands is to become a part of the State School Fund.
Limitation.	The Board is prohibited from entering into any agreement for the acquisition of or purchase of land, or for any other purpose which would pledge the credit of or obli-

Accept custody of land.	gate the State to pay any sum of money. It may, however, receive, hold the custody of, and exercise the control of any lands, and use the proceeds derived from the sale of products from, or the use of such lands (except the State School Fund's 25%) for the acquisition, use, custody, management, development or improvement of any lands vested in or subject to its control;)
May sell, lease or exchange lands.	With the concurrence of the Governor and the Trustees of Internal Improvement Fund, the Board may sell, lease, exchange or otherwise dispose of any lands under its jurisdiction when in its judgment it is advantageous to the State to do so in the interest of the highest orderly development, improvement and management of the State Forests and State Parks;
Internal Improvement Fund.	Note: The Internal Improvement Fund was created by Act of 1855, and originally included the remaining unsold portion of the 500,000 acres of land granted to the State by Act of Congress of March, 1845; the proceeds then on hand from such lands previously sold; all proceeds from subsequent sales; also all swamp land or lands subject to overflow granted the State by Act of Congress of September 1850; title to tide lands in certain counties. The object of the grants was to enable the State to reclaim these lands for settlement, cultivation and other internal improvement purposes. The Trustees of the Fund are the Governor, Comptroller, Treasurer, Attorney-General and the Commissioner of Agriculture.
Cooperating Agency.	The Board is designated and authorized as the agent of the State to cooperate with the Federal Government under the provisions of the Clarke-McNary Act; also with all other agencies, interested in proper land use, forest management, conservation, forest utilization and State park development;
Rules and Regulations.	The Board may make rules and regulations and do such acts and things as are reasonable and necessary to accomplish the purposes of the Act.
Appropriation; Purpose.	To assist in carrying out the purposes of the Act, the Legislature appropriated specific funds for State Park and State Forest purposes. The monies appropriated are placed at the disposal of the Governor, to be allocated by him on the recommendation of the Board for the management, development and acquisition of such lands as he may deem desirable and necessary for the expansion of the State forests and State park system.
Governor to allocate funds.	Note: State forest or park lands may be pledged for funds with which to develop or otherwise improve holdings.

## II. FLORIDA PARK SERVICE.

Jurisdiction over State Parks.	Under the provisions of an Act of June 4, 1935, the Florida Board of Forestry was authorized to establish a department of State Parks to be known as the "Florida Park Service", to be administered by the Board for the purpose of acquiring, developing, and administering State parks in cooperation with the National Park Service, other governmental agencies, and the Trustees of the Internal Improvement Fund;
To cooperate with National Park Service.	
Supervision of Service.	The Service is to be operated by and be under the sole and exclusive supervision of the Board of Forestry, using funds specifically appropriated for park purposes and as otherwise provided by law;
Director: National Park Service to certify.	The Board is authorized to employ a Director of the "Service" whose qualifications are certified to by the National Park Service;
Counties may acquire and transfer park lands to State.	The Act also authorizes the Commissioners of any County to acquire by gift, devise or purchase, out of general funds, from individuals, corporations or the United States Government, any lands which are suitable for public parks or for the preservation of natural beauty or places of historic association, and operate the same as public parks; and may convey to the Trustees of the Internal Improvement Fund, or the Board of Forestry for the "Service", any lands acquired for park purposes.
Cooperate with counties.	The Board is also authorized to cooperate with counties in county and State park work.
	Note: Dade Memorial Park is under the jurisdiction of a separate Commission appointed by the Governor. This park receives State aid.

## III. PUBLIC SHOOTING GROUNDS.

Acquire lands and water.	The State Board of Conservation (created by Acts of 1933) may, with the approval of the Governor, acquire lands and water by purchase, lease, gift or otherwise, suitable, among other things, for hunting purposes.
Improvement.	May erect such buildings and fences as may be deemed necessary to properly maintain and protect such lands;
Price limitation.	No such lands are to be purchased at a price to exceed \$10 per acre;

Lease shooting privileges; rental price. For the purpose of establishing public shooting grounds, may lease the shooting privileges of lands surrounding game refuges at a price not to exceed 5¢ per acre per year;

On State game lands. Public shooting grounds may also be established on State game lands;

State Game Fund available. Funds resulting from the administration of the fish and game laws are to be used in carrying out the foregoing provisions.

#### IV. STATE PLANNING.

Act approved June 8, 1935, established a State Planning Board, whose functions are:

Studies, etc. To secure, assemble, study, map, plot and chart any and all data pertaining, among other things, to land use, parks, wildlife, and laws relating to social, economic and conservation matters, for the purpose of advising, assisting and recommending to the administrative officers, the legislature and the people plans for future development, welfare and governance of the State, in order that the State's plan of development may be coordinated, its economic resources be conserved and the welfare of the people be promoted;

Master plan. To make and adopt an official master plan, showing the Board's recommendations for development, including, among other things, the location, character and extent of parks, reservations, forests, wildlife refuges; also a land utilization program including the general classification and allocation of the land within the State amongst agricultural, forestry, recreational, soil conservation and other uses and purposes.

County Planning Council. In order to assist the Board in its master plan, County Planning Councils may be formed in the various counties. All council members are to serve without compensation or expense allowance. In addition to assisting the Board, the Council is to make and adopt similar plans for the physical development of the county.

General. In order to promote public interest and understanding of the State and/or county plans and the problems of such planning, the State Board may publish and distribute copies of plans and reports and employ such other means of publicity and education as it may determine; may confer and cooperate with authorities of neighboring States; make a study of and report any planning problems of the counties of the State, municipality or subdivision; furnish advice or reports to any State officer or department; advise the Governor or the Legislature of programs for public improvements and financing, and may prepare and submit proposed legislation for the carrying out of the master plan, including zoning and land-use regulations, and regulations for the conservation of the natural resources of the State.

## V. STATE PARK RULES AND REGULATIONS.

The following rules and regulations for the government of this Park are hereby established. These rules and regulations are promulgated to cover only the Government owned or controlled lands and waters in the Park area.

1. **PRESERVATION OF NATURAL FEATURES AND CURIOSITIES:** The destruction, injury, defacement, or disturbance in any way of the public buildings, signs, equipment, or other property, or the trees, flowers, vegetation, rocks, minerals, animal or bird or other life is prohibited; Provided, that the flowers may be gathered in small quantities when in the judgment of the Superintendent, or other authorized representative of the Florida Park Service, their removal will not impair the beauty of the Park. Before any flowers are picked, permit must be obtained from the Superintendent in charge.

2. **CAMPING:** When the Park is constructed by the Florida Park Service by means of the Civilian Conservation Corps in cooperation with the National Park Service, adequate camping places with pure water and other conveniences will be provided. Until such time no camping overnight or fires of any sort will be permitted except by special permit of the Superintendent or his duly authorized representatives. In such instances the following rules must be carefully observed: Wood for fuel only can be taken from dead or fallen trees. Combustible rubbish shall be burned on camp fires, and all other garbage and refuse of all kinds shall be buried.

3. **FIRES:** Fires constitute one of the greatest perils to the Parks; they shall not be kindled near trees, dead wood, moss, dry leaves, forest mold, or other vegetable refuse, but in some open space on earth. Should camp be made in a locality where no such open space exists or is provided, the dead wood, grass, moss, dry leaves, etc., shall be scraped away to the earth over an area for five feet around the fire.

Fires shall be lighted only when necessary and when no longer needed shall be completely extinguished and all embers and bed smothered with earth or water, so that there remains no possibility of reignition.

Smoking may be forbidden by the superintendent in any part of the Park during the fire season when in his judgment the fire hazard makes such action advisable.

NOTE: Especial care shall be taken that no lighted match, cigar, cigarette, or burning pipe tobacco is dropped in any grass, twigs, leaves, moss or tree mold.

4. **HUNTING:** The Park is a sanctuary for wild life of every sort, and all hunting or the killing, wounding, frightening, pursuing, or capturing at any time of any bird or wild animal, except dangerous animals, when it is necessary to prevent them from destroying human lives or inflicting personal injury or taking the eggs of any bird, is prohibited within the limits of said Park. Firearms are prohibited within the Park except upon written permission of the Superintendent.

5. **FISHING:** Fishing with nets, seines, traps or by the use of drugs or explosives or in any other way than with rod, hook and line held in hand, or for merchandise or profit, is prohibited. Fishing in the Park will be permitted only during the open season as prescribed by the State of Florida.



Fishing in waters of the Park is permitted from daylight until dark during the open season as prescribed by the State of Florida. At no time will fishing be permitted between dark and daylight.

6. PRIVATE OPERATIONS: No person, firm or corporation shall engage in any business, or erect buildings in the Park without permission in writing from the Florida Park Service, Tallahassee, Florida, nor shall any person reside or be permitted to reside on Park land without authority of the Florida Park Service, or other authorized representative.

7. CAMERAS: Still and motion-picture cameras may be freely used in the Park for general scenic purposes. For the filming of motion pictures requiring the use of artificial or special settings, or involving the performance of a professional cast, permission must be obtained from the Superintendent of the Park.

8. GAMBLING: Gambling in any form, or the operation of gambling devices, whether for merchandise or otherwise, is prohibited.

9. ADVERTISEMENTS: Private notices or advertisements shall not be posted or displayed within the Park, excepting such as the Park Superintendent deems necessary for the convenience and guidance of the public.

10. GRAZING: The running at large, herding or grazing of livestock of any form on the Government lands in the Park is prohibited except by permit.

11. MISCELLANEOUS: Possession, sale, transportation or manufacture of liquor in the Park, is prohibited.

The possession of dynamite, dynamite caps or blasting fuse is forbidden unless permission in writing has been obtained from the superintendent in advance.

12. FINES AND PENALTIES: Persons who render themselves obnoxious by disorderly conduct or bad behavior may be summarily removed from the Park by the Superintendent or a peace officer.

FLORIDA PARK SERVICE,  
Tallahassee,  
Florida.

Approved January 1, 1935  
(Issued for Kyakka Park)

# **Exhibit 6**

## **Indiana (see p. 55)**

## I N D I A N A

## I. STATE PARKS.

- Jurisdiction.** The State Parks are under the jurisdiction of the Department of Public Works, and are administered by the Department of Conservation (Law 1919, 1933).
- Board Members; Appointment. Commissioner of Conservation; Other officers.** The Department of Public Works is in charge of a Board consisting of the Governor, the Lieutenant Governor, and three other persons appointed by the Governor. One member is designated as Administrative Officer of the Department and Commissioner of Conservation. In the discretion and upon the direction of the Governor, not in excess of five additional members may be added to the Board. An Assistant Commissioner and a Secretary are also appointed by the Governor. All appointees are to hold office at the pleasure and discretion of the Governor and not in excess of four years except upon reappointment.
- Departmental powers.** The Department is empowered to investigate, compile and disseminate information and make recommendations concerning the natural resources of the State and their conservation; including the drainage and reclamation of lands; flood prevention, development of water power; culture and preservation of forests; fish and game; the preservation of soils; the prevention of waste mineral resources; the prevention and methods of control of plant diseases; infections and pests, and such other questions or subjects as may be contemplated by the Acts; may cooperate with departments of the Federal government in conducting topographical and other surveys, experiments or work of joint interest; may cooperate with any public or private institution or with individuals, societies or associations of individuals in making scientific investigations, compiling reports, and otherwise in such manner and to such extent as may be deemed necessary or advantageous in carrying out the purposes of the Act (Laws of 1919).
- Divisions.** Divisions within the Department are as follows:
- Division of State Parks, Lands and Waters
  - Division of Forestry
  - Division of Fish and Game
  - Division of Geology
  - Division of Entomology
  - Division of Engineering
- Division Chiefs; Appointment.** Additional divisions may be created from time to time, with the approval of the Governor. Each division is headed by a Director or other officer appointed by the Governor; is

	vested with immediate supervision and management, and is responsible for its work.
Division of State Parks, Lands and Waters.	Acting through the Director of the Division of State Parks, Lands and Waters, the Department is empowered and directed as follows (Laws of 1919):
Care of parks.	To have the care, custody and control of the several parks and memorials owned by the State; exclusive of forest preserves;
Rules and regulations.	To make necessary rules and regulations to secure proper enforcement of the provisions of the Act;
Publicity.	To prepare, print, post or distribute printed matter relating to the State parks and memorials;
Acquire lands by purchase or condemnation.	Subject to the approval of the Governor, to purchase or acquire by eminent domain, lands for parks or memorials and scenic and historic places;
Gifts.	To receive and accept in the name of the people of the State by gift or devise, the fee or other estate therein of lands or scenic or historic places;
Employ convicts.	To employ, with the approval of the proper authorities, the convicts committed to any State penal institution for the purpose of producing or planting trees, clearing, improving, repairing, draining or developing lands purchased or acquired by the State for parks or as scenic or historic places;
Custody of title papers, etc.	To have the custody of all abstracts of title, papers, contracts or memoranda relating thereto, except original deeds to the State, for any lands purchased or received for parks or preserves or as scenic or historic purposes;
Supervise streams and water courses.	To have general charge and supervision of the navigable streams and water courses of the State within the government survey meander lines;
Removal of minerals.	To issue permits to take coal, sand and gravel from or under the bed of any navigable stream or water course or from or under the bed of any lake wholly within the State.
Counties may convey lands for parks.	The board of commissioners of any county having a population of less than 12,000 and not more than 16,000 is authorized to purchase or otherwise acquire any lands within such county and convey same to the State for park purposes (Laws of 1925).

Note: This Act applied to Steuben County and permitted the transfer of lands now known as Pokagon State Park. For powers of counties generally see following Act.

- Powers of counties generally. The Board of Commissioners of each county is authorized to acquire by purchase or otherwise any lands within such county for park purposes and to convey same to the State for park purposes (Laws of 1937);
- Petition. Such acquisitions are to be initiated by petition signed by not less than 200 taxpayers, requesting that an annual tax be imposed for acquiring lands. If before the time for hearing the petition 25% of the resident taxpayers representing 25% of the taxable property file a remonstrance, the petition is required to be dismissed. If no such remonstrance is filed, and the board finds such acquisition and conveyance expedient and for the best interests of the county, the petition is granted and an order entered for the purchase, fixing the maximum amount to be paid. Should there be insufficient money in the general fund to pay for the lands, the board may levy a tax upon the assessed property not to exceed one cent on each \$100 of taxable property for a period not to exceed 20 years; and may provide for the issuing of bonds to provide funds for the purchase of the lands;
- Consent to acceptance. Upon the filing of any such petition the commissioners are required to furnish one copy to the Governor and one copy to the Department of Conservation. No order granting any such petition may be made or entered unless and until the Governor and the Department have given their consent to the acceptance by the State of the lands described in the petition;
- Inspection by Department. When any board of commissioners proposes to acquire any such lands, the board may notify the Department of Conservation of the proposed acquisition, which Department is required to inspect the lands and report to the board the suitability or unsuitability thereof for park purposes. But such report is advisory only and not mandatory to the board.
- Other lands. Any town, city, township or county may purchase State-owned swamp, saline and meander lands bordering on lakes and streams for public park purposes, and transfer the same to the Department as and for a State park; the Department being authorized to establish, develop, improve and maintain the same as are other State parks; also to accept gifts, devises and bequests of any and all kinds of property of whatsoever nature for the enlargement, improvement, development, use and maintenance of the same (Laws of 1929).
- Hunting prohibited. It is unlawful for any person to take, kill, or shoot at, or in any manner disturb, any squirrel in any public park or State grounds, or within one-half mile thereof (Laws of 1911).
- Same. It is unlawful for any person to hunt, pursue, trap, kill, injure or take in any manner or at any time any wild animal or bird on any lands of the State used for a State

park. It is also unlawful for any person to go upon such lands with a gun (Laws of 1927).

Reduction of plants.

It is unlawful for any person, firm or corporation to construct, install or locate any reduction plant at any place which is within a distance of one and one-half miles of any state, county, township, city or town park, and no such reduction plant which has been destroyed by fire, wind-storm, lightning or flood, and which is within one and one-half miles of any such park may be rebuilt at any such location (Laws of 1935).

## II. STATE FOREST RESERVES.

Division of Forestry; State Forester.

Acting through the Head of the Division of Forestry (the head of the Division is the State Forester), the Department is empowered and directed (Laws of 1919);

Care of forest lands.

To have the care, custody and control of the forest lands owned by the State, exclusive of State parks;

Rules and regulations.

To make necessary rules and regulations to secure proper enforcement of the provisions of the Act;

Establish nurseries; use of products.

To establish, operate and maintain nurseries for the production of trees to be used in reforestation. Such trees may be used to reforest any land owned by the State, or for planting on public roads or lands under such terms as may by the Department be deemed to be for the public benefit;

Purchase or condemn.

Subject to the approval of the Governor, to purchase or acquire by condemnation lands and forests;

Accept gifts of lands or forests.

To receive and accept in the name of the people of the State, by gift or devise, the fee or other estate therein of lands or forests;

Examine State-owned forest lands.

To examine the forest lands owned by the State, or by any State institution, for the purpose of advising and cooperating in securing proper forest management of such lands;

Employ convicts.

To employ, with the approval of the proper authorities, the convicts committed to any State penal institution, for the purpose of producing or planting trees, building roads or doing other work in the forests and in clearing, draining or developing lands purchased or acquired for forestry purposes;

## III. PUBLIC SHOOTING GROUNDS.

Creation.

The Department of Conservation may, by regulation approved by the Governor, set aside, designate and maintain any game reserve, or any part thereof, or other lands acquired for that purpose, as a public shooting ground, permitting

all persons to hunt, trap or take such wild animals or wild birds in open seasons in such manner at such time and under such conditions and restrictions as may be imposed by regulation (Laws of 1927).

#### IV. GENERAL.

Highways within parks.

All public highways, except State highways, inside the boundaries of the several State parks, forest reserves, game reserves, and scenic and historic places owned by the State, are vacated as such highways, the Department of Conservation being authorized in its discretion to maintain and keep such roadways open to the public, or to close the same; Provided, that in any case where any privately owned lands would, by such vacation, become inaccessible by public highway, in such case so much of any such highway as will provide public access to and outlet from such lands is not to be deemed to be vacated so long as such condition exists (Laws of 1929).

Highways to parks.

The State Highway Commission is authorized to lay out, construct and maintain, as a part of the State Highway system, highways which will connect any State highway with any State park or any recreational, scenic or historic place owned or operated by the State; such connecting highways to be laid out, constructed and maintained in the same manner as is provided by law for the laying out, construction and maintenance of State highways (Laws of 1929).

Rotary Fund.

All funds accruing to the use of any Division (except the Division of Fish and Game) other than regular specific appropriations made by the General Assembly, constitute rotary funds and no part of which reverts to the general fund at the close of any fiscal year; (Laws of 1935).

Tippecanoe Battle Ground.

Article 15, Sec. 10, Constitution of Indiana, declares it to be the duty of the General Assembly to provide for the permanent enclosure and preservation of Tippecanoe Battle Ground.

#### V. INDIANA'S CONSERVATION PROGRAM.

1. Developing a greater appreciation of Out-door Hoosier-land.
2. Encouraging and correlating all conservation activities.
3. Perfecting artificial methods of wildlife propagation.
4. Improving conditions for greater natural increase of wildlife.
5. Correcting and controlling the pollution of streams and lakes.

6. Adding recreational opportunities through our State Parks, State Forests, and all other state properties.
7. Further developing State Forests and Forest Nurseries.
8. Restoring sub-marginal lands to their natural state.
9. Fostering "Riverside Forest" plan.
10. Furthering Conservation through Education.
11. Striving to make Indiana a more attractive Outdoor State.

#### VI. STATE PLANNING.

State Planning Board; members; terms.

A State Planning Board was created by Acts of 1935, consisting of eleven persons, one of whom to be the Governor or some person designated by him; one to be a member of the State Highway Commission, to be designated by the Governor; the Director of Public Works; Director of the Division of Public Health; the Director of the Agricultural experiment station at Purdue University; the State Geologist; one to be nominated by the Indiana city planning association; and the other four members to be selected and appointed by the Governor. The terms of the five appointive members to be for four years (rotated). A chairman is designated by the Governor. All members serve without compensation but are allowed any reasonable expenses incurred in the performance of official duties.

Executive Director.

The Board may appoint an executive director, who acts as its Secretary; also may employ such other personnel deemed necessary.

Purposes; Powers and duties.

For the purpose of providing that healthful, convenient, safe and pleasant living conditions may be assured throughout the State, affording abundant opportunity for the proper utilization of natural resources; and in order that the people of the State may realize the greatest possible benefit from the resources of the State, including soils, lands, forests, fisheries, wildlife and recreational facilities, and including such distribution of population and of the uses of land as will tend to reduce the wastes of physical, financial or human resources, the board is empowered:

Surveys, etc.

To make inquiries, investigations and surveys concerning the resources of all sections of the State;

Formulate plans, etc.

To assemble and analyze the data and to formulate plans for the conservation of such resources and the intelligent and systematic utilization and development thereof;



- Recommendations. To make recommendations from time to time as to the best methods of such conservation, utilization and development;
- Cooperation. To cooperate with other agencies, national and State;
- Master plan. To make and adopt an official master plan for the physical and economic development of the State, including, among other things, the general location, character and extent of highways, expressways, parkways, waterways, water front development, flood prevention works, parks, preservations, forests, wildlife refuges.
- Restrictions. Following adoption of the State master plan, no state highway, park, forest, reservation or other State way, ground or property may be constructed or acquired with State funds, or located, constructed or authorized by any State agency unless the location and extent thereof is first submitted to the Board for its report and advice.
- Ten-year program. The Board is further directed to prepare and keep up to date a ten year construction and financial program, to be prepared in consultation with the several State departments; to cooperate with municipal, county, regional and other local planning commissions; furnish advice and reports to any State officer or department; prepare and submit to the Governor and General Assembly drafts of legislation for carrying out the master plan; encourage the creation of county, municipal and regional planning commissions, and to act as a clearing house for information relating to such planning.

#### VII. STATE PARK RULES AND REGULATIONS

##### This is YOUR PARK

All visitors are expected to observe the following rules that we can fulfill the purpose for which this and other state parks were established, the preservation of a primitive landscape in its original condition and a place where you might enjoy the out-of-doors.

1. Do not injure or damage any structure, rock, tree, flower, bird or wild animal within the park.
2. Firearms are prohibited at all times.
3. Dogs must be kept on leash while in the park.
4. There shall be no vending or advertising without permission of the Department of Conservation.
5. Camping areas are provided at a fee of twenty-five cents per car or tent for each 24 hours or fraction.

6. Fires shall be built only in places provided; visitors must put waste in receptacles provided for that purpose.
7. Motorists will observe speed limits as posted in the park, and park in areas designated for parking.
8. Fathing is limited to such places and times as designated by the Department of Conservation.
9. Drinking water should be taken only from pumps, hydrants or fountains provided for that purpose. This water supply is tested regularly for purity.

CONSIDER THE RESULTS IF OTHER VISITORS USE THE PARK AS YOU DO

Help Prevent Forest Fires.

Build Fires only in Designated Places.

See that cigars or cigarettes are out before they are thrown away.

Break your match before you drop it.

Report any violation of fire regulations to park officials at once.

FIRE IS THE GREATEST THREAT TO OUR PARKS AND FORESTS.

# **Exhibit 7**

## **Iowa (see p. 61)**

## I O W A

## I. STATE PARKS AND PRESERVES.

- Jurisdiction.** The State parks and preserves are under the jurisdiction of the Department of Conservation and are administered by the State Conservation Commission (Acts of 1935).
- State Conservation Commission; members; appointment; terms.** The Commission is composed of seven members. Appointments are for six years and are made by the Governor with the approval of two-thirds of the members of the Senate. Not more than four members may be of the same political party, and are to be citizens who are interested in and have substantial knowledge of conservation matters. Members receive \$7.50 for each day actually and necessarily employed in the discharge of official duties, but such compensation may not exceed \$500 for each fiscal year; also receive necessary expenses incurred in the discharge of their official duties when absent from their usual place of abode, unless serving under contracts which require them to defray their own expenses.
- State Conservation Director.** The Commission employs an administrative head, designated as the State Conservation Director; and who in turn is authorized to employ necessary assistants, including a professionally trained State forester of recognized standing; also such conservation officers as may be necessary to enforce the laws, rules and regulations.
- Divisions.** The Department of Conservation consists of the following statutory divisions:
- Fish and Game.** 1. Division of Fish and Game, including all matters relating to fish and fisheries, waterfowl, game, fur-bearing and other animals, birds, and wildlife resources;
- Lands and Waters; Parks.** 2. Division of Lands and Waters, including all matters relating to State waters; State parks and recreation; forests and forestry; scenic, scientific, historical and archaeological matters;
- Administrative.** 3. Division of Administration, including all matters relating to accounts, records, enforcements, technical service and public relations.
- The financial resources of the Commission are divided into three separate funds:
- Fish and Game Fund.** 1. Fish and Game Protection Fund, consisting of all moneys accruing from license fees and all other sources of revenue arising under the division of game and fish;
- Conservation Fund.** 2. Conservation Fund, consisting of all other funds;

- Administration Fund. **3. Administration Fund**, consisting of an equitable portion of the gross amount of the two above funds sufficient to pay the expenses of administration.
- Powers and duties. General powers and duties of the Commission relating to the State parks are as follows (Code of Iowa, Chapter 87):
- To make investigations. To investigate places in Iowa rich in natural history, forest reserves, archaeological specimens and geological deposits; the means of promoting forestry, maintaining animal and bird life, and the conservation of natural resources;
- Establish parks. To establish, maintain, improve and beautify public parks upon the shores of lakes, streams or other waters within the State which have become historical, or which are of scenic interest, or which, by reason of their natural scenic beauty or location are adapted therefor;
- Acquire lands. To purchase or condemn lands for public parks; but no contract for the purchase of such public parks may be made to an amount in excess of funds appropriated for such purpose by the General Assembly;
- Acquire connecting highways. To purchase or condemn highways connecting such parks with the public highways. Such highways are to become public highways of the State and to be maintained as other public highways of the county;
- Gifts or use of lands. To accept gifts of land or other property, or the use of lands or other property for a term of years, and improve the same as public State parks.
- Condition. The conditions attached to a gift are to be entered as part of the record of the title by which the State takes the lands, if the conditions are made by the grantor in lieu of monetary considerations. If the donation be other than real estate, and a particular specification for its use be made by the donor, no part of such donation may be used or expended for any other purpose. If lands transferred to the State as a gift, or purchased from moneys given for that purpose, are not used for park purposes, or are sold, the donor may reclaim the land or funds by filing request within six months of the time of abandonment or sale, but no interest or other charges may be demanded. Any unclaimed funds are to be used for park purposes.
- Use of private funds. The Commission may permit the improvement of parks, when established, or the improvement of bodies of waters upon the border of which parks may be established, by the expenditure of private funds; such improvements to be done under its direction;

- Cooperation with counties, cities, towns. May enter into an arrangement with any county, city or town for the care and maintenance of any State park; counties, cities and towns being authorized to maintain such parks and to pay the expense from its general fund;
- May lease lands. May lease for periods not exceeding five years such part of the property under its jurisdiction as to it may seem advisable;
- May sell park land. May sell such parts of the public parks as may be deemed undesirable for park purposes; the proceeds of such sale to be used for park purposes;
- Cities and towns may purchase lands for State parks; limitation. Any one or more cities or towns may expend money to aid in the purchase of land within the county for State parks. to become the property of the State and to be cared for as State parks; but the amount to be so paid may not exceed one-half of the total purchase price of the land involved in any single purchase, nor may the total amount paid in any single purchase exceed the sum of \$50,000. Such land may be paid for out of the general fund, or the park fund, or bonds may be issued and a tax levied for the payment of the bonds and the interest thereon (as amended 1934).
- May erect dams. The Commission may erect dams across streams and across the outlets of lakes for the purpose of raising the water level; compensating for any damage occasioned to riparian owners;
- Jurisdiction over streams. Exercise jurisdiction over all meandered streams and lakes and of State lands bordering thereon, not now used by some other State body for State purposes; and may convert parts of such property into State parks;
- To control islands. No island in any of the meandered streams and lakes, or in any of the waters bordering upon the State, may be sold without its recommendation; and if sold, the proceeds become a part of its funds.
- State agencies to cooperate. The Commission may call upon the President of the State College of Agriculture and Mechanical Arts for the services of at least one competent landscape architect, engineer, or gardener, for cooperation in the improvement of the property under its control; all necessary expenses to be paid by the Commission, but no compensation may be paid for such services;
- Highway Commission to cooperate. May call upon the Highway Commission for the services of at least one competent engineer, and also upon the County Engineer of any county, who is to assist, without expense to the Commission, in carrying out the true spirit and purpose of the law;

Rules and regulations. May adopt and enforce such rules and regulations as it may deem necessary, to regulate or restrict the use by the public of any of the parks, property or water under its jurisdiction; prohibiting, restricting or controlling the speed of boats, ships, or water craft of all kinds; traffic upon the roads and drives; governing the building or erection of any pier, wharf, service, piling wall, fence, building, or erection of any pier, wharf, service, piling wall, fence, building, or erection of any kind; and may prohibit, restrict or order the removal of same.

## II. FORESTRY AND CONSERVATION.

Acquire forestry lands. By Act of 1935, the Commission is authorized to accept gifts, donations, or contributions of land suitable for forestry or conservation purposes;

Cooperate with United States. To enter into agreements with the Federal Government or other agencies for acquiring by lease, purchase or otherwise, such lands as in the judgment of the Commission are suitable for such purposes;

No tax exemption. All lands so acquired are subject to the regular annual tax levies as other real estate in the taxing district; the taxable value to be limited to the price at which same was purchased by the Commission or any agency of the Federal Government (Note: held by Attorney General to be "unworkable").

How lands paid for. Obligations incurred for the acquisition of land are to be paid solely and exclusively from revenue derived from such lands, and shall not impose any liability upon the general credit and taxing power of the State. All such revenue is to be segregated for the use of the Commission in the acquisition, management, development, and use of the lands until all obligations have been paid in full. Thereafter 5% of all net profits are to be used for such purposes as the General Assembly may prescribe, and 50% is to be paid into the temporary school funds of the counties in which lands are located;

May sell, lease or exchange land. The Commission may sell, exchange or lease lands when in its judgment it is advantageous to do so, provided the sale, lease or exchange is not contrary to the terms of any contract which it has entered into.

## III. PUBLIC HUNTING AND FISHING GROUNDS.

The Commission is authorized to acquire by purchase, condemnation, lease, agreement, gift or devise, lands or waters and rights of way thereto, suitable for public hunting, fishing and trapping grounds, on which any person may hunt, fish or trap; and to extend and consolidate lands or waters suitable for such purposes.

## IV. GENERAL PARK RULES.

The following are rules and regulations pertaining to State-owned parks, preserves and other areas under the jurisdiction of the Board:

1. Unless otherwise designated, the maximum speed limit of all vehicles and transportation agencies on park drives and highways is 15 miles per hour. All driving shall be confined to designated roadways.
2. Excessively loaded vehicles shall not operate over park roads and drives. The determination as to whether the load is excessive will depend upon the load and the road condition, and the decision regarding same will be made by the board's authorized representative.
3. All vehicles shall be parked in the designated parking areas, and - unless in case of an emergency - shall not be left unattended on a park road or drive.
4. No horse or other animal shall be hitched or tied to trees or shrubs, or in such a manner as to result in injury to State property.
5. No fires shall be built, except in places provided therefor. All fires shall be put out when the site is vacated, unless it is immediately used by some other party. Extreme care shall be taken that no fires get beyond control.
6. No person shall, in any manner, deface, injure or remove any tree, shrub, plant or flower, or the fruit thereof, or disturb or injure any structure or natural attraction. Special permission may be given by the board for the removal of specimens for scientific purposes, but such permission must be obtained from the Des Moines office.
7. Fire arms, fire crackers, explosives and weapons of all kinds shall not be used in a State park or preserve.
8. Picnic tables shall not be used or monopolized longer than necessary, especially if others are waiting to use such facilities.
9. All waste and litter shall be disposed of by placing same in the receptacles provided for that purpose, unless it is of such nature that it can and is burned up in the fireplaces. No waste or foreign substance shall be placed in any area, except where specifically authorized.
10. No person shall use any loud, violent, obscene or profane language, nor conduct himself in a disorderly or obscene manner, or commit any nuisance or misdemeanor.



11. No one shall enter upon portions of the area in disregard of signs or posted notices forbidding same, except by special permit of the State's representative.
12. No privately owned animal shall be allowed to run at large in any park or preserve, and every such animal shall be deemed running at large unless the owner carries such animal or leads it by a chain or leash not exceeding 6 feet in length, or keeps it confined in or attached to a wagon, automobile or other vehicle.
13. The park or other public area to which these rules apply shall be vacated by 10:30 P.M. unless special arrangements have been made to remain longer. In special cases, certain areas may be closed to visitors at an earlier hour, of which notice shall be given by proper signs or instructions. The provision of this section do not apply to authorized camping.
14. In case of accident, whenever possible and practical, same shall be reported to the park custodian.
15. Camping is only permitted in certain areas and under special rules and regulations provided therefor.
16. The park or its facilities shall not be used for the purpose of raising revenue, either directly or indirectly, except in the case of regularly authorized concessions approved by the board.
17. WARNING - At certain places in the parks and at the lakes, it is dangerous for small children to be unattended, and it is, therefore, suggested that adults give due attention to this when accompanied at the various parks and lakes by children.

#### V. RULES FOR CAMPING IN STATE PARKS

Where camping is permitted in State parks, it shall be in accordance with the following rules and regulations:

1. Camping shall be in the areas prescribed by the superintendent or the board.
2. In no event will camping be permitted in excess of two weeks and in certain designated areas for over night only.
3. Each camper shall register his or her name and address with the park custodian, and advise the custodian when the camp is vacated. A special register book shall be kept by the custodian.

4. A fee of 50¢ per night or \$2.50 per week for each camping unit shall be paid in advance. Each tent, auto, trailer vehicle or portable house used for sleeping quarters shall be considered one unit.
5. In making application for the privilege of camping, applicants shall submit credentials satisfactory to custodian. The right is reserved to refuse camping privileges, if this is deemed advisable by the custodian, and to rescind any or all camping permits previously issued, if for just cause this is deemed advisable.
6. Campers shall observe all park rules and regulations, and the laws of the State of Iowa.
7. The provisions of Section 4 hereof are not applicable to social service organizations, when groups of such organizations desire to camp as an organization and when accompanied by accredited officers of the organization. In such case, consult the park custodian regarding the provision for this type of camping.
8. Camping is only permitted in designated parks, and in general only in those parks where proper facilities exist and proper supervision can be given.

#### Park Lodges

Lodges have been erected in the parks that are enclosed and provided with fireplaces. Certain rules and regulations have been drawn up relative to the use of these lodges. Any group desiring the use of a park lodge for a special date may make reservation with the custodian. A small fee is charged for such use of the lodge to cover cost of illumination, firewood, etc. Although a lodge may be in use, under a reservation, a casual park visitor is not precluded from entering same for legitimate purposes. In the late fall and winter months, the eating of lunches in the lodge is permitted, as long as care and neatness is exercised in so doing.

Church organizations, boy scouts, camp fire girls, and similar organizations may be granted permission to use a lodge free of charge. However, no permit to use a lodge for the purpose of raising revenue is to be granted. No lodge reservations are to be granted for Sundays and holidays.

#### VI. RULES AND REGULATIONS FOR OPERATING BOATS AND OTHER CRAFT ON THE INLAND LAKES AND STREAMS OF THE STATE AND THE GENERAL USE OF MEANDERED LAKES AND STREAMS OF THE STATE.

##### 1. Definitions:

"Motor Boat" is defined as any boat or water craft propelled by machinery. Any boat or craft that is propelled

by attachment to another craft, which in turn is propelled by machinery, is to be considered a motor boat.

2. Classifications:
- Class I - All steamboats.
  - Class II - All boats propelled with inboard motors which are used for commercial purposes.
  - Class III- All motor boats with inboard motors used for private purposes.
  - Class IV - All motor boats of plane or gliding type, including combination, plane and displacement types, propelled by an outboard motor.
  - Class V - All rowboats of displacement type, propelled by outboard motor.
  - Class VI - All rowboats or canoes propelled by hand.
  - Class VII- All sailboats.
3. Equipment:
- (a) Fire extinguishing apparatus:  
A fire extinguisher, approved by the Board of Conservation or its representative, must be carried, when navigated, by all motor boats operated for hire. The fire extinguishers shall be capable of extinguishing burning gasoline and be of the carbon-dioxide, carbon-tetrachloride or foam types.
  - (b) Air tanks:  
All boats, except steamboats, carrying passengers for hire shall be equipped with air tanks of sufficient capacity to sustain afloat a boat when full of water with all her full complement of passengers and crew on board.
  - (c) Life preservers and life saving devices:  
Motor boats carrying passengers for hire shall carry one life preserver, life belt or buoyant cushions or ring buoys for each person on board, and said life preservers, etc., shall be approved by the board of conservation or its authorized representative.
  - (d) Mufflers:  
No motor boat, propelled in whole or in part by gas, gasoline or naphtha, shall be operated on the inland waters, of the State, unless the same is provided with the proper exhaust or muffler device so constructed and used to muffle the noise of the exhaust, and no such boat shall use a cut-out of any such device which will make the muffler ineffective.
  - (e) Whistle:  
All motor boats in Classes I, II, III and IV shall have a whistle, horn or sound device capable of making a signal that can be heard from a distance of one thousand feet in calm weather. Sirens are specifically prohibited.

(f) Boiler insurance:

Owners of steamboats operated for hire on the inland waters of the State are hereby required to carry boiler insurance and copy of the insurance policy shall be filed with the board.

4. Lights:

All boats operated, during the period between 30 minutes after sundown and before sunrise, shall have the following lights:

(a) Every motor boat in Classes I, II, III, and all boats in Class IV, which in the latter case are capable of a speed of 8 miles or more per hour, shall have the following lights:

1. A bright white light in fore part of the boat as near the stern as practical, so constructed as to show an unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel; namely, from right ahead to two points abaft the beam on either side. The glass of the lens shall be not less than 5 inches in diameter. In general, this light shall, when in use, be kept pointed in direction boat is traveling.

2. A white light aft (stern) to show all around the horizon.

3. A combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points abaft the beam on their respective sides.

All boats in Class IV, not capable of exceeding 8 miles per hour, shall have a constant white light in the fore part of the vessel and to be so constructed as to be visible all around the horizon.

(b) All boats in Class V, operated between 30 minutes after sunset and before sunrise, shall have a white light that is constant and so placed as to be visible from any direction.

(c) All boats in Class VI shall have, when operated between 30 minutes after sunset and before sunrise and when over 300 feet from shore, a white light that is constant, and so placed as to be visible from any direction.

(d) All boats in Class VII shall have a lantern at the masthead showing a white light and visible from any direction.

5. Speeds, distances and passing:
- (a) All boats in Classes I, II, III and IV shall not come closer than 300 feet from all other craft, unless unavoidable and in such cases they shall slow down to five miles per hour or less. This rule shall not apply to game wardens and boat inspectors and lake custodians.
  - (b) All boats in Class V shall not come closer than 200 feet from other craft, except when landing or leaving shore or when it is unavoidable. This rule shall not apply to game wardens and boat inspectors and lake custodians.
  - (c) All boats in Classes I, II, III, IV and V shall slow down to five miles per hour, when approaching bridges or underpasses, unless vision is unobstructed 300 feet ahead.
  - (d) It shall be unlawful for any motor boat to operate within 300 feet of shores of lakes at a speed greater than ten miles per hour. On rivers, the speed shall be kept within such limits as will not endanger life or property.
  - (e) Motor boats shall at all times be operated in a safe and sane manner.
  - (f) When motor boats pass each other, the following rules shall apply:
    - 1. Passing from rear - keep to the left.
    - 2. Passing head-on - keep to the right.
    - 3. Passing at right angles - boat at the right has right-of-way, other conditions being equal.
    - 4. Sailboats have right-of-way over all other boats. Motor boats, when passing sailboats, shall always pass on the windward side.
    - 5. Any boat backing from a landing has the right-of-way over incoming boats.
6. Air craft:
- (a) Hydroplanes and air craft shall not make use of inland meandered lakes and streams of the State for the purpose of landing and carrying passengers or other purposes, except at a time of danger or distress when such use may be necessary or unavoidable, or except when special permission is given by the board of conservation.

## Races and regattas:

- (a) These rules shall not apply in case of regular advertised races or regattas running over a marked course under permit from this board.
- (b) Boats not participating in such races or regattas shall remain at least fifty feet from such course during the period for which such race or regatta is scheduled.
- (c) No such races or regattas shall be permitted except under permit applied for and issued by the board of conservation or such agents or employees as it may authorize to issue same.

## 8. Buoys:

- (a) No private buoys or other obstructions of any kind are to be permitted less than 100 feet from shore nor more than 300 feet, unless by special permission from the board of conservation or its representative.
- (b) All private buoys must float in a vertical position at least eighteen inches above water when at ease and are to be painted white or have a white flag of at least one square foot in area.
- (c) Tampering with or moving any State owned buoy shall constitute a misdemeanor.
- (d) No boat shall be anchored away from the shore and left unguarded unless it be attached to a buoy.

## 9. Obstructions along shores.

No structures are to be built by private individuals beyond the line of private ownership along the shores of publicly owned waters in such a manner as to preclude the free passage of pedestrians along the shore between the ordinary high water mark and the water's edge, unless by special permission of the board.

## 10. Ice boats.

No craft or vehicle, operating on the surface of ice on the inland meandered lakes and streams of the State and propelled by machinery in whole or in part, shall be operated without a special license being issued for such operation by the board of conservation, or its duly authorized representatives. This shall not preclude the use of ice cutting machinery, automobiles and trucks, when such are used without endangering public safety and are operated in a proper manner.

Any such license issued may be revoked by the board of conservation or its authorized representatives, if the craft or vehicle is operated in a careless manner or endangers others. Such revocation may be made by the board, acting through its duly authorized agent or agents.

11. Encroachments; No filling, disposal of waste, or placing of foreign or detrius material in or on the waters of the neardered lakes and streams of the State, or on the publicly-owned shores thereof, or the abandonment of boats, or other property, or the encroachment on said shores or waters by any means whatsoever is permitted. This does not preclude, however, the construction of docks and other structures or erections or works for which proper permit has been granted by the board.
12. Proper precautions: Nothing in these rules shall exonerate any craft, or the owner, operator or crew thereof, from the consequences of any neglect to carry lights, signals or equipment, or from any neglect to keep a proper lookout, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.
13. Rules suspended: The exhibitions of any light on board a craft, operated by or for police officers while on duty, may be suspended whenever necessary, and the character of the service may require it.
- The provisions of the rules and regulations herein shall not apply to craft licensed by authority of the United States when such craft are operated in accordance with the Federal laws and regulations therefor. No penalty is incurred by motor boats for failure to carry lights between the hours of sunrise and one-half hour after sunset.
14. Revocation of licenses: The law makes provision for the revocation of licenses "for cause". This term, in addition to other provisions of law, is herewith stipulated to include misconduct, gross negligence, recklessness in navigation, intemperance, violation of law, unfit condition of boat or operator, or any other condition or circumstance that may be contrary to public morals, safety or convenience.
15. Reporting accidents: All accidents shall be reported as promptly as possible to the nearest police officer and to the board of conservation or its authorized representative.
- Resuscitation of the Apparently Drowned:
- (Reprint from Page 38, Form 804, U. S. Department of Commerce, Steamboat Inspection Service):
- (a) Drowning:  
In an individual apparently drowned, the face should be exposed, the mouth and nostrils cleansed of water or mud, and the clothing should be opened to give free access to the chest. Next, turn the patient on his face and place under the upper part of his abdomen a roll of clothing, a blanket, or anything which will

cause the head to hang down and will allow the water to drain from the lungs. Drainage may be aided by making pressure over the lower part of the back. This may also be done by standing over the patient, lifting him by the middle of his body and holding him for a moment or two in this position. During this time, the mouth should be held open and if possible the tongue should be pulled forward. After all the water is drained from the lungs start artificial respiration.

(b) Artificial Respiration:

Place the individual on his stomach with one arm above his head and the other arm supporting his head, which should be turned somewhat to one side. While standing or kneeling astride the patient, facing his head, the palms of the hands are placed over the lower part of the patient's chest and by throwing the weight forward, pressure is made against the lower part of the chest, decreasing the capacity of the chest, and forcing out the air which may be contained in the lungs. When pressure is removed, air will be sucked into the lungs by the springing out of the chest wall. This motion is continued slowly about 12 or 14 times to the minute, no faster. If an assistant is at hand, continuous rubbing of the limbs of the patient toward the body may aid in restoration. Do not stop artificial respiration under two hours, as there is still a chance to restore life, even after this period of time. As soon as breathing is established, remove any wet clothing, wrap in warm blankets, place in bed and allow rest for at least 48 hours.

VII. RULES AND REGULATIONS PERTAINING TO CONSTRUCTION PERMITS AND FEES.

1. Definitions:

(a) Pier or Wharf:

Any structure used for loading or unloading passengers from boats or craft propelled by machinery and operated for hire is herewith defined as a pier or wharf.

(b) Other Structures used for Commercial Purposes:

In addition to piers and wharfs, the following structures used for commercial purposes are required to have a permit and pay the annual fee listed hereafter:

1. Toboggan Slides.
2. Boat Houses.
3. Bath Houses.
4. Concession Stands.
5. All other structures used for commercial purposes

2. Fees:

(a) Piers:

The annual fee for a pier or wharf, used by one boat operated for hire, is \$10.00. When used by two boats, operated for hire, the fee is \$15.00. Where used by more than two boats, operated for hire, the fee is \$25.00.



- (b) Toboggan Slides and Other Structures:  
The fee for each toboggan slide, operated for hire, is \$10.00. The fee for all other structures, used for commercial purposes, will be determined by the board for each specific case.

VIII. RULES AND REGULATIONS FOR THE REMOVAL OF ICE FROM MEANDERED LAKES AND STREAMS IN IOWA.

1. Permit required: No ice shall be removed from the meandered inland lakes and streams of the State, without an ice harvesting agreement having been entered into with the State and a permit for such removal obtained on whatever terms and for whatever consideration the State may specify.
2. Responsibility for damages: Under any permit issued for ice removal, the party granted a permit is to be responsible for all damages to the property of riparian owners, the State or private owners. The State assumes no liability on account of accidents due to the operation of ice removal under any permit issued.
3. Protection of public passages: The party removing ice under a proper permit is to erect suitable barriers on any part of an ice field where ice is cut, where said field crosses or traverses any part of a stream or lake that is used as a way of passage regularly or occasionally for either vehicular, equestrian or pedestrian traffic.
4. Barriers adjacent to recreational areas: Where the ice field is adjacent to an area used for skating or ice boating or other winter sports, proper barriers and signals shall be erected to give warning of open water or unsafe ice, due to the ice removal.
5. Interference with adjacent ice fields: Where permits are granted for ice removal from areas adjacent to, or in near proximity to other areas where ice removal is permitted, nothing shall be done that will interfere with or effect the removal from the adjacent or nearby fields.
6. Contaminations: Should it be evident that sewage or other material is entering a lake and affecting the purity of the water from which ice is obtained, the necessary and/or legal steps to abate such contamination shall be taken by the board.
7. Reservations: Under permits granted for ice removal, the State reserves the right to designate the field cut, and the method of operation, and to preserve the ingress and egress to said ice by littoral or riparian owners, and to regulate or designate the passageway from the ice field to shore.

IX. RULES AND REGULATIONS PERTAINING TO THE REMOVAL OF SAND AND GRAVEL OR MIXED SAND AND GRAVEL, EARTH, STONE AND BOULDERS FROM THE BEDS OR SHORES OF LAKES AND STREAMS.

1. Permit required: No natural material or other material or property belonging to the State shall be removed from the beds or shores of the meandered lakes and streams of the State, without a permit for such removal having first been obtained from the board of conservation.
2. Agreement for removing sand and gravel: Before any sand and gravel or other natural material is removed, an agreement relating thereto must be entered into between the parties desiring to remove said material and the board of conservation. Said agreement shall set forth the terms and conditions under which said removal is permitted and the permit or license fee - if any - that shall be paid to the State.
3. Responsibility for damages: Under any permit granted or agreement entered into, the party removing any material is to be responsible for all damages to the property of riparian owners, the State, or private owners. The State assumes no liability on account of accidents, due to the operation of removing material under any permit issued.
4. Method of operation: In removing sand and gravel or other material that is removed by dredging, the operators shall so arrange the equipment that other users of the lakes or streams shall not be endangered by cables, anchors and concealed portions of the equipment or appendages, either during actual operation or when the equipment is not in use, although left in the stream.

No waste material shall be left in the stream in such a manner as to endanger other craft or to change the course of the stream. In general, wherever possible, all waste material shall be disposed of on privately-owned areas that are under the control of the operator or operators, or else be placed back in the stream as nearly as practical at the place or point of origin.

All operations under any permit issued or agreement entered into are subject to the supervision of the board, or its authorized representative, to the end that public interests may be properly safeguarded.

All material shall be so removed that future operations in the same or adjacent areas shall not be adversely affected thereby.

Where dredging operations are carried on, partly on State areas and partly on adjacent private areas, the natural banks shall not be removed unless the State so permits.

"Where operations are entirely on private property adjacent to a public lake or stream, the natural bank between the State and privately owned areas shall not be removed without permission of the State.

Explosives shall not be used in operations under any agreement entered into or license issued without special permit of the Board.

# **Exhibit 8**

## **Kansas (see p. 77)**

**K A N S A S**

## I. STATE PARKS.

Jurisdiction.	State parks are under the jurisdiction of the Forestry, Fish and Game Commission (Laws of 1925, 1927).  Exception: Frontier Historical Park is supervised and controlled by the State Board of Regents through a Board of Managers.
Members; appointment; terms.	The Commission is composed of the Governor and three additional members by him appointed to serve for three years. Appointees are required to be men of experience in the fish, bird and animal life of the State; are to serve without compensation, but receive expenses incident to official duties.
Powers and duties.	The Commission is vested with the following powers and duties:
Establish recreational areas.	To establish, maintain and improve recreational grounds for the purpose of affording recreational activities to the citizens of the State;
How acquired.	To acquire by donation, devise, bequest, purchase, or by condemnation, title to lands, water and water rights for each recreational grounds, public forestry, fish and/or game preserves; but any and all private lands and waters used wholly or in part for the propagation of fish or for recreation purposes are exempt from the exercise of the power of eminent domain (rivers are not private waters);
Lands exempt from condemnation.	
Where to be maintained.	To provide for keeping such areas at such place or places most suitable to carry out the interests and purposes of the law;
Build lakes, etc.	To acquire or provide for the building and construction of reservoirs, lakes, dams, or embankments for impounding water on such public forestry, recreational grounds, fish and game preserves or elsewhere; the planting of forest trees, and the establishment of sub-fish hatcheries and game farms thereon;
Hunting and fishing grounds.	To replenish hunting and trapping grounds and water, or fishing water;
Maintain roads.	To contract relative to improvements and upkeep of roads in and about the forestry preserves and recreational grounds.

Condemnation.	Whenever in the judgment of the Commission it becomes necessary to purchase additional adjacent property for the purpose of protecting, adding to and improving State lakes, parks and recreation grounds, the Commission may acquire by purchase, or enter upon, take, use and appropriate such property by right of eminent domain (Acts of 1931).
Excess condemnation.	The taking, using and appropriating by the right of eminent domain for the purpose of protecting such areas and their environs, the preservation of the view, appearance, light, air, health, and usefulness thereof, by reselling such adjoining property with such restrictions in the deeds of resale as will protect areas taken for the aforesaid purposes, is declared to be taking, using and appropriating for public use; Provided, that the proceeds arising from the resale must be used in improving the lakes, parks or recreational grounds to which such resold property adjoins (Ib).
Use of proceeds.	
To cooperate with United States.	The Commission is designated as the agency of the State for procuring aid from the Federal Government in matters pertaining to the development of natural resources insofar as they pertain to forests, woodlands, public lands, sub-marginal lands, game reserves, lakes, streams, reservoirs and dams; and also is given charge of all funds procured for these purposes and of all projects constructed therewith (Laws of 1933, 1935).
Tax remission.	Whenever any person donates real estate to the State for use as a State park, upon which taxes have been assessed and penalties and charges have accrued, the County is authorized to remit and cancel all such taxes, penalties and charges (Laws of 1933).
Tax reduction for dam construction.	Acts of 1933 (amended 1935) provide that any landowner owning land not within the corporate limits of any city, who, by the construction of a dam across any dry water course forms and maintains upon his own land one or more reservoirs for the collection and storage of surface water, or who donates to the State or any of its agencies a tract of land on which to erect and maintain a similar reservoir, is entitled to a reduction of the assessed valuation of the piece of land upon which such reservoir is located of \$40 for each acre foot of storage capacity afforded by such dam; provided, that the total amount of such reduction may not exceed 40% of the assessed valuation of the entire contiguous acreage owned and upon which such reservoir or reservoirs are located; and provided further, that a watercourse whose constant supply of water consists principally of springs, where the entire drainage area does not exceed ten sections in extent, is to be deemed to be a dry watercourse for the foregoing purposes.
Donation of land to State.	
Proviso.	
Proviso.	

Source of funds. All moneys received from licenses to hunt, fish, trap or otherwise capture, kill or deal in any game, birds, animals, fish or allied recreational pursuits, are designated for the use of the Commission, less 10% which is required to be credited to the State's general revenue fund (Laws of 1925).

Revolving fund. A revolving fund was established for the Commission by Acts of 1935.

Appropriation. The 1935 Legislature appropriated funds to the Commission for the year 1935 as an emergency relief measure for the purpose of cooperating with and carrying out the Federal government's marginal land acquisition program; any unexpended balance to be used for similar purposes during the year 1936.

Note: By Act of the 1933 Legislature the Commission was authorized to borrow \$200,000 from the Reconstruction Finance Corporation to be used in the development of natural resources; building and constructing lakes, reservoirs and dams, and improving forestry, recreational grounds, fish and game preserves. The State Supreme Court subsequently held that the State debt then being in excess of the Constitutional limitation, further indebtedness could only be incurred by a referendum, and for which the Act did not provide, and that the Act was also violative of the Constitution, which provides that the State shall never be a party in carrying on any works of internal improvement except to aid in the construction of roads and highways.

## II. FORESTRY AND FLORICULTURE.

Purpose. For the promotion of Forestry and Floriculture there has been established, under the direction of the State Board of Administration, a Department of Forestry and Floriculture (Acts of 1929).

Trustees; appointment. The Department is administered by a board of ten Trustees, appointed by the Board of Administration, and to hold office at its pleasure. Each member is required to accept the position without salary or compensation for traveling or other expenses, the object and purpose of this provision being to secure Trustees who have sufficient interest in Forestry and Floriculture to donate their time and services and to pay their own expenses;

State Forester. The Board of Administration appoints a State Forester and who is directed to select a tract of State land to be used for growing trees, plants, shrubs and flowers for transplanting for the purposes of reforestation and afforestation on permanent tracts of land;

Acquire areas. Lands for such purposes may be received by gift, or purchased with funds provided by the legislature; but no land may be purchased for a price exceeding the assessed valuation, and in addition the seller must make a suitable reduction as a donation to the interest of Forestry and Floriculture;

Recreation areas. All tracts of land which become the property of the State are to be known as forestry land, and are to be kept and controlled as game preserves, parks, and places of recreation and rest for all the people of the State and the visitors thereof;

Counties may participate. Townships and counties are also authorized to purchase and donate to the State lands suitable for these purposes or may receive from the Forester trees, plants, shrubs, and flowers to be planted thereon under agreement that the lands will be similarly and permanently used;

Improvement. All State, county, city and township officers are authorized to use the poor funds for the benefit of the unemployed in preparing trees, cultivating and caring for the areas;

Rules and regulations. The Board of Administration and Board of Trustees are directed to make and publish rules and regulations for the use of such lands: and to post notices showing the ownership and authority of the State over such tracts of land.

### III. KANSAS FRONTIER HISTORICAL PARK.

Jurisdiction. The above park is under the general jurisdiction of the State Board of Regents but the active custody and management is vested in a Board of Managers, consisting of the Chairman of the State Board of Regents, the Secretary of the State Historical Society, the President of the Kansas State Teacher's College at Hays, and a fifth member to be appointed by the Governor (Laws of 1931).

Powers of Board. The Board of Managers may, subject to revision by the Regents, make all proper and needful rules and regulations for the use, preservation, improvement, control and maintenance of the park and grounds and buildings thereon, and may permit such use of same as is not inconsistent with the purposes for which the grounds have been set aside.

Fort Hays Military Reservation. The Board of Regents are directed to designate and set aside for public park purposes that portion of the Fort Hays Military Reservation which was the site of the building of old Fort Hays, together with the remaining buildings of the Fort, and such portions of the reser-



vation as it may deem to be of particular historic interest or which, in its judgment, may be favorably situated and well adapted for park purposes, and the setting aside of which for park purposes will not interfere with the reasonable use of the reservation by the educational institutions thereon.

#### IV. STATE PARK RULES AND REGULATIONS.

The following rules and regulations have been adopted by the Forestry, Fish and Game Commission covering the actions of the public on the State parks, and such rules and regulations have the full force and effect of law and violators are subject to prosecution:

1. The destruction or injury of any sign, guidepost or property of any kind is unlawful. This includes the peeling of bark, carving and chopping of trees, cutting branches, driving nails, digging ground from roots and the removal of trees, shrubs and plants, picking wild flowers and other injuries.
2. To carry or have firearms in possession in a State park is unlawful.
3. Throwing of tin cans, bottles, papers, junk or refuse of any kind on the ground or in a lake or stream; or the misuse and abuse of seats, tables and other park equipment, is prohibited.
4. Washing or the throwing of waste of any kind around well or spring, or the use of woods as toilets, or the use of toilets for bathhouses, is prohibited.
5. Building or starting fires in the open or in any place except where the proper provisions have been made, or to leave fires while burning, is prohibited.
6. Dogs in the park must be tied with a chain or controlled on a leash. They are not allowed to run loose about the park.
7. Speed limit for motor vehicles on park roads is 25 miles per hour, except where otherwise posted.
8. Camping, horseback riding or driving of automobiles or other vehicles on picnic grounds, children's playground, bathing beaches, and areas posted against such traffic or use is prohibited.
9. Persons desiring to camp in a State park are required to obtain permit before making camp. A permit authorizes the holder to camp in the park not to exceed three days. When time of permit has expired, campers are required to move from the park or have permit renewed. The park superintendent shall record the name and address of the responsible head of each camping party, the number of persons, and names and license numbers of cars.
10. Camping in the park by boys under seventeen years of age, unaccompanied by an adult, and girls under eighteen years of age, unaccompanied by their parents or chaperon, is prohibited.

11. Disorderly conduct in the way of drunkenness, vile language, fighting and personal exposure by change of clothing in automobiles, woods, park or any other place where person is not properly sheltered, is prohibited.
12. Bathing, swimming or wading is restricted to the area designated as the bathing beach. All persons enter the water at their own risk.
13. All state parks and lakes are game sanctuaries. Hunting, shooting, killing, trapping, injuring, pursuing, or molesting in any way, any bird or animal on or within any State park is prohibited: Provided, however, That the Forestry, Fish and Game Commission may, by rules and regulations, permit hunting, shooting, killing, trapping, injuring and pursuing of game birds and animals in such State parks as the commission may designate.
14. Any person having proper fishing license and persons exempt by law may fish on or within any State park. Fishing is permitted in daylight only, which is declared to be not earlier than one hour before sunrise nor later than one hour after sunset. The Forestry, Fish and Game Commission may further restrict or entirely close any park to fishing at any time, if in its judgment conditions demand it. Each person so fishing is limited to one rod and line with not more than two hooks attached, or a fly rod and line with not more than two hooks attached, or a fly rod and line with not more than two flies attached, or a casting rod with not more than one artificial bait or lure attached and such rod and line must be held in hand. Any such rod and line left set in the bank or attached to a boat, dock, tree, log or to anything, or in any way, with line and hooks in the water in such manner that hooks may be taken by any fish, is prohibited, declared unlawful, and may be seized and confiscated by the park superintendent or any game warden. No trot-lines, set lines, float, bank or limb lines are permitted. A daily bag of ten fish of all kinds is allowed. Bass less than 10 inches; catfish (except bullheads) less than 12 inches; crappie less than 7 inches; and yellow perch less than 6 inches in length must be at once returned to the water. Dumping minnows or any kind of live bait in the water of a State park is prohibited.
15. Boating is restricted to craft propelled by hand or wind power.
16. All park superintendents are both deputy sheriffs and deputy game wardens. They have authority to issue camping permits and are in complete charge of the parks. All questions of privileges shall be submitted to them. They shall preserve order and make arrests for violations of rules.
17. It shall be unlawful for any person or persons to take from the waters of any State lake or parks, or have in possession any blue gill of a length less than six inches (Commission regulation).

# **Exhibit 9**

## **Massachusetts (see pp. 111; 113)**

**M A S S A C H U S E T T S**

I. STATE PARKS AND RESERVATIONS.

Jurisdiction.	State Parks and Reservations, outside of the Metropolitan Parks District, are under the jurisdiction of the Department of Conservation, and are administered through the Division of Parks (Gen. Laws, Ch. 132a).						
Conservation Commissioner.	The Department is under the supervision and control of a Commissioner, designated by statute as the executive and administrative head, and who is appointed for three years by the Governor, with the advice and consent of the Council.						
Director of Parks.	The Commissioner is designated as Director of the Division of Forestry, and is also ex-officio the Director of the Division of Parks.						
Divisions.	Statutory divisions in the department are as follows (as amended 1934): <table border="0" style="margin-left: 40px;"> <tr> <td style="padding-right: 20px;">Division of Parks</td> <td></td> </tr> <tr> <td style="padding-right: 20px;">" " Forestry</td> <td></td> </tr> <tr> <td style="padding-right: 20px;">" " Fish and Game</td> <td></td> </tr> </table> <p>Powers and duties of the Commissioner, as relating to parks and recreational matters, are as follows:</p>	Division of Parks		" " Forestry		" " Fish and Game	
Division of Parks							
" " Forestry							
" " Fish and Game							
Administer trusts.	With the approval of the Governor and Council, may accept in trust, on behalf of the Commonwealth, bequests or gifts to be used for the purpose of advancing the recreation and conservation interests and policies of the Commonwealth, and to administer the same in such manner as to carry out the terms of the bequest or gifts:						
Accept gifts of lands.	With like approval, may accept on behalf of the Commonwealth gifts of land outside of the Metropolitan Parks District to be held and managed for recreation and conservation purposes;						
Acquire lands; how. May not condemn.	May acquire, within the limits of appropriations made therefor, otherwise than by eminent domain, any lands suitable for purposes of conservation or recreation lying outside of the Metropolitan Parks District;						
Improvement and maintenance.	May lay out and maintain the lands and erect and maintain such structures and other facilities thereon as may be necessary to render the lands reasonably available and accessible;						
Sell lands.	With the approval of the Governor and Council, may sell or exchange any land so acquired, which in his judgment can no longer be advantageously used for purposes of recreation or held for purposes of conservation;						

- Sell land products. May sell such wood, timber, or other products of the lands as the economical management of the lands may require;
- Accept care of lands. With the approval of the Governor and Council, and on petition of any board or commission charged with the care and maintenance of any park or reservation owned by the Commonwealth outside of the Metropolitan Parks District, and with the approval of the county commissioners of the county or counties wherein such park or reservation is situated, may assume the care and maintenance of such park or reservations, and expend for the care and maintenance such sums as may be appropriated therefor;
- Rules and regulations. With like approval, may make such rules and regulations for the government and use of all property under its control, including rules and regulations relative to hunting and fishing not inconsistent with the laws protecting fish, birds and mammals;
- May establish fees. Such rules and regulations may also provide for the payment of fees and other charges for the parking of vehicles and for the enjoyment of other special privileges within the territory under his control;
- Concessions. May grant concessions for the sale of refreshments and other articles, and the furnishing of services.
- Director to advise other Commissions. The Director, acting in an advisory capacity, is directed to assist boards and commissions charged with the care and maintenance of parks or reservations owned by the Commonwealth outside of the Metropolitan Parks District which are not under his care and control.
- Assessments; how determined. The proportion in which each city and town of the Commonwealth (exclusive of those comprising the Metropolitan Parks District, but including Cohasset) shall annually pay money into the treasury of the Commonwealth to meet the expenses incurred and the cost of maintaining the Division, is determined by adding together the percentage which the valuation of the same bears to the total valuation of the Commonwealth, and the percentage which the population of such city or town bears to the total population of the cities and towns of the Commonwealth and dividing this sum by two.
- Definitions. The word "valuation" means the taxable valuation of property last established next prior to the determination provided for by the General Court as a basis of appointment for State and county taxes; the word "population" means the population as determined by the latest census, State or national, next prior to such determination.

How and when paid. The amount of money so required each year from every such city and town is to be paid by them into the State treasury at the time required for the payment of its proportion of the State tax.

Note: The Council as above and hereafter referred to is a Constitutional provision, and who are to advise the Governor in the executive part of the government.

## II. METROPOLITAN PARKS DISTRICT.

**Jurisdiction.** The Metropolitan Parks District of Boston and environs is under the jurisdiction of a Metropolitan District Commission, consisting of a Commission and four Associate Commissioners, who, at the time of their appointment are required to reside within the district; at least one of whom must be a resident of Boston. Members are appointed for five years by the Governor, with the advice and consent of the Council (Gen. Laws, Chap. 92).

**Commissioner.** The Commissioner is the executive and administrative head of the Commission, being charged with the duty of organizing it into such divisions as he may from time to time determine.

**Powers and duties.** The Commission is authorized to acquire, maintain and make available to the inhabitants of the District open spaces for exercise and recreation, and which are designated as reservations;

**Acquire lands; how.** For such purposes lands, easements or interests in lands within the District may be acquired in fee or otherwise by purchase, gift, devise, or by eminent domain;

**Control of contiguous areas.** May accret and maintain as a portion of the reservations any lands or rights in lands which may be without the limits of the District, but immediately contiguous thereto;

**Take or regulate other areas.** May take by eminent domain, or acquire by agreement or otherwise, the right forever, or for such period of time as it may deem expedient, to plant, care for, maintain or remove trees, shrubs and growth of any kind within certain spaces regulated by the Commission along or near rivers within the District; and may take or impose by eminent domain, or acquire the benefit of by agreement or otherwise, such restrictions upon such regulated spaces as it deems expedient;

**Limitations.** Provided, no private property may be taken or restrictions imposed by eminent domain without the concurrence of a majority of the Commission and of the board of park commissioners, if any, of the town where such property is situated;

- May condemn high-ways for park purposes. May take or acquire, in fee or otherwise, by purchase, gift, devise, or by eminent domain, any land, easements or interests in land, although the lands so taken or any part thereof be already a public way provided the taking is concurred in by vote of the proper local officials;
- Reservations. May accept and assent to any deed containing reservations of easements or other interests in land upon such terms, restrictions, provisions or agreements as it may deem best.
- Parks Trust Fund. The State Treasurer may, with the approval of the Governor and Council, reserve and hold in trust for the Commonwealth, exempt from taxation, any grant or devise of lands or rights in lands, and any gift or bequest of money or other personal property. Such property to be known as the Metropolitan Parks Trust Fund, to be used and expended under the direction of the Commission and subject to its orders. Subject to the terms of any such grant, gift, devise or bequest, the Commission may expend either the principal or income.
- Build boulevards. The Commission may connect any way, park or other public open space within any part of the towns of the District under its jurisdiction by suitable boulevards, and for this purpose exercise any of the rights granted in respect to reservations; and may also construct and maintain along, across, upon or over lands acquired for such boulevards or for reservations suitable roadways or boulevards.
- Cost of maintenance. The cost of the maintenance of boulevards to be annually appropriated by the General Court from the Highway Fund;
- Rules and regulations. May make rules and regulations for the government and use of reservations or boulevards, and to govern the public use of rivers within the District: also of the ponds and other waters along which it owns abutting lands for reservations; Provided, no rule or regulation affecting waters used for water supply purposes may take effect until approved by the officers having control of the same. nor may any rule or regulation affect the water rights of any person, whether a mill owner or otherwise;
- May lease lands. May erect, maintain and care for buildings; also grant easements, rights of way or other interests in land. including leases, in any portions of the lands;
- Sell materials. May sell surplus earth, rock, ice wood, hay, standing grass, old buildings and materials no longer needed;
- Abandon certain rights. With the concurrence of the local park commissioners, may abandon any easement or other right in land less than the fee, taken by right of eminent domain; such abandonment to revert title in the persons in whom vested at the time of taking;

- Sell areas. With the concurrence of the local park commissioners, may sell at public or private sale any portion of the lands or rights in lands, the title to which has been acquired and paid for;
- Grant permits. May grant to towns locations for sewers and drains across reservations or boulevards; locations to street railways; also permits for transmission of electricity and gas, subject to alteration, extension or revocation in the public interests; and may also contract with railroads for the construction and maintenance of boulevards across railroad lands or locations;
- Transfer control to others. May transfer, for care and control, including police protection, any of its lands to any city, town, county or local board, upon such terms and for such period as may be mutually agreed upon; also for laying out, constructing and maintaining ways into or across any such lands; and
- Accept lands for care and control. Any city, county or local board may transfer for care and control, including police protection, any lands in its control to the Commission for such period and upon such terms as may be mutually agreed upon;
- Charge for bathing and boating. May provide and maintain suitable accommodations for bathing and boating, and for the use of the same establish rules and regulations and make reasonable charges;
- Band concerts. May provide band concerts in such parks, parkways or other places under its control and at such times as it may select; including in its annual estimate of expense of maintenance such sum as it may recommend for such purpose;
- License use of lands and waters. May grant licenses to cities, towns, educational institutions, clubs and responsible persons for the construction and maintenance of boat landings, boat houses and landing floats, wharves, breakwaters, and other structures in connection therewith; playgrounds, swimming pools, and other recreational facilities along the Charles River Basin, for such rental, if any, and upon such terms and conditions as it may deem advisable;
- Lease locations. For the foregoing purposes may grant suitable locations by lease or otherwise, with the right to erect buildings and floats upon the waters upon such terms and conditions, restrictions and agreements and for such period of years not to exceed 25 as may be deemed expedient;
- To encourage rowing and boating. The Commission is directed to encourage rowing and boating on the basin in every reasonable way, giving consideration to the fact that any club or educational institution has for many years owned or occupied a boat house on the basin, the point on the bank at which such boat house was formerly situated, and the length of time during which it has been owned or maintained there;



- Disposition of revenue. All sums of money collected or received by the Commission in the exercise of its functions, in relation to reservations or boulevards, including current receipts from the bath houses, rentals, sales or use of property under its charge; and all fines recovered for violation of the laws of the Commonwealth within the limits of the reservations or boulevards, are to be paid to the State Treasurer, together with money collected or received by him in payment of betterments assessed by the Commission. Such funds to be used as a credit to the cities and towns of the District towards the payment of assessments to meet the cost of maintenance of the reservations: excepting moneys received in connection with the Bunker Hill monument, which are to be paid into the general revenue of the Commonwealth;
- Assessments. The proportions in which each town of the District (including Cohasset with respect to Nantasket beach only) is to annually pay to meet the interest sinking fund and serial or other bond requirements for each year (and any deficiency in the amounts previously paid in) are as follows: Both Boston and Cambridge are each to pay as a special assessment  $16 \frac{2}{3}\%$  of the money as required on account of the money expended for construction of the Charles River basin marginal conduit; the payment of the balance to be based upon the respective taxable valuation of the property of the towns of the District;
- Maintenance. The proportion in which each town of the District is to annually pay money to meet the cost of maintenance of reservations (exclusive of Nantasket beach and the Charles River Basin) is to be apportioned according to the average percentage of valuation and population, determined as to any town by adding together the percentage which the population of the same bears to the total population of the towns, and dividing this sum by two;
- Same. The proportion in which each town of the District (including Cohasset with respect to the maintenance of Nantasket beach only) is to annually pay to meet the cost of Nantasket beach and the Charles River Basin, is to be based upon the respective taxable valuations of the property of the towns;
- Commission to determine assessments. The Commission is to determine the proportion in which each town is to annually pay money as above, and transmit its determination to the State Treasurer; thereupon such sum is to be included in the sum charged to such town, and be paid into the State Treasury at the time required for the payment of its proportion of the State tax;
- Payment of salaries. Expenses of salaries of the Metropolitan District Commissioners and such other general expence of maintenance of the general office and otherwise are also to be included in the sums assessed upon the towns in the annual State tax;

- Annual reports. The Commission is required to keep full, accurate and separate accounts of its receipts, expenditures, disbursements, assets and liabilities, and to each year report to the General Court an abstract of the same, together with all recommendations for legislation which it deems desirable.
- III. STATE FORESTS.
- Requests or gifts. The Commissioner of Conservation, with the approval of the Governor and Council, may accept bequests or gifts to be used for the purpose of advancing the forestry interests of the Commonwealth; also for the construction and maintenance of State trails or paths, in such manner as to carry out the terms of the bequests or gifts (Gen. Laws, Chap. 132).
- Gifts of land. Also, subject to the approval of the deed and title by the Attorney General, may accept gifts of land to be held and managed for experiment and illustration in forest management and for reforestation. A donor of such land may reserve the right to repurchase same, but in the absence of such reservation shall not have such right;
- Acquire by purchase. May acquire by purchase or otherwise and hold. or, with the approval of the Governor and Council, may take in fee any woodland or land suitable for timber cultivation. The average cost of land so purchased may not exceed \$5 per acre;
- Eminent domain. May also purchase or, with the approval of the Governor and Council, take by eminent domain and hold for State forests, lands suitable for the production of timber to the extent of not more than 150,000 acres. Such land must be purchased prior to August 5, 1936, and at an average cost not exceeding \$5 per acre; or at such price as the general court may from time to time determine. (Acts of 1920 appropriated three million dollars for land acquirement.)
- Management. Lands acquired under the preceding two paragraphs are designated as State forests, and are under the control and management of the Forester, and who is required to reforest and develop the lands; and may, subject to the approval of the Commissioner, make all regulations which in his opinion will tend to increase the public enjoyment and benefit therefrom; expending such sums therefor as may be appropriated for the purpose.
- Rules and regulations. The Commissioner may make rules and regulations relative to hunting, fishing or other uses of such lands;

- Trails and paths. May lay out, construct and maintain trails or paths through or over lands in State forests and in public reservations; also trails or paths leading to important mountains and other objects and places of special interest or beauty; and may connect such trails or paths in order to make them continuous so far as practicable, and may purchase such lands or easements as may be necessary for the aforesaid purposes;
- Acquire lands. purchase such lands or easements as may be necessary for the aforesaid purposes;
- Camps and shelters. May post such trails or paths, erect signs thereon, and construct suitable rest camps or shelters at appropriate places;
- Use of trails. May by written permit allow portions of such trails or paths to be enclosed and used by the owners of adjoining lands for any use not interfering with public passage on foot, during the whole or any part of the year upon such conditions as he may prescribe, and such permits may be revoked at his pleasure. The Commonwealth disclaims any liability for any injury or damage sustained on such trails or paths.
- Counties may assist. The selectmen or road commissioners, or the board or officer having charge of the maintenance and care of the highways, if so authorized, may agree to contribute money, labor or materials toward the laying out or construction of any State trail or path which the Commissioner may lay out and construct within such city or town.

#### IV. PUBLIC HUNTING AND FISHING GROUNDS.

- How acquired. For the purpose of providing public fishing grounds, the Director of the Division of Fish and Game (Department of Conservation) may acquire by gift, and, in his discretion, acquire by lease or purchase, fishing rights and privileges in any brook or stream; or may acquire by gift, lease or purchase lands necessary for such purposes, except a brook or stream which is a source of or a tributary to a public water supply. He may similarly acquire lands necessary for such purposes, together with such rights of ingress and egress from such a brook or stream as may be necessary or proper (A. L. Mass., Ch. 131).
- Great ponds. Great ponds of 20 acres or more are declared to be public for the purpose of fishing, hunting or boating thereon, and all persons must be allowed reasonable means of access thereto.

Note: Any pond of more than ten acres is a great pond. Title in it and to the islands therein is in the Commonwealth (5 Op. A.G. 378).

- Use of ponds. The Director may occupy, manage and control not more than six great ponds for the purpose of propagating fish, and may occupy not more than one-tenth part of each such pond with enclosures and appliances for such cultivation; but this privilege must not affect any public rights to such ponds other than the right of fishing;
- Public shooting grounds. For the purpose of providing public shooting grounds the Director may acquire by gift, and in his discretion, acquire by lease not to exceed five years, lands and waters, or either of them, or shooting rights thereon or therein, together with such rights of ingress to or egress from such lands or water as may be necessary and proper.
- V. GENERAL.
- Control of advertising. Advertising on public ways, in public places, and on private property within public view may be regulated and restricted by law (Art. 50, State Constitution).
- Same. The Department of Public Works is directed to make, and may amend and repeal, rules and regulations for the proper control and restriction of billboards, signs and other advertising devices, on public ways, or on private property within public view from any highway, public park or reservation; and no person, firm or corporation may post, erect, display or maintain on any public way or on private property within public view from any highway, public park or reservation any billboard or other advertising device unless such billboard or device conforms to such regulations. Any such device erected without an authorization or permit is deemed a nuisance and may be abated or removed (Chap. 93).
- Conservation. Constitutional provision. The conservation, development and utilization of the agricultural, mineral, forest, water and other natural resources of the Commonwealth are public uses, and the general court shall have power to provide for the taking, upon payment of just compensation therefor, of lands or easements or interests therein, including water and mineral rights, for the purpose of securing and promoting the proper conservation, development, utilization and control thereof and to enact legislation necessary or expedient therefor (Art. 49, State Constitution).
- Preservation of landmarks. Constitutional provision. The preservation and maintenance of ancient landmarks and other property of historical or antiquarian interest is a public use, and the Commonwealth and the cities and towns therein may, upon payment of just compensation, take such property or any interest therein under such regulations as the general court may prescribe (Art. 51, State Constitution).

Hunting prohibited in parks. No person may hunt, or in any manner molest or destroy any bird or mammal within the boundaries of any State reservation, park, common, or any land owned or leased by the Commonwealth (State forests excepted) or any political subdivision thereof, or any land held in trust for public use except as and to the extent authorized by the proper authorities (Chap. 131).

As to railroads. Railroads may not enter upon, or interfere in the management or care of any public park or reservation (Ch. 160).

Suspend hunting, etc., seasons. Whenever it appears to the Governor that by reason of extreme draught there is danger of fires resulting from hunting, tramping, fishing or other cause, he may, with the advice and consent of the Council, by proclamation suspend the opening or continuance of any or all open seasons for fishing or hunting, and close any and all sections of the woodlands where danger from fire might exist (Ch. 131).

#### VI. STATE PLANNING.

Creation. A State Planning Board was established by Acts of 1935, charged with the duty:

Master plan. To prepare and from time to time revise and perfect a master plan for the physical development of the Commonwealth, and may include among other things, the general character, location and extent of highways, waterfront development, parks, reservations, forests, wildlife refuges, and other public ways, public grounds and spaces which, by reason of their function, size, extent, location, legal status or other reason, are of State-wide as distinguished from more local concern, or the location, construction or authorization of which fall, according to law, within the province or jurisdiction of State departments, boards, commissions or officers, or which for any other reasons are appropriate subjects of or fall appropriately within the scope of a State, as distinguished from a local, program or plan; the general location and extent of forests; agriculture areas for purposes of conservation, food and water supply, sanitary and drainage facilities, or the protection of urban and rural development and a land utilization program, including the general classification and allocation of the land within the Commonwealth among agricultural, forestry, recreational, soil and water conservation, industrial, urbanization and other uses and purposes; also to plan and assist in planning all projects as to which Federal appropriations, grants or loans may pay a part or all of the cost;

Purpose of plan. The master plan is to be made with the purpose of guiding and accomplishing a coordinated, adjusted, efficient and economic development of the Commonwealth which will, in

accordance with present and future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and welfare of the people, as well as efficiency and economy in the process of development; including, among other things, such distribution of population and of the uses of land for urbanization, trade, industry, habitation, recreation, agriculture, forestry and other uses as will tend to create conditions favorable to health, safety, prosperity and transportation, and to create civic, recreational, educational and cultural opportunities, tend to reduce the wastes of physical, financial or human resources which result from either excessive congestion or excessive scattering of population, and tend toward an efficient and economic conservation, production and distribution of food and water, and of sanitary and other facilities.

Cooperation.

May confer and cooperate with the executive, legislative, planning, housing or zoning authorities of neighboring States, and of the counties and municipalities thereof; and is required to advise and cooperate with national, regional and county, municipal and other local planning, housing and zoning agencies within the Commonwealth for the purpose of promoting coordination between the State and local plans and development and to transmit information possessed by it which bears upon such coordination;

Recommend legislation.

May prepare and submit to the Governor or General Court drafts of legislation for the carrying out of the master plan or of any part thereof, including zoning or land-use regulations, and regulations for the conservation of the natural resources of the Commonwealth;

Zoning, etc.

Is directed to plan and assist in planning better housing, national, regional and municipal planning and zoning, and the better distribution of population and industry.

VII. RULES AND REGULATIONS

For the Government and Use of The ( ) Reservation Under the Care and Control of the Department of Conservation

Rule 1. No person shall throw any stone, ball or missile; or have possession of or discharge any destructive weapon, firearm, fireworks, torpedo or explosive, or make a fire except in fireplaces provided by the department; or post, paint, affix, distribute or display any sign, notice or circular, program, placard or any other advertising device; or except by written authority from the Commissioner of Conservation engage in business, sell or expose for sale, or give away any goods or wares; or drop or place and suffer to remain any piece of paper, glass, garbage or other refuse except in receptacles designated therefor, nor throw a lighted match, cigar, cigarette or other burning substance in said receptacles, or upon the ground, nor bring or cause to be brought within said reservation, any garbage, refuse or material for the purpose of depositing the same within said receptacle.

Rule 2. No person shall solicit the acquaintance of or annoy another person; or utter any profane, threatening, abusive or indecent language, or loud outcry; or solicit alms, subscriptions or contributions for any purpose; or play ball or any other game, or sport or athletic demonstration except in places designated therefor; or have possession of or drink intoxicating liquor; or play any game of chance; or have possession of any instrument of gambling; or do any obscene or indecent act; or preach or pray aloud; or make an oration or harangue, or any political or other canvass; or except by written authority from said Commissioner, move in a military or civic parade, drill or procession; or play any musical instrument.

Rule 3. No persons unless properly clothed shall be upon the beach, nor lower from their shoulders or remove any part of their bathing costume on said beach, nor disrobe for bathing within public view.

Rule 4. No person shall cause or permit any animal owned by him or in his custody or under his control, except a dog when restrained by a leash not exceeding seven feet in length, to roam or to be at large on the beach.

Rule 5. No person shall drive any vehicle upon the beach or walks, and no person shall bring, land or cause to descend or alight within the reservation or upon the waters therein any aeroplane, flying machine, balloon, parachute or other apparatus for aviation, except by written authority from said Commissioner of Conservation.

Rule 6. No person shall refuse or neglect to obey any reasonable direction of a police officer or other official in charge.

Any person violating any of the above rules shall for each offense be punished by a fine of not more than twenty dollars (General Laws, Chapter 132A, Section 7).

The ( ) Reservation is public property and it is the duty of every person to see that the above rules are observed and to call attention of the police or person in charge to any violation thereof.

Commissioner of Conservation

August 21, 1935

Approved by Governor and Council  
July 17, 1935.

## VIII. RULES AND REGULATIONS

For the Government and Use of Reservations, Parkways,  
Roadways, Driveways, Bridges and Beaches under the Care  
and Control of the Metropolitan District Commission.

Rule 1. No person shall enter or leave any Reservation, Parkway, Roadway, Driveway or Beach except at regular designated entrances.

Rule 2. No person shall injure, deface, dig up or displace, cut, break, remove fill in, raise, destroy or tamper with any drive, path, walk, lawn, or beach; or deface, defile, injure, destroy or ill-use any building, bridge, structure, fence, sign, bench, seat, platform, plant, flower, bush, tree, turf, rock or any other property or equipment, real or personal, belonging to the Commonwealth of Massachusetts, under the care and control of the Metropolitan District Commission, or have possession of any part thereof.

Rule 3. No person shall throw any stone, ball or missile; or have possession of or discharge any destructive weapon, firearm, fireworks, torpedo or explosive; or make a fire except in fireplaces provided by the Commission; or post, paint, affix, distribute or display any sign, notice, circular, program, placard or any other advertising device; or, except by written authority from said Metropolitan District Commission, engage in business, sell or expose for sale, or give away any goods or wares; or set a trap or snare; or injure or have possession of any wild animal or bird; or injure or disturb any bird's nest or eggs; or drop or place and suffer to remain any piece of paper, garbage or other refuse, except in the receptacles designated therefor, nor throw a lighted match, cigar, cigarette or other burning substance in said receptacles, or upon the ground; nor bring or cause to be brought within said reservation, parkway or beach, any garbage, refuse or material for the purpose of depositing the same within said receptacles.

Rule 4. No person shall solicit the acquaintance of or annoy another person; or utter any profane, threatening, abusive or indecent language or loud outcry; or solicit alms, subscriptions or contributions for any purpose; or play ball or any other game or sport or athletic demonstration except in places designated therefor; or have possession of or drink any intoxicating liquor; or play any game of chance or have possession of any instrument of gambling; or do any obscene or indecent act; or preach or pray aloud; or make an oration or harangue, or any political or other canvass; or, except by written authority from said Metropolitan District Commission, move in a military or civic parade, drill or procession; or play any musical instrument.

Rule 5. No person shall go within the shrubberies or upon the grass, or stand or lie down upon a beach or go to sleep thereon, or sit, stand, climb over or lie down upon any railing, balustrade, wall or fence.

Rule 6. No person unless properly clothed, shall be upon the beach or swim, bathe or wade in any water within or adjoining property under the care and control of the Commission, and then only at such times and in such places as the Commission may designate; nor loiter or walk upon a sidewalk or roadway or about a reservation other than a bathing beach in a bathing costume, unless wearing a closed covering; nor lower from their shoulders or remove any part of their bathing costume on said beach, nor disrobe for bathing in a public sanitary or within public view.



Rule 7. No person shall loiter on the sidewalks or driveways of any road, boulevard, parkway or reservation, after having been directed by a police officer of the Commission to move on, and no person shall obstruct the free passage of foot travelers on any such sidewalk or driveway.

Rule 8. No person shall spit upon any sidewalk or path in any reservation, parkway, road or driveway.

Rule 9. No person shall cause or permit any animal owned by him or in his custody or under his control, except a dog when restrained by a leash not exceeding seven feet in length, to roam or be at large, in, on or through any reservation or beach under the control of the Commission, or be hitched to a fence, tree, bush or shrub, nor to any object or structure except at a place provided therefor; nor ride or drive an animal not well broken and under proper control and then only in such roadways or bridle paths as are provided therefor; nor neglect or refuse to stop, place, change the position of or move said animal as directed by a police officer.

Rule 10. No person shall use roller skates, nor coast, skate or slide in any reservation except at such times and at such places as may be designated therefor.

Rule 11. No person shall have or allow a vehicle for carrying merchandise, or a vehicle in use for carrying merchandise or articles other than equipment proper for a pleasure vehicle, except upon a traffic road, or to gain access by the shortest way from the nearest street to the entrance of a house abutting on a parkway, boundary road or driveway: provided, however, that no person shall in any event carry or cause to be carried upon any parkway, boundary road or driveway on any vehicle a load the weight whereof exceeds ten tons except by written authority from said Metropolitan District Commission.

Rule 12. No person shall ride or drive an animal or vehicle upon or over any part of a reservation, parkway, roadway, driveway or bridge which has been closed to travel by the placing therein or the creation thereof of a barrier, fence, light or sign indicating that such part of such reservation, parkway, roadway, driveway or bridge is not open for public travel.

Rule 13. No person shall bring, land or cause to descend or alight within any reservation or upon the waters therein any aeroplane, flying machine, balloon, parachute or other apparatus for aviation, except by written authority from said Metropolitan District Commission.

Rule 14. No person shall refuse or neglect to obey any reasonable direction of a police officer or a person in charge.

Any person violating any of the above rules shall for each offense be punished by a fine of not more than twenty dollars (General Laws, Chapter 45, Section 54).

September 1, 1932.

The lands and structures under the control of the Metropolitan District Commission are public property and it is the duty of every person to see that the above rules are observed and to call the attention of the police or person in charge to any violation thereof.

# **Exhibit 10**

## **Michigan (see p. 122)**

## M I C H I G A N

## I. STATE PARKS

Jurisdiction.	State parks are under the jurisdiction of the Department of Conservation (Acts of 1951 as amended).
Commission of Conservation; appointment; terms; offices; organization.	The general administration of the powers and duties of the Department is vested in a Commission of Conservation, composed of seven members, appointed by the Governor, subject to confirmation by the Senate, for six years. (Initial appointments were three for two years, two for four years, and two for six years). Members are required to serve without compensation, but are entitled to reasonable expenses incident to official duties; are to be selected with special reference to their training and experience along the line of one or more of the principal lines of activities vested in the Department and their ability and fitness to deal therewith. Two members are required to reside in the upper peninsula. Members elect a Chairman and a Secretary, and may adopt rules and regulations governing their organization and procedure.
Director of Conservation; assistants.	The Commission employs a Director of Conservation at a salary fixed by law, and who holds office at its pleasure. The Director in turn appoints, with the approval of the Commission, such assistants and employees as may be necessary to carry out the provisions of the conservation laws; the compensation and number of all such to be subject to the approval of the State Administrative Board.
General powers and duties.	It is made the duty of the Department (Acts of 1951, as amended), to protect and conserve the natural resources of the State;
Recreation facilities.	To provide and develop facilities for outdoor recreation;
Conservation of forests.	To prevent the destruction of timber and other forest growth and promote reforestation of State lands;
Pollution of waters.	To prevent and guard against the pollution of lakes and streams;
Fish and game.	To foster and encourage the protection and propagation of game and fish;
Gifts.	May accept gifts and grants of land and other property;
Acquire, sell, exchange lands.	Also buy, sell, exchange or condemn land and other property for any of the purposes contemplated by the law;

Dispose of forest products. May remove and dispose of forest products, incidental as required for the protection, reforestation and proper development and conservation of the lands and property under its control;

Removal of oils and minerals. May contract, subject to the approval of the Administrative Board, for the taking of coal, oil, gas, and other mineral products from any lands under its jurisdiction and control upon a royalty or other basis;

Investigations. May conduct such investigations as it may deem necessary for proper administration of the laws.

Divisions. Administrative divisions have been created within the Department as follows; each under the charge of a head appointed by the Director:

Division of Parks	
"	" Lands
"	" Forestry
"	" Fish and Fisheries
"	" Game
"	" Geology
"	" Field Administration
"	" Education
"	" Land Use Planning

As to parks. Powers and duties of the Department as to parks are as follows, (Acts of 1919 as amended):

Supervision. To have charge and supervision of all areas acquired by the State as public parks for the purposes of public recreation, or the preservation of natural beauty or historic association; except such lands as may be placed by law under the supervision of other commissions or officials. Any lands now owned or acquired by the State may be transferred to the Department by the commissions or officials having control of the same;

Exception.

Acquire areas. To take in the name of the State and for the benefit of the public by purchase, condemnation, gift or devise, lands and rights in lands for public parks;

Donations. To accept donations, gifts and devises of lands for the purpose of establishing zoological parks, gardens, grounds or parks for any other purpose, to be maintained exclusively by the Department or jointly with any county, city, village or township, or any number of such. All such parks and gardens are deemed to be State parks within the meaning of any law establishing State parks under the jurisdiction of the Department;

Preservation of areas. To preserve and care for the public parks; and, in its discretion and upon such terms as it may approve, such other open spaces as may be entrusted, given or devised to the

	State by the United States, or by cities, towns, corporations or individuals, for the purposes of public recreation, or for the preservation of natural beauty or natural features possessing historic information or association;
Control of municipal areas.	Any municipality is authorized to transfer the care and control of any open spaces owned or controlled by it to the Department upon such terms and for such periods as may be mutually agreed upon, or enter into agreements with the Department for the joint care and preservation of open spaces within or adjacent to such municipality; and the Commission may in like manner transfer the care and control of any open spaces controlled by it to any local municipality.
Transfer care to municipality.	
Contributions by cities, etc.	Each county, city, village and township is authorized to appropriate to the Department sums of money toward the maintenance and improvement of any State-owned park or zoological gardens or grounds.
State Park Fund.	Whenever any money or other personal property is received for the purposes of the Act, the same is to be invested in a "State Park Fund", the proceeds to be used and expended under the direction of the Commission.
Lease privileges.	May rent or lease public service privileges in the parks; all funds or revenues derived therefrom to be credited to the general fund of the State;
Rules and regulations.	Make, alter and enforce rules and regulations for the maintenance of order, safety and sanitation upon the lands in its control;
Free use of parks.	May not make any rule or regulation to prevent the free use of any State park;
Park highways.	The State Highway Commissioner is authorized and directed to lay out, establish, maintain and improve trunk line highways and other highways as are necessary to, upon or through State parks or other State property, and to build connections between same.

## II. MACKINAC ISLAND STATE PARK.

Members; appointment.	The above park is under the control and management of a Board of five Commissioners, appointed by and to hold office at the will of the Governor. Members receive no compensation, but are entitled to expenses incident to official duties. The Governor is ex-officio a member.
Powers and duties.	The Commissioners are empowered and directed (Acts of 1907 as amended):
Administration.	To lay out, manage and maintain the park and preserve the old fort;

Gifts.	To accept gifts, grants, devises or bequests of any property, real or personal, but only for the purposes incidental to or connected with the State parks under its management and control;
Rules and regulations. Police powers.	To make and enforce by-laws, rules and regulations necessary for the care, order and preservation of the area. The Sheriff of the county, upon application of the Commissioners, may appoint one or more designated employees as deputy sheriffs. The Superintendent may also appoint such number of special police as the Commissioners may designate;
Employ personnel.	To employ a Superintendent and such other persons as may be needed;
Leases; rentals; privileges.	To effect leases, and to fix prices for rentals or privileges upon the park property; also grant privileges and franchises for waterworks, sewerage and lighting for a period not exceeding 30 years;
Disposition of revenue.	All moneys received from rentals and privileges to be paid into the State treasury, to be credited to the general fund, and to be disbursed as appropriated by the Legislature (1935);
Report to Governor.	To make to the Governor, an annual report and statement of receipts and expenditures; also such recommendations and suggestions as may seem to them proper;
United States flag to be flown.	It is the duty of the Superintendent to see that the United States flag is kept floating from the flagstaff of Fort Mackinac; rules relative thereto being the same as those that have governed in that matter when the fort was in possession and occupancy by the United States troops.

Note: The Commissioners also have the control and management of Michilimackinac State Park.

### III. STATE FORESTS.

Cooperative agreements with Federal agencies.

The Conservation Commission may enter into cooperative agreements with Federal agencies for the purpose of acquisition, management and operation of public forest lands. Under such cooperative agreements, forest lands purchased by the United States are to be administered by the Commission as State forest lands, and during the period the agreement remains in force, 1/2 of the gross proceeds from all lands covered by the agreement and to which the United States holds title, is to be paid to the United States; Provided that when the amount of such payments equal the total sum expended by the United States in acquiring the lands, title is to be transferred from the Federal Government to the State; and provided further, that in the event of the termination of the agreements where title is in the United States, then the Federal Government is to reimburse the State for such funds as it has expended in the administration,

development and management of the lands (Acts of 1935);

Closing of forest areas.

Wherever by reason of draught the forests in the State are in danger of fire, the Governor is authorized to forbid by proclamation whenever he deems it necessary in the public interest and for the preservation of the public place health and safety, the use of fire by any persons entering forests, woodlands, or muck land areas. During such periods and in such areas as the Governor proclaims, it is unlawful for any person to build a camp fire of any nature except at authorized camp grounds or places of habitation (Acts of 1935).

#### IV. PUBLIC SHOOTING GROUNDS.

Dedication of State lands.

Certain State-owned swamp and submerged lands have been set apart from time to time and dedicated for public shooting or hunting grounds for the benefit and enjoyment of the people (Acts of 1891, 1895, 1899);

Control.

Control is vested in the Department of Conservation, which is authorized to make and enforce rules and regulations for the care and preservation of the grounds, for the maintenance of good order, and for the protection of property.

#### V. STATE TOURIST AND RESORT COMMISSION.

Members.

The Commission was created by Acts of 1934, consisting of ten members: The Governor, the State Highway Commissioner, the Director of Conservation, the Chairman of the Mackinac Island State Park Commission, the Master of the Michigan State Grange, the Executive Secretary of the Michigan State Farm Bureau, the Secretary-Managers of each of the following: the Upper Peninsula Development Bureau, the Michigan Tourist and Resort Association, the Southeastern Michigan Tourist and Publicity Association. Members are required to serve without compensation or allowance for traveling or other expenses.

Advertising State.

It is the duty of the Commission to advertise the advantages of the State, or such part thereof as the State Administrative Board may direct, to residents and non-residents, in newspapers, magazines, booklets, leaflets, periodicals and/or billboards, and in such other manner as it deems most advantageous to promote the purposes expressed.

Funds.

Funds are provided by legislative appropriations, to be disbursed under the direction of the State Administrative Board under such regulations and restrictions as it may prescribe.

#### VI. STREAM CONTROL.

Members.

A. Stream Control Commission was created by Acts of 1929, con-

sisting of the Director of Conservation, the Commissioner of Health, the Highway Commissioner, the Commissioner of Agriculture, and the Attorney General.

**Powers.**

The Commission is vested with control of the pollution of lakes, rivers and streams and all waters of the State and the great lakes which are or may be affected by waste disposal of municipalities, industries, public or private corporations, individuals, partnership associations, or any other entity, and is vested with authority to make and promulgate such rules and regulations and conduct such investigations deemed necessary to carry out the provisions of the Act. Is directed to establish such pollution standards for lakes, rivers and streams and other waters of the State in relation to the public use to which they are or may be put, and may take all appropriate steps to prevent any pollution which it deems to be unreasonable and against public interest in view of the existing conditions in any of the said waters.

**VII. GENERAL,**

**Abandoned lands.**

Whenever the title to the State is deemed absolute in lands bid off to the State by reason of delinquent taxes, and the Director requests from the Auditor General an examination of a specific description of lands located within the boundary of areas designated as State forests, State parks, State game refuges, public hunting, fishing or recreational grounds, such land is required to be withdrawn from sale; and if upon examination the lands are found to be unoccupied, and no suit is pending to set aside any of said taxes or to remove the cloud occasioned thereby, the Auditor General is required to deed the lands to the State (as amended 1933).

Note: Titles to lands which are tax delinquent for five years or more become absolute in the State (O.C.G. 1930).

**Lands withdrawn from homestead right or sale.**

The Director of Conservation may, with the approval of the Conservation Commission, withhold from sale or entry under the homestead right, such lands as he may determine to be suitable for State forests, State parks, State game refuges, public hunting or recreational grounds; but any legally platted lands in any township may be withheld with the consent of the township board;

**Payments.**

Provided, that on all lands so withdrawn there is to be paid an amount equal to 25¢ an acre, to be divided 1/4 to the general fund of the county, 1/4 to the general or contingent fund of the township, and 1/2 to the school district in which such lands are located (As amended 1931).

**Nuisances.**

Any person or his agent who shall keep or maintain within one mile of the limits of any park or within thirty rods of



any highway or street car line any slaughter-house, slaughter yard or slaughter-pen or any other place for slaughtering or killing any animals, or for rendering dead animals, unless such place be supplied with an adequate supply of water for daily and constant flushing and purifying of the place, and with adequate sewerage and drainage for the speedy removal of all blood and other fluid refuse from such slaughtering, killing or rendering, is to be guilty of a misdemeanor. (Acts of 1931).

Preservation of trees.

All trees, shrubs, vines, fruit plants, cuttings, scions, grafts, plants and plant parts, plant products and places within the State, infested with injurious insect pests or infected with plant diseases which are liable to spread to other plants, plant products or places to the injury thereof, or to the injury of man or animals, and all species and varieties of trees, shrubs, vines and other plants not essential to the welfare of the people of the State which may serve as favorable host plants, and promote the prevalence and abundance of insect pests and plant diseases, or any stage thereof, destructively injurious to other plants essential to the welfare of the people of the State, are declared to be a nuisance; and all persons owning or controlling lands or places within the State, and all public authorities having jurisdiction over streets, highways, parks, and other public places, are required to keep the same free from all injurious insect pests and plant diseases and all species and varieties of plants declared to be a nuisance. (Acts of 1933).

Intoxicants in parks.

No alcoholic liquor, except beer and/or wine, may be consumed in public parks and places of amusement not licensed to sell for consumption on the premises. (Acts of 1933).

Hunting in parks.

No person may trap or hunt with firearms or dogs, or in any other manner, in any State park, game refuge, or other lands under the control of and dedicated by the Department as game refuges or wild life sanctuaries, excepting under a permit issued by the Director. (Acts of 1929).

#### VIII. STATE PARK RULES AND REGULATIONS.

Michigan State Parks are open and free to the public. Visitors are welcome to use them for the various activities permitted. In order to prevent abuse and misuse of the privileges offered by these parks, the following rules and regulations will be enforced:

1. The destruction or injury of any sign, guide post or property of any kind is unlawful. This includes the peeling of bark, carving and chopping of trees, cutting branches, driving nails, digging ground from roots, and the removal of trees, shrubs and plants, picking wild-flowers, and other injuries.

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2. To carry or have firearms in possession in a State park is unlawful.

3. Throwing of tin cans, bottles, papers, junk or refuse of any kind on the ground or in a lake or stream; or the misuse and abuse of seats, tables and other park equipment is prohibited.

4. Speed limit for motor vehicles on park roads is 20 miles per hour except where otherwise posted.

5. Dogs in park must be tied with chain or controlled on a leash. They are not allowed to run loose about the park.

6. The sale of eggs, milk, cream, butter, fruits and vegetables by farmers is permitted in State parks. All other vending or peddling in parks is prohibited.

7. Building or starting fires in the open or in any place except where proper provisions have been made or to leave fires while burning is prohibited.

8. Washing or the throwing of waste of any kind around well or spring or the use of woods as toilets or the use of toilets for bath houses is prohibited.

9. Persons desiring to camp in State parks are required to obtain permit before making camp. A permit will be issued to camp 7 days or less on a single site in parks within Oakland, Livingston, Macomb, St. Clair, Ottawa and Bay counties. The time limit in all other parks will be 15 days on a single site. When time of permit has expired, campers are required to move from the park. To again camp in parks new permits must be obtained.

10. Camping, horseback riding or driving of automobiles or other vehicles on areas (picnic ground, children's playground, bathing beaches, etc.) posted against such traffic or utilization is prohibited.

11. Camping in the park by boys under seventeen years of age unaccompanied by an adult or adults and girls under eighteen years of age unaccompanied by their parents or chaperon is prohibited.

12. Disorderly conduct in the way of drunkenness, vile language, fighting and personal exposure by change of clothing in automobiles, woods, park or any other place where person is not properly sheltered is prohibited.

Sec. 3-a - Act 17, Public Acts 1921, as amended by Act 337, P.A. 1927, provides that (any person who shall do or perform any act prohibited by such rules and regulations concerning the use and occupancy of lands and property under the control of said commission of conservation, which shall have been made, promulgated and pub-

lished as in this act provided, during the time such rules or regulations shall be in force and effect, or who shall violate any such rules or regulations thus made, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine, of not more than one hundred dollars, together with costs of prosecution, or to imprisonment in the county jail for not more than ninety days, or both such fine and imprisonment in the discretion of the court).

#### IX. LAW ENFORCEMENT,

Note: The rules and regulations governing the use of state parks are largely enforced by the park superintendent and assistants. These men in all cases are commissioned conservation officers and are empowered to enforce all laws pertaining to conservation.

In some state parks where the week-end attendance is so large as to create a traffic problem, additional temporary help is hired. This is done to prevent speeding on the park roads and reckless driving, and parking in areas such as picnic grounds rather than at designated parking places. In some parks and on some holidays it is necessary to call for the assistance of trained officers. The state police have rendered valuable aid in this work.

#### X. CAMPER'S PERMIT,

Post Permit on Tent or Trailer where Same may be Inspected by Park Officer:

Name of Visitor \_\_\_\_\_  
 Street and No. \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_  
 Number in Party \_\_\_\_\_ Date \_\_\_\_\_  
 Kind of Car \_\_\_\_\_ License No. \_\_\_\_\_  
 Trailer Camp \_\_\_\_\_ Tent Camp \_\_\_\_\_  
 Length of visit desired \_\_\_\_\_ Pet \_\_\_\_\_

PERMISSION to camp and enjoy privileges of \_\_\_\_\_  
 State Park Camp Site No. \_\_\_\_\_ is hereby granted the above  
 party by the CONSERVATION DEPARTMENT State Parks Division,  
 Lansing, Michigan.

\_\_\_\_\_  
 Park Officer's Signature.

Roadside parks.

Note: The State Highway Commissioner is authorized (Acts of 1925) to acquire highway rights of way by purchase, gift or condemnation. Roadside picnic tables and other park facilities are developed on these rights of way where desirable and suitable sites are available.

# **Exhibit 11**

## **Ohio (see pp. 321)**

## OHIO

## I. STATE PARKS.

Jurisdiction.	Lands and waters dedicated and set apart for public park or pleasure resort purposes, or acquired for such purposes, are under the control and management of the Conservation Council of the Division of Conservation (Acts of 1929).
Conservation Council; appointment; terms; Secretary.	The Conservation Council is composed of eight competent citizens, appointed by the Governor for four year terms (rotated.) Not more than four members may be affiliated with the same political party; are required to serve without compensation, but are paid actual and necessary expenses incurred in the performance of their official duties. The Commissioner of Conservation is designated by law as Secretary to the Council.
Powers and duties of Council.	Powers and duties of the Conservation Council are as follows (Acts of 1929):
Formulate policies; establish bureaus.	To plan, develop, formulate and institute programs and policies of the Division of Conservation, and to establish such bureaus within the Division as are approved by the Governor;
Bureaus.	Administrative bureaus have been established as follows: <ul style="list-style-type: none"> <li>Inland Lakes and Parks</li> <li>Game Management and Propagation</li> <li>Fish Management and Propagation</li> <li>Law Enforcement</li> <li>Administration</li> </ul>
Effectuate policies.	So far as funds are provided therefor, to adopt and carry into effect such measures as it deems necessary in the performance of its duties;
Rules and regulations.	To make and establish rules and regulations governing its organization and procedure and administration of the Division of Conservation as it may deem necessary or expedient;
Cooperate with other departments and officials.	To cooperate with the several State departments and officials in the conduct of matters in which the interests of the respective departments or officials overlap;
General jurisdiction of lakes, parks and lands.	To have the general care, protection and supervision of the State parks known as Lake St. Marys, Portage Lakes, Lake Laramie, Indian Lake, Buckeye Lake, Guilford Lake, and all other State parks and lands owned by the State or in which it is interested or may acquire or become interested, except

- lands the care and supervision of which are vested in some other officer, body, board, association or organization;
- public use of lakes. The lakes named are at all times to be open to the public as resorts for recreation and pleasure, including hunting, fishing and boating, subject to the fish and game laws, and the boating privileges to be subject to the rules and regulations prescribed by law and the Council;
- police authority. To maintain such police regulations and enforce such rules for the government of the public parks as may be prescribed by law;
- improve and protect parks. To make alterations and improvements to all lands and water set apart or acquired for public parks or pleasure resort purposes and under its control and management, and to protect, maintain and keep them in repair;
- dams, locks, etc. Construct and maintain dikes, wharves, landings, docks, dams and other works;
- roads and drives. Construct and maintain such roads and drives in, around, upon and to such lands and waters as to make them conveniently accessible and useful to the public;
- acquire lands and property. Subject to the approval of the Attorney General, may acquire by gift, purchase, or by appropriation, such real and personal property, rights and privileges as may be necessary in its judgment for the use, extension, enlargement and maintenance of such public parks and resorts; also for new public parks, resorts, reservoirs, channels, drives, roadways, docks, dams, landings, wharves and other improvements;
- now paid for. The value of property so acquired to be paid out of funds derived from the sale of special privileges and from leases of State land in and adjacent to the parks or pleasure resorts; or, when such costs exceed \$1,000, then out of moneys in the general revenue fund appropriated for such purposes, but no expense for these purposes may be incurred until the General Assembly has first appropriated money therefor;
- control, lease and sell other lands; exception. To control, manage, lease and sell the swamp, marsh, overflow lands, and all other lands to which the State has or should have the title, except canal and public works and institutional lands; but no land lease or sale of lands may be made except upon the approval of the Governor and Attorney General;
- wildlife conservation; enforcement of laws. To have the supervision and control of all lakes, reservoirs and State lands dedicated to the use of the public for park and pleasure resort purposes with respect to the enforcement of all laws relating to the protection of birds, fish and game; all laws for the protection of fish in inland waters and streams of the State, and all laws for the protection of the birds, fish, game and fur-bearing animals to apply to all such State reservations and lakes;

- Same. To exercise authority and control in all matters pertaining to and enforcement by legal action or proceeding of the laws of the State for the protection, preservation and propagation of game, fur-bearing animals, clams, mussels and fish; except authority to change laws in the General Code covering commercial fishing in the Lake Erie fishing district, and in such other waters wherein fishing with nets is licensed by law (as amended 1935);
- Same. To establish rules and regulations for the taking and hunting of game birds, clams, mussels, fur-bearing animals, game and fish (Acts of 1935);
- Report to Governor. Report to the Governor from time to time the results of its investigations concerning the natural resources of the State, with recommendations of such measures as it deems necessary or suitable to conserve or develop such resources and preserve them so far as possible;
- Same. Report annually to the Governor, including a statement setting forth its action on all matters pertaining to the management and control of all State reservoirs, lakes and lands set apart for public parks or pleasure resorts, and including a statement of the receipts and expenditures on account thereof.
- Conservation Commissioner. The Council recommends to the Director of Agriculture a Conservation Commissioner, who is appointed by the Director if acceptable to him. In addition to being designated as Secretary of the Council, the Commissioner is vested with the following powers and duties;
- Powers and duties. To enforce the provisions of the Act and the laws relating to the protection, preservation and propagation of birds, fish, game and fur-bearing animals;
- Employ personnel. To employ necessary clerks and other employees as he may deem necessary; also such fish and game protectors as the Council may prescribe, and to fix the salaries of all employees of the Division unless such compensation is otherwise fixed by law;
- Lease lands. May lease lands in or adjacent to Buckeye Lake, Indian Lake, Lake St. Marys, Guilford Lake or Portage Lakes, including marginal strips and marsh lands around said lakes, the outer slopes of artificial embankments, islands, borrow pits and State lands adjacent thereto as he deems proper;
- Appoint policemen. May appoint police patrolmen to preserve order and protect the public at any parks or pleasure resorts, and prescribe their compensation within the limitation fixed by law;

Account for revenues.	To keep a separate account of all revenues derived from leases of State land in and adjacent to the park and pleasure resorts, likewise all fund derived from the sale of special privileges in connection therewith; and to credit in a separate account, to each park or pleasure resort, all moneys derived from the lease of land or special privileges in connection therewith;
Collect rentals.	To collect all rentals for leases of State lands, boat licenses, dock licenses in State reservoir parks, and moneys for special privileges of any nature in or adjacent to such parks; the same to be transmitted to the State treasurer with a separate statement giving the names of persons from whom and for what purposes such moneys were collected, and to what park or pleasure resort such funds are to be credited;
Receive fines, etc.	Unless otherwise directed by the Council, to receive all fines, penalties and forfeitures arising from prosecution, convictions, confiscations or otherwise under the bird, fish and game laws, and by him to be paid into the State treasury to the credit of a fund to be appropriated biennially for his use;
Roads leading to State parks and forests.	The Director of Highways is authorized to relocate, and for such purpose to construct or reconstruct, improve, repair and maintain roads leading from a State highway to any public State park or State forest, including all such parks and properties under the control and custody of the Division of Conservation, Division of Forestry, and Ohio Archeological and Historical Society. Also to any State property used for military purposes or any road which leads along the side of or through school lands owned by the State. The Director is to confer with the authority in control of any such park or property before deciding upon the location and character of any such improvement, and is authorized to add to the State highway system not more than 50 miles of above-mentioned roads (Acts of 1931);
Roads within parks and forests.	Is further authorized to construct, reconstruct, improve, repair and maintain roads within the boundary of any public State park or State forest, including all such parks and properties under the control and custody of the Division of Conservation, Division of Forestry, and Ohio Archeological and Historical Society, or used for military purposes, provided the officer or board having control thereover first consents to the construction, reconstruction, improvement, repair and maintenance of such road. Such roads to be maintained in such manner as may be agreed upon between the Director and such officer or board;
How paid for; limitations.	The costs of such construction, etc., to be paid from the State highway construction funds, or the maintenance and repair funds, according to the character of the improvement; provided, that the expenditure for any one year may not



exceed \$50,000 and provided further, that the expenditure for highways leading to the aforesaid properties may not exceed \$5,000 per mile and expenditures within such properties may not exceed \$3,000 per mile.

## II. STATE BOARD OF PARK COMMISSIONERS: SURVEY.

Members; purpose for which established.

By Acts of 1931 the Superintendent of Public Works, the State Forester, the Conservation Commissioner, the Head of the College of Civil Engineers in the Ohio State University, the Director of the Archaeological and Historical Society, and a member of one of the boards of park commissioners created under the Park District Act (G.C. 2976-1) or an executive officer of such Board, to be appointed by the Governor, were designated as a Board of Park Commissioners, and as such authorized and directed to make a survey for the ultimate development of a comprehensive and well balanced State system of public parks, including the relation of such system to other means of conserving and utilizing the scenic and recreation resources of the State;

Scope of study.

Such survey to include a study of the abandoned canal lands, idle and waste lands in the State, the forests and forest resources thereof, the places of archaeological and historical interest, including State historical parks administered by the Ohio State Archaeological and Historical Society; to also indicate the forests, streams and rugged areas of the State most suitable for the development of a practical park system; and, in general, include a study of all natural resources;

Report to Governor with recommendations.

Upon completion of such survey, the Commission to make a report to the Governor, embodying the results, and including recommendations regarding means by which such a State park system can be acquired and administered, together with the necessary proposed legislation therefor; also make recommendations as to the location of dams necessary to be placed across the rivers and streams for better preservation of water supplies and controlling the waters against flood damages, and the conservation and natural production of fish life in the streams; the Governor to transmit said report to the General Assembly with such recommendations as he deems pertinent thereto.

## III. STATE FOREST PARKS.

Jurisdiction.

The Board of Control of the Agricultural Experiment Station may buy forested lands or other lands suitable for the growth of forest trees, at a price not exceeding \$10 per acre, to the amount of the appropriation for that purpose; all lands so purchased to be deeded to the State and to be known as State forests (Acts of 1923);

How acquired. The Board may also acquire by purchase or gift and hold in the name of the State, lands for State forest park purposes;

Areas included. Such lands may include areas which it is deemed necessary to reserve for the public good, and may include sites of scenic value, virgin woodlands, and areas desirable for recreation and reforestation;

Designation. Such lands are to be known as State forest parks, and their purchase is not restricted by the price limitation applicable to State forests;

Appraisal. No purchase of lands for State forest parks may be made until such lands have been duly appraised by a board of three disinterested free-holders having a knowledge of land values in the vicinity, appointed by the Auditor of State for that purpose. The amount paid for such lands may in no case exceed such appraised value, nor may the purchase price exceed the appropriation for that purpose.

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Constitutional provision. Laws may be passed to encourage forestry, and to that end areas devoted exclusively to forestry may be exempted, in whole or in part, from taxation. Laws may also be passed to provide for converting into forest reserves such lands or parts of lands as have been or may be forfeited to the State, and to authorize the acquiring of other lands for that purpose; also, to provide for the conservation of the natural resources of the State, including streams, lakes and submerged swamp lands, and the development and regulation of water power and the formation of drainage and conservation districts. . . Art. 2, Sec. 36, State Const. Adopted September 3, 1912.

#### IV. OHIO STATE ARCHAEOLOGICAL AND HISTORICAL SOCIETY.

Purposes. The above society was founded and chartered in the year 1885. The Articles of Incorporation declare the purposes of the Society to be "the promoting of the knowledge of Archaeology and History, especially of Ohio, by establishing and maintaining a library of books, manuscripts, maps, charts, etc., properly pertaining thereto; a Museum of prehistoric relics and natural or other curiosities, or specimens of art or nature, promotive of the objects of the Association, and by courses of lectures and publication of books, papers and documents touching the subjects so specified, with power to receive and hold gifts and devises of real and personal estate for the benefit of the Society.

- Purposes.** The Society is primarily a membership organization, but owing to the public service which it renders has been accorded the status of a quasi-State institution. It is governed by a Board of Trustees, nine of whom are elected directly by its membership, while six are appointed by the Governor. In addition, the Governor and the Director of the State Department of Education are members ex-officio of the Board.
- Source of funds.** The Society's principal source of funds is through appropriations by the General Assembly, while membership fees constitute a permanent fund to be used at the Board's discretion for the benefit of the organization.
- Assets.** The material assets of the Society are its Museum and Library Building located on the Ohio State University campus, and approximately forty parks throughout the State which it either owns or over which it has supervision for the State. In recent years a Department of State Parks has been established.
- Acquisition of sites.** Any incorporated association or society maintained by and operating for and on behalf of the State, having for its purpose the preservation of historic or prehistoric sites or monuments, or the exploration, examination, improvement or preservation of the same for educational, scientific or memorial purposes, or for the purpose of collecting relics or artifacts therefrom and placing the same in a public museum, may acquire and hold any real estate in the State which is the site of an historic event, building, structure, canal, cemetery, monument, spring, tree, stone, or other natural or artificial object, or the site of any historic or prehistoric mound, earth or stone works, occupation, burial site, rock carving, inscribed rock, cache, hoarding pit, cave or rock shelter, when such cave or rock shelter can be proved to have been occupied or used by aborigines, or any site or area which scientific exploration or historical record may establish as having been occupied or created by aborigines (Acts of 1933);
- Acquisition of adjacent land.** May acquire any property immediately contiguous to and adjoining any such real estate which is necessary for any educational, scientific or memorial purposes, or for the accommodation of the public in visiting such historic site, object or place, or which is essential to the carrying out the intent and purpose for which the park, reserve or memorial was created;
- Appropriation.** In the event a price cannot be agreed upon, or where the owner cannot be located, such association or society may acquire such real estate by proceedings in a proper court in the manner provided by law for the appropriation of private property by the Superintendent of Public Works; such proceedings to be brought in the name of the State.

require lands and property.

The Director of the Society is authorized to negotiate for the transfer, by lease or permits, of certain canal property to the custody and control of the Society, including portions of the bed and adjacent embankments of abandoned canals, locks basins, aqueducts, dams, culverts, tunnels, feeders, side cuts canal lands, canal boats, miscellaneous equipment, and any early canal maps and records of historical interest which have ceased to become of frequent use in the business of the Department of Public Works. Such canal property may include those sections of the canal which formerly were portions of and the operating equipment upon any canal or branch canal which was built by and is now owned by the State (Acts of 1933);

transfer; how effected. Upon the determination of the Superintendent of Public Works that such canal property, so requested to be transferred, is worthy of preservation from an historical standpoint, he may effect transfer of the custody thereof to the Society by issuing, with the approval of the Governor and Attorney General, a permit to the Society authorizing it to enter upon, occupy and use such canal property for the purpose of preserving, beautifying and improving the same as points of historical interest to the citizens of Ohio. Said permit may run for a term of 99 years, renewable forever; but portions thereof not built upon or occupied by monuments, may be reclaimed for the use of the State;

Purpose of transfer. Any such transfer of canal property is to be made specifically for the purpose of preservation and for practical and educational uses. The Society is authorized to improve, beautify, maintain, protect, preserve and develop any such canal property to the best interests of the people of the State, all of which to be subject to the approval of the Superintendent of Public Works;

Transfer may be made, when. Such transfers may be effected from time to time, as occasion may arise, and upon the expiration or lapse of options or leases in force at the time of the passage of the Act. Additional permits may be issued in the same manner. Any such transfer to be effected only upon the approval of the Governor and the Attorney General.

#### V. ROADSIDE PARKS.

Director of Highways to construct.

Where the Director of Highways, in the construction or repair of roads on the State highway system outside the limits of municipal corporations, relocates such roads and/or relocates or constructs a bridge, culvert, underpass, overpass or other structure or improvement, the highway or portion thereof from which it is proposed to divert travel is not to be deemed to be vacated or abandoned but is made available to the Director for use as roadside parks for the benefit of the traveling public or such other usage as may be incident to the construction, maintenance and repair of the State highway system (Acts of 1935);

- Same.** Where small tracts of land lie between the existing right-of-way and the new right-of-way, and the Director deems such tract of land suitable and desirable for the establishment of a roadside park, he is authorized to obtain the same by gift, purchase or appropriation, the cost or expense to be paid from any funds available for the construction, reconstruction, maintenance and repair of the State highway system;
- Improvement.** May plant thereon such shrubbery, trees, sod or sodding, and construct such other devices and appurtenances as will in his opinion contribute to the health, comfort, safety and welfare of the traveling public; the cost thereof, together with the cost of maintenance, to be paid from funds available as above; provided, however, that such tracts of land are at all reasonable times to be open to the public for use without charge. The Director is without authority to lease, rent or sell any part thereof;
- Roadside planting.** May also construct and maintain inside the highway right of way, outside the limits of any municipal corporation, such landscaping improvements for the purpose of preventing soil erosion as he may deem necessary and desirable for the proper preservation and maintenance of the highway; the cost and expense of such improvements and maintenance thereof to be payable from funds available as above. Provided, however, that in any one calendar year the total sum so expended by and under the authority of the Act may not exceed \$100,000.
- Proviso.**
- VI. PUBLIC HUNTING GROUNDS.
- How acquired.** The Conservation Council is empowered to acquire by gift, lease or purchase suitable lands for the purpose of establishing thereon public hunting grounds and reforestation; and may set aside any portion thereof as a game refuge (Acts of 1929);
- How paid for.** The lease or purchase price of any and all such lands may be paid for from hunters' and trappers' license funds;
- Regulation.** In accordance with the State laws, may make such regulations for the taking of birds, fish or game upon either public hunting territory or upon a State game refuge established on or within such public hunting ground as it may deem advisable;
- Supervision.** The title or lease to any and all such lands is to be taken in the name of the State and when so acquired the entire supervision is to be under the Division of Conservation;
- Appropriation.** When in the opinion of the Council it is necessary to procure lands for the purpose of reforestation or public hunting grounds, and a price cannot be agreed upon with the owners, such lands may be acquired by appropriation.

## VII. CANAL LANDS.

- Miami and Erio Canal.** The State reserves unto itself the right, title and interest in and to all lands and waters acquired under the various Acts providing for the construction of the Miami and Erio Canal, and all lands now occupied by any part of the canal, including all canal feeders, basins, slack waters, wide waters, State locks heretofore used for lock houses, tow paths, berme embankments, levees, wasteways, or for other incidental purposes thereto; also retains its title to the site of all dams and impounding basins above the same, and likewise to the embankments and levees connected therewith, and to all streams that formerly supplied water to the canal. No portion of the canal lands and lands adjacent thereto are ever to be sold except by specific authority of the General Assembly (Acts of 1927, 1931).
- Restriction as to sale.**
- Use for park purposes.** By Acts of 1931 a portion of the canal extending from a point in Lucas County to a point in Butler County, a distance of approximately 175 miles, was abandoned for canal and hydraulic purposes, to be devoted to highway and public parks, where suitable;
- Water to be retained for boating.** The Superintendent of Public Works being authorized and directed to shut off the water supply to such canal in order to drain the water from those levels that are selected as sites for public parks for the free use of the public; with the provision that the canal need not be drained if it is desired to make boating an added attraction to such parks; but the Director of Highways may drain, at his discretion, such canals, feeders, basins, slack waters and wasteways in order to prevent their waters from flowing into or through the abandoned parts of the canal lands which in his judgment are necessary for highway purposes;
- Cancellation of leases.** All leases granted for canal or hydraulic purposes to become null and void within sixty days after the same have been designated by the Director of Highways as necessary in any contemplated scheme of highway improvements over or adjacent to the canal lands; all other leases for lands to be terminated whenever the same can be legally done, provided the lands have been designated as necessary for highway purposes by the Director or may be designated for public park purposes by proper State authority;
- Jurisdiction.** The Director of Highways to have the supervision and control as to highways, and the Superintendent of Public Works as to public parks and other purposes.

VIII. RULES FOR GUIDANCE OF CONSERVATION COMMISSIONER  
AND POLICE PATROLMEN: ACTS OF 1929

Rules for the Appointment  
and Government of Police Patrolmen

Qualifications of  
police patrolmen.

Rule 1. A person to be eligible to appointment as police patrolman at any of the State reservoir parks under the control of the conservation council must have been an elector of the State of Ohio for not less than two years preceding his appointment; he must be in good health and free from any infirmities that would be a hindrance in the discharge of his official duties, and must be able to read and write the English language understandingly.

How appointments  
made.

Rule 2. All appointments to the position of reservoir police patrolman shall be made on probation, by the conservation commissioner subject to the rules and regulations of the civil service commission, and if at any time, in the opinion of such commissioner a person appointed to such position proves himself unfit for, or neglects to perform his official duties, he shall be dropped from the service.

Police patrolmen  
and assistants.

Rule 3. The conservation commissioner is hereby authorized to employ one police patrolman at each reservoir park, at a salary of not to exceed twelve hundred dollars per year, two assistant police patrolmen at each state reservoir for three and one-half months prior to and including Labor Day, at the rate of not exceeding ninety dollars per month, and may expend for special patrolmen at each state reservoir during the summer months, a sum not exceeding ninety dollars at the rate of \$3.00 per day for each patrolman employed, all of which expenses shall be paid from the receipts from leases, boat permits and sale of special privileges to be derived from each of the state reservoirs, parks or funds appropriated for such purposes, but no funds shall be expended for this purpose upon any reservoir in excess of its own earnings, except from funds especially appropriated for such purposes.

Applications by  
police patrolmen.

Rule 4. All applications for appointment for the position of police patrolman, must be made in the applicant's own handwriting and accompanied by recommendations from two reputable freeholders of the state, setting forth their willingness to sign the bond of the applicant.

Bond.

Rule 5. Each patrolman before assuming the duties of his office shall give bond to the satisfaction of the conservation commissioner in a sum of not less than \$500 conditioned for the faithful discharge of his duties, and a similar bond for the proper handling of moneys that may come into his hands while in the discharge of his duties as a collector for the state.

Badge worn while on duty

Rule 6. Each patrolman while on duty shall wear and display at all times, a badge to be furnished by the conservation commissioner when the appointment is made.

Hours on duty.

Rule 7. Each patrolman, unless otherwise directed by the conservation commissioner shall be at the reservoir to which he is assigned by 9 o'clock a.m. of each day including Sundays, and remain on duty until 9 o'clock p.m., with an intermission of one hour at noon and one hour immediately after 5:30 p.m. and shall be subject to call to make arrests, at all hours during the day or night and be subject to any special instructions which the conservation commissioner deems it necessary to give to such patrolman.

Conduct proscribed.

Rule 8. Each patrolman, both on and off duty, in his conduct and deportment, must be quiet, orderly and respectful towards all persons with whom he may come in contact; violent, coarse, profane and insolent language while on duty, and any conduct subversive of good order and gentlemanly bearing, will be cause for dismissal by the conservation commissioner.

Drinking and gaming prohibited.

Rule 9. Patrolmen shall not drink any kind of intoxicating liquors or engage in any game of cards, billiards or other games of amusement while on duty.

Debts shall not be contracted.

Rule 10. No debts of any kind shall be contracted by any patrolman on behalf of the state without the written consent of the conservation commissioner and wherever possible, receipted bills for the purchase of supplies shall be taken and all bills shall be itemized, so as to show the quantity and price of each article purchased, and no patrolman shall make any appeal to the public, nor receive pecuniary assistance for any purpose whatever connected with his official duties.

Duties as to arrests; assistance.

Rule 11. It shall be the duty of each patrolman to arrest on view or warrant and bring to justice all disturbers of the peace and violators of the criminal laws of the state, when the offense is committed on land or water in or adjacent to state reservoirs and lands that have been set aside or dedicated to the use of the public for park and pleasure resort purposes, and when such patrolman deems it necessary, he may call to his assistance, anyone within the hearing of his voice to assist in making such arrests.

Force exercised in making arrests.

Rule 12. In making arrests, no unnecessary force shall be exercised by patrolmen toward offenders, but they shall at all times when required, act with firmness and sufficient energy to enable them to discharge their official duties, and when viciously resisted they shall call to their assistance any bystanders who happen to be present and all persons so requested to assist in making arrests shall immediately respond to such requests. Police patrolmen shall have the same power and authority as constables, and their jurisdiction shall be co-extensive with the counties touch-



ing any reservoir park. Such patrolmen and deputy patrolmen shall have the same authority to go armed, when on duty, as is given sheriffs, police officers of incorporated cities and villages, provided they have first given bond to the state of Ohio in the sum of five hundred dollars, conditioned for the faithful performance of their duties as police patrolmen, which bond shall be approved by the conservation commissioner and filed with the treasurer of state for safe keeping.

Prisoner shall be brought before magistrate without delay.

Rule 13. No patrolman when arresting a prisoner, shall permit or assent to any delay under any pretense whatever in bringing such prisoner at once before a justice of the peace, the mayor of any city or village or police judge of any municipality having jurisdiction in the county in which the offense was committed.

Shall not become surety or make compromise

Rule 14. No patrolman, official or employee of the division of conservation shall become surety on the bond of any person arrested for violation of the law nor shall such parties be directly or indirectly concerned in making any compromise between parties arrested and persons who have suffered by their acts with a view to assisting the arrested parties to escape the penalties provided by law in such cases.

Record of arrests and offenses.

Rule 15. Each patrolman shall carry a memorandum book in which he shall note the names and residence of all parties arrested, the offense for which the arrest was made, and all the circumstances attending the same, including the exact time and place; also the names and addresses of parties who witnessed the act for which the arrest was made; he shall also note therein with proper description all property found on the person of the party or parties arrested. And where he has reason to believe that any of said property is stolen, he shall take charge of the same and turn it over to the justice or other presiding officer in whose court the charges are filed, with a statement of all the facts ascertained and take a receipt for the property thus turned over to the court; the arresting officer shall also take charge of all firearms and other weapons found upon the person of any party arrested, and turn the same over to the court before whom the complaint is filed.

Familiarity with all parts of reservoir.

Rule 16. Each patrolman shall make himself familiar with all parts of the reservoir to which he is assigned and so far as possible become acquainted with the people living in the immediate vicinity of the same, so as to recognize them on sight; he shall also visit, as often as circumstances warrant, all resorts located on land or water in or around the reservoir to which he is assigned, that are reported to be the rendezvous of thieves, gamblers and other notorious characters and likewise of persons reported as habitually violating the fish and game laws of the state, making his visit as brief as possible and reporting fully to the conservation commissioner all the facts ascertained, but

without giving the information thus acquired to others.

Duties relative to lost children and property.

Rule 17. Police patrolmen shall take charge of all children who become lost or separated from their parents or friends having them in charge, and use their best endeavors to restore them to their parents or to proper parties interested in such children; they shall also take charge of lost articles turned over to their care and endeavor to restore them to their owners, and when in doubt as to the owner, they may require proof of the same; they shall carefully note in their record books an accurate description of all such property together with the time and place of finding the same, and the name or address of the person turning the same over to them and likewise the final disposition of the property.

Assistance in cases of accident and illness.

Rule 18. Patrolmen shall render all possible aid in case of accident or illness of parties visiting parks; they shall also note any obstructions to the safe handling of rowboats, launches or other water craft on the waters of the reservoir of which they are in charge and when such obstructions cannot readily be removed, they shall mark their location in some way to indicate the danger.

Information for convenience of public.

Rule 19. Patrolmen shall at all times hold themselves ready to furnish information regarding parks, train service and location of hotels, cottages, boats, etc., as will promote the convenience and interests of the public; such information shall always be given in a cheerful, courteous manner and without charge. They shall also serve notices furnished them by the state board of health, and carry out its instructions in all matters relating to sanitation at state reservoir parks.

Leave of absence.

Rule 20. Patrolmen desiring leave of absence from their duties, shall first obtain permission from the conservation commissioner before leaving their charge, but when necessity compels a patrolman to abandon his post without such permission, he shall immediately make a written statement of all the facts to the conservation commissioner in his absence, to the secretary of the division of conservation and return to his post at the earliest possible moment.

Metal plates for boats; collection of fees.

Rule 21. Each patrolman, when so designated by the conservation commissioner shall have charge of the metal plates for the boats on the reservoir to which he is assigned, and shall collect the fees for the same and promptly remit the amounts collected to the divisions of conservation giving the name and address of the party to whom each permit is issued with the name and description of the boat for which the permit is issued, and he shall keep a complete record of all permits issued, together with the names and addresses of the parties securing permit, and make weekly report of such collections to the conservation commissioner.

Monthly statement.

Rule 22. Each patrolman shall file a monthly statement on the first Monday of each month of his official acts

for the preceding month with the conservation commissioner, after which the reports shall be filed by the commissioner in suitable files and properly labeled for future reference.

Copy of act furnished patrolman.

Rule 23. The conservation commissioner shall furnish each patrolman with a copy of this act, which is intended to govern the actions of the police patrolmen when on duty and the conservation commissioner may, whenever he deems it proper, examine any patrolman as to his knowledge of the laws proscribed in this act, and a failure of any patrolman to become fairly familiar with his duties as proscribed in this act, shall be a proper cause for his removal by such commissioner.

Surrender of badge and records.

Rule 24. Each patrolman, on the termination of his term of service by limitation or otherwise, shall surrender his badge, records and all property that has come into his hands by reason of his office, to the conservation commissioner or in his absence to any other person designated by the conservation commissioner to receive the same.

Protection of property of state and of lessees.

Rule 25. It shall be the duty of the patrolmen to prohibit any person from removing stones forming the retaining walls of reservoir embankments and against injuring or interfering with the wasteweirs, bulkheads and feeder gates regulating the flow of water from such reservoirs, and against interfering with or injuring dock landings and buildings owned and controlled by the state or of private property located upon state lands in accordance with the terms of leases granted by the state of Ohio; also against the building of fires along the shores and embankments of any state reservoir, and against the cutting down or mutilating of shade trees upon the state property by any one, and even by the lessees of the state, and likewise against the cutting or digging into the embankments of such reservoirs in a manner tending to weaken or injure them, likewise to prevent the harboring of domestic animals upon any state reservoir lands leased for cottage site purposes, such as horses, mules, cattle, hogs, sheep, goats, chickens, geese, ducks, etc., and animals of any kind, the harboring of which tends to render the grounds unsanitary or objectionable for other reasons such as causing or creating a noise or unsightliness; also to prohibit anyone from riding, or driving horse-drawn vehicles, automobiles, trucks, tractors or motorcycles over any state reservoir embankments unless the same has been improved and used as a public highway, except by special permission from the conservation commissioner or his agents, and persons committing such offenses shall be arrested and fined under the terms of this act.

IX. GENERAL RULES RELATING TO THE CONTROL AND MANAGEMENT OF THE PUBLIC PARKS

Permits to boat owners.

Rule 26. Owners of boats of whatever kind, desiring to maintain and operate the same upon the waters of any public park, shall take out a permit entitling them to keep and operate the number and kind of boats described in their application, for which the following fees shall be charged:

Rowboats carrying not more than five persons, one dollar; rowboats carrying more than five persons, fifty cents additional for each persons in excess of five; electric, naphtha and steam launches, steamboats and other similar water craft, one dollar for each person of 170 pounds that may be carried thereon with safety.

Sailboats shall be measured thus: Multiply the length of the hull in feet by the greatest beam in foot, and divide the result by 30. Fractions shall be counted to the nearest unit. Final result will be the amount in dollars to be paid for the annual license.

Power boats shall be measured thus: Multiply the length of the hull in feet by the greatest beam in foot and divide the result by 15. Fractions shall be counted to the nearest unit. The result will be the amount in dollars to be paid for the annual license.

Application for permits.

Rule 27. All fees for boat permits shall be due on the first day of May in each and every year. Applications for boat permits, pipe permits and for special privileges shall be made to the conservation commissioner and when so required, applicants for permits shall furnish said commissioner or his agent, with satisfactory evidence of good character before such permit is issued.

Receipt on payment of fee.

Rule 28. Police patrolmen or other authorized agents of the state, shall on receipt of the required fee, issue a receipt therefor, giving the name and a brief description of the boat for which the permit is granted and noting thereon the number of the metal plate issued in connection therewith.

Attachment of metal plate.

Rule 29. On receipt of such metal plate, the owner of the boat taking out the permit shall immediately attach the plate in a permanent manner in a conspicuous place on the side or end of the boat, and failure to keep the same firmly attached to such boat, shall be sufficient cause for revoking a permit, and no metal plate shall be obscured by paint or otherwise during the year for which the permit is issued.

Operation and management of boats.

Rule 30. Owners of boats of whatever kind shall navigate them on the waters of the public parks of the state

with a view to the safety and comfort of those aboard other craft as well as their own, and any reckless management of boats endangering the lives and property of others, shall be cause for revoking such boat owner's permit.

- Requirements as to name on power boats. Rule 31. All electric, naphtha, and steam launches, steamboats and similar craft, shall have an appropriate name painted thereon in letters at least  $4\frac{1}{2}$ " high, and no permit shall be issued without a proper guarantee that this condition will be complied with within a reasonable length of time after the issuing of such permit.
- Cancellation of lease or revocation of permit. Rule 32. Proof that any cottage upon state land, or any boat upon the water of any state reservoir, is used for illegal or immoral purposes shall be just cause for the conservation commission to cancel the leasehold for such state property, or to revoke the boat permit that has been issued to the owner thereof.
- Boats for hire must be in good repair. Rule 33. Boats condemned as unfit by an inspector appointed by the conservation commissioner shall be put in good repair before the same are again offered for hire, or for the transportation of passengers.
- Landing of power boats. Rule 34. Power boats must use care in landing, approaching docks or landings, slowly so as not to damage other boats, wharves or landings. Failure of parties to observe this rule shall be sufficient cause for revoking the permit of such boat owner.
- Anchoring near channel to channel buoy prohibited. Rule 35. Power boats, sailboats, and row boats shall not anchor within 50 feet of any well defined channel that is in common use by boats navigating the state reservoirs, and the same shall not be anchored to any channel stake or buoys, except in an emergency.
- Who may pilot or engineer. Rule 36. No person under 18 years of age shall be permitted to act as a pilot or engineer of any power boat or sailboat carrying passengers for hire, and the employment of such a pilot or engineer by any owner or manager of a boat shall be cause for the commissioner to revoke such owner's permit.
- Disbarment of pilot. Rule 37. Pilots who do not observe due care in the handling of their boats shall not be allowed to continue as pilots on the waters of any public part of the state and it shall be the duty of the conservation commissioner to disbar such pilot from operating boats upon the state reservoirs.
- Engine equipment. Rule 38. All power boats carrying passengers shall have reversible engines, reversible propellers or clutch gear, for reversing such boats.

Discharge of fire-  
arms.

Rule 39. No person shall be permitted to discharge firearms from the main shore of a reservoir, or from the islands within such reservoir, or from boats thereon across the waters of any public park, except during the hunting season authorized by the statutes, and parties guilty of reckless shooting on or around such reservoirs shall be arrested and fined in accordance with the provisions of this act.

Disposal of garbage.

Rule 40. No lessee of a state lot, cottage owner, or other occupant of a cottage located upon state or adjacent lands shall deposit garbage upon the rear of such lot or throw the same into the lake, but such garbage shall be burned or removed from the premises so as not to be a nuisance to the cottage owners either on or off the state land.

State landings may  
be used by all  
boats.

Rule 41. No boat line company or individual shall have control of any state landing to the exclusion of other boat lines, or individuals owning and operating boats upon the waters of any state reservoir, and all boats shall have the right to land at any dock or landing for temporary purposes, but passenger boats operated for hire may only discharge passengers at private docks or landings, and shall not take on passengers from such docks or landings without the permission of the owner or owners thereof.

Permit to build  
boat house or  
private landing  
required.

Rule 42. No boat owner or lessee of a state lot shall build a boat house or dock landing over the water of any state reservoir that has been dedicated and set apart as a public park and pleasure resort, except by the written permission of the conservation commissioner who shall first approve the plans for such boat house or dock landing before work thereon shall be commenced.

Permission to  
cut trees.

Rule 43. No trees shall be cut by the lessees of state lots to make room for the erection of cottages or other buildings without permission of the conservation commissioner or his authorized agent.

Duty of lessees  
as to woods, refuse,  
etc.

Rule 44. Lessees of state lands or state lots shall keep the woods and poisonous vines cut on their leases and shall keep their lots, cottages and other buildings free from rubbish, garbage and all other unsightly things.

Oils, gasoline and other inflammable substances shall be stored in such a manner as not to endanger cottages and their occupants, or other property either on or off the state land.

Limitation of speed  
of water craft in  
canal.

Rule 45. Boats running in any canal connecting with a reservoir park, shall limit their speed while in the canal to four miles per hour and parties operating boats, and water craft of all kind, upon any state reservoir, dedicated and set apart as a public park and pleasure resort, shall limit the speed thereof to five miles an hour when

passing within one hundred and fifty foot of the shore line of any reservoir, and to a speed of eight miles an hour when operated between lines drawn one hundred and fifty and three hundred feet from the shore line, and the maximum speed on parts of any reservoir, beyond the three hundred foot line, shall be limited, to fifteen miles per hour. No persons shall operate a motor boat, or other water craft, upon any state reservoir with a muffler cut-out or other devices that are objectionable as noise makers, and no person shall be permitted to construct dock-landings upon or anchor boats of any kind within a narrow channel that connects to larger bodies of water.

Fishing from walls or bridge.

Rule 46. No one shall be permitted to fish from bridges extending over wasteweirs or from wing walls extending therefrom.

Use of public docks.

Rule 47. No one shall be permitted to monopolize the public docks or state lands upon the waters of any reservoir park to the detriment of others.

#### X. SAILING RULES - SAILING YACHTS.

Sailing rules.

Rule 48. When two sailing yachts are approaching one another so as to involve risk of collision, one of them shall keep out of the way of the other as follows:

On different points of sailing.

Rule 49. A yacht sailing free shall keep clear of one close hauled.

On the same point of sailing with the wind on opposite side.

Rule 50. When both yachts are close hauled or both free, or both have the wind aft and opposite sides, the yacht with the wind on the port side shall keep clear.

On the same point of sailing with the wind on same side.

Rule 51. When both yachts are free or have the wind aft and on the same side, the yacht to windward shall keep clear.

Wind aft.

Rule 52. A yacht with the wind aft is deemed to have the wind on the side opposite to that on which she is carrying her main boom. A yacht with the wind aft shall keep clear of a yacht on any other point of sailing.

Overtaking.

Rule 53. An overtaking yacht shall in every case, as long as an overlap exists, keep clear of the yacht which is being overtaken.

Definition of overlap.

Rule 54. An overlap is established when an overtaking yacht has no longer a free choice on which side she shall pass, and continues to exist as long as the leeward yacht by luffing, or the weather yacht by bearing away, is in danger of fowling.

Altering course.

Rule 55. When one of the two yachts is obliged to keep clear, the other shall not alter her course so as to involve risk of fouling.

Luffing.

Rule 56. A yacht may luff as she pleases in order to prevent another from passing her to windward, provided she begins to luff before an overlap is established.

Bearing away.

Rule 57. A yacht shall not bear away out of her course so as to hinder another in passing to leeward.

Rights on new course.

Rule 58. A yacht shall not be entitled to her rights on a new course until she has filled away.

Converging close hauled.

Rule 59. When two yachts, both close hauled on the same tack, are converging by reason of the leeward yacht holding a better wind, and neither can claim the rights of a yacht being overtaken, then the yacht to windward shall keep clear.

Passing and rounding marks.

Rule 60. If an overlap exists between two yachts when both of them, without tacking, are about to pass a mark on the required side, then the outside yacht must give the inside yacht room to pass clear of the mark. A yacht shall not however be justified in attempting to establish an overlap and thus force a passage between another yacht and the mark, after the latter yacht has altered her helm for the purpose of rounding.

Sailing rules.

Rule 61. When a yacht is approaching a shore, shoal, vessel or other dangerous obstruction, and cannot get clear by altering her course without fouling another yacht, then the latter shall, on being hailed by the former, at once give sea room, and in case one yacht is forced to tack or bear away in order to give room, the other shall also tack or bear away at as nearly the same time as is possible without danger of fouling; but should such obstruction be a designated mark of the course, a yacht shall not force another to tack under the provisions of this rule.

#### XI. MOTOR BOATS.

"Motor Boat" defined; inspection of machinery.

Rule 62. The words "motor boat" where used in this act shall include every vessel propelled by machinery and not more than sixty-five feet in length. The length shall be measured from end to end over the deck, excluding sheer.

That the engine, boiler, or other operating machinery shall be subject to inspection by the agents of the conservation commissioner and to their approval of the design thereof, on all said motor boats, which are more than forty feet in length, and which are propelled by machinery.



Motor boats  
classified.

Rule 63. That motor boats subject to the provisions of this act shall be divided into classes as follows:

Class one: Less than twenty-six feet in length.

Class two: Twenty six feet or over and less than forty feet in length.

Class three: Forty feet or over and not more than sixty-five feet in length.

Lights on motor  
boats.

Rule 64. That every motor boat in all weathers from sunset to sunrise shall carry the following lights, and during such time no other lights which may be mistaken for these prescribed shall be exhibited:

A. Every motor boat of class one shall carry the following lights:

First: A white light aft to show all around the horizon.

Second: A combined lantern in the fore part of the vessel and lower than the white light aft showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points abaft the beam on their respective sides.

B. Every motor boat of classes two and three shall carry the following lights:

First: A bright white light in the fore part of the vessel as near the stern as practicable, so constructed as to show an unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel, namely, from right ahead to two points abaft the beam on either side. The glass or lens shall be of not less than the following dimensions:

Class two: Nineteen square inches.

Class three: Thirty-one square inches.

Second: A white light aft to show all around the horizon.

Third: On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side.

On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side. The glasses or lenses in the said side lights shall be of not less than the following dimensions on motor boats of

Class two: Sixteen square inches.

Class three: Twenty-five square inches.

The said lights shall be fitted with inboard screens of sufficient height and so set as to prevent these lights from being seen across the bow and shall be of not less than the following dimensions on motor boats of

Class two: Eighteen inches long.

Class three: Twenty four inches long.

Whistle, bell.

Rule 65. A. Every motor boat under the provisions of class one, shall be provided with a whistle or other sound-producing mechanical appliance capable of producing a blast of two seconds or more in duration and in the case of such boats so provided, a blast of at least two seconds shall be deemed a prolonged blast within the meaning of the law.

B. Every motor boat of class two or three shall be provided with an efficient bell, which shall not be less than eight inches across the mouth on board of vessels of class three.

Motor boats to be equipped with life preservers, etc.

Rule 66. Every motor boat subject to any of the provisions of this act, shall carry either life preservers or life belts, or buoyant cushions, or ring buoys, or other device, sufficient to sustain afloat every person on board and so placed as to be readily accessible. All motor boats carrying passengers for hire shall carry one life preserver of the sort prescribed for every passenger carried.

Every motor boat shall carry an anchor of sufficient weight to anchor in case of engine or other trouble.

Motor boats hired at launch liveries are construed as carrying passengers for hire.

Life preservers and other boat equipment shall be approved by the conservation commissioner or his authorized agents.

Means for extinguishing burning gasoline, etc.

Rule 67. Every boat operating upon state reservoirs for hire, shall carry, ready for immediate use, the means of promptly and effectually extinguishing burning gasoline or oil; salt and sand mixed, and kept in a pail or other receptacle ready for use, may be used.

Lights on sailing yachts.

Rule 68. A sailing yacht shall carry the following lights:

First: A white light aft to show all around the horizon.

Second: A combined lantern in the fore part of the yacht and lower than the white light aft showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points abaft the beam on their respective sides.

Lights on rowboats, canoes.

Rule 69. Rowboats or canoes shall carry white lights visible all around the horizon, located at the front end of the boat, and it shall not be permitted to carry lights on the floor of the boat or canoe.

Distress signals, false signals.

Rule 70. Boats in distress shall give notice thereof by a series of rapid blasts of the whistle, or by continuous ringing of the bell, and all boats within hearing shall immediately hasten to the relief of the vessel in distress.

Any one giving a false signal of distress may be deprived of the privilege of operating boats upon the water of any state park, by the conservation commissioner.

White light.

Rule 71. A white light is to be shown by boats while at anchor, which shall be visible all around the horizon.

Publication of pamphlet.

Rule 72. The conservation commissioner shall publish this act in pamphlet form with proper diagram and supply every boat owner with said pamphlet upon application.

Use of searchlights.

Rule 73. No searchlights of any description will be permitted upon boats operating upon the state reservoir parks, except for the purpose of making landings, and under no circumstances shall a pilot or owner flash or cause to be flashed the rays of a searchlight into the pilot house of a passing boat.

#### Signals

Signals indicating course.

Rule 74. In all weathers every motor boat under way in taking any course authorized or required by these rules shall indicate that course by the following signals on her whistle to be accompanied, wherever required, by corresponding alteration of her helm; and every vessel receiving a signal from another shall promptly respond with the same signal or sound the danger signal as provided in rule 75.

One blast means, "I am directing my course to starboard" except when two boats are approaching each other at right angles or obliquely, other than when one boat is overtaking another, one short blast signifies intention of boat which is to starboard of the other to hold course and speed.

Two blasts mean, "I am directing my course to port," except that when two boats are approaching each other at right angles or obliquely, other than when one boat is overtaking another, two short blasts signify desire of, or assent to boat which is to port of the other to cross the bow of boat to starboard.

When danger signal shall be given.

Rule 75. If, when boats are approaching each other, the pilot of either vessel fails to understand the course of intention of the other, whether from signals being given or answered erroneously, or from other causes the pilot so in doubt shall immediately signify the same by giving the danger signal of four or more short and rapid blasts of the whistle; and if both boats shall have approached within one-fourth mile of each other, both shall be immediately slowed to a speed barely sufficient for steering way, and if necessary, stopped and reversed, until the proper signals are given, answered, and understood, or until the boats shall have passed each other.

"Cross signals" forbidden.

Rule 76. Motor boats are forbidden to use what has become technically known among pilots as "cross signals," that is - - answering one whistle with two, and answering two whistles with one. In all cases, and under all circumstances, a pilot receiving either of the whistle signals provided in the rules, which for any reason he deems injudicious to comply with, instead of answering it with a cross signal, shall at once sound the danger signal and observe the rule applying thereto.

Signals for passing.

Rule 77. The signals for passing, by blowing of the whistle shall be given unanswered by pilots in compliance with these rules not only when meeting "head and head" or nearly so, but at all times when passing or meeting at a distance within a quarter of a mile of each other, and whether passing to the starboard or port.

Situations and signals for passing.

Rule 78. When boats are approaching each other "head to head," or nearly so, it shall be the duty of each boat to pass on the port side of the other; and the pilot of either boat may be first in determining to pursue this course, and thereupon shall give, as a signal of his intention, one short and distinct blast of his whistle, which the pilot of the other boat shall answer promptly by a similar blast of his whistle, and thereupon such boats shall pass on the port side of each other. But if the courses of such boats are so far on the starboard of each other as not to be considered by pilots as meeting "head to head," or nearly so, the pilot so first deciding shall immediately give two short and distinct blasts of his whistle, which the pilot of the other boat shall answer promptly by two similar blasts of his whistle, and they shall pass on the starboard side of each other. In the night, boats will be considered as meeting "head to head," so long as both the colored lights of each are in view of the other.

Signal when  
approaching bend  
or curve.

Rule 79. Whenever a boat is nearing a short bend or curve in the channel, where from the height of the banks or other cause, a boat approaching from the opposite direction cannot be seen for a distance of a quarter of a mile, the pilot of such boat, when he shall have arrived within one quarter of a mile of such curve or bend, shall give a signal by one long blast of the whistle, which signal shall be answered by a similar blast given by the pilot of any boat within hearing that may be approaching on the other side, and within a quarter of a mile of such bend or curve. Should such signal be so answered by a boat upon the farther side of such bend, then the usual signals for meeting and passing shall immediately be given and answered, but if the first signal of such pilot be not answered, he is to consider the channel clear and govern himself accordingly.

Signal when  
boat overtaking  
another.

Rule 80. When one boat is overtaking another, and the pilot of a boat which is astern shall desire to pass on the right or starboard hand of the boat ahead, he shall give one short blast of the whistle, as a signal of such desire and intention, and shall put his helm to port; or if he shall desire to pass on the left or port side of the boat ahead, he shall give two short blasts of the whistle as a signal of such desire and intention, and shall put his helm to a starboard and the pilot of the boat ahead shall answer by the same signals; or if he does not think it safe for the boat astern to attempt to pass it at that point he shall immediately signify the same by giving four or more short and rapid blasts of the whistle. and under no circumstances shall the boat astern attempt to pass the boat ahead until such time as they have reached a point where it can be safely done, when said boat ahead shall signify her willingness by blowing the proper signals. The boat ahead shall in no case attempt to cross the bow or crowd upon the course of the passing boat. Every boat coming up with another boat from any direction more than two points abaft her beam -- that is -- in such a position, with reference to the boat which she is overtaking, that at night she would be unable to see either of that boat's side lights, shall be deemed to be an overtaking boat; and no subsequent alteration of the bearing between the two boats shall make the overtaking boat a crossing boat within the meaning of these rules, or relieve her of the duty of keeping clear of the overtaking boat until she is finally passed and clear. As by day the overtaking boat can not always know with certainty whether she is forward of or abaft this direction from the other boat she should, if in doubt, assume that she is an overtaking boat and keep out of the way.

Passing in channels  
less than 500 feet  
wide.

Rule 81. In all channels less than five hundred feet in width, no motor boat shall pass another going in the same direction unless the motor boat ahead be disabled or signify her willingness that the boat astern shall pass, when the boat astern may pass, subject, however, to the other rules applicable to such a situation, and when motor

boats proceeding in opposite directions are about to meet in such channels, both such boats shall be slowed down to a moderate speed according to the circumstances.

Approaching at angles with risk of collision.

Rule 82. When two motor boats are approaching each other at right angles or obliquely so as to involve risk of collision other than when one boat is overtaking another, the boat which has the other on her own port side shall hold her course and speed; and the boat which has the other on her own starboard side shall keep out of the way of the other by directing her course to starboard so as to cross the stern of the other boat, or, if necessary to do so, slacken her speed or stop or reverse. The boat having the other on her port bow shall blow one blast on her whistle as a signal of her intention to cross the bow of the other, holding her course and speed, which signal shall be promptly answered by the other boat by one short blast of her whistle as a signal of her intention to direct her course to starboard, so as to cross the stern of the other boat or otherwise keep clear.

If from any cause whatever the conditions covered by this situation are such as to prevent immediate compliance with each other's signals, the misunderstanding or objection shall be at once made apparent by blowing the danger signal, and both boats shall be stopped, and backed if necessary, until signals for passing with safety are made and understood.

Approaching at angles without risk of collision.

Rule 83. When two motor boats are approaching each other at right angles or obliquely, other than when one boat is overtaking another, so that the boat having the other on her own starboard side may cross the bow of the other, without involving risk of collision, the steamer having the other on her own starboard side may cross the bow of the other. If the boats are within a quarter of a mile of each other, the boat having the other on her own starboard side shall give, as a signal of her intention to cross the bow of the other, two short and distinct blasts of her whistle which if assented to, the other boat shall promptly answer by two similar blasts of her own whistle, when the boat having the other on her starboard bow may cross the bow of the other, in which case the boat having the other on her own port side shall keep out of the way of the other. If, however, the boat having the other on her own port side deems it dangerous for the other steamer to cross her bow, she shall sound the danger signal, in which case both boats shall be stopped, and backed if necessary until signals for passing with safety are made, answered, and understood.

Motor boat to avoid risk of collision, when.

Rule 84. When a motor boat and sailing vessel or row-boat are proceeding in such directions as to involve risk of collision, the motor boat shall keep out of the way of the sailing vessel or rowboat.

Obedience and construction of rules.

Rule 85. In obeying and construing these rules, due regard shall be had to all dangers of navigation and collision and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.

Fog Signals

When fog signals shall be used.

Rule 86. Whenever there is thick weather by reason of fog, mist, falling snow, heavy rain storms, or other causes, whether by day or night, fog signals shall be used as follows:

A motor boat under way shall sound at intervals of not more than one minute three distinct blasts of her whistle. Any boat at anchor and any boat aground in or near a channel or fairway shall, at intervals of not more than two minutes, blow her whistle rapidly for three to five seconds.

Speed in fog, etc.

Rule 87. Every motor boat shall, in thick weather, by reason of fog, mist, falling snow, heavy rain storms, or other causes, go at moderate speed. A motor boat hearing, apparently not more than four points from right ahead, the fog signal of another boat shall at once reduce her speed to bare steerageway, and navigate with caution until the boats shall have passed each other.

(There is no Rule 88 in the enrolled bill. - Ed.)

XII. SANITATION RULES.

Special sanitary district; control and management.

Rule 89. The territory included within any state park or pleasure resort and surrounding lands extending back one mile therefrom, is hereby designated a special sanitary district, to be under the control and management of the state board of health for sanitary purposes, and any failure to comply with the notices of said department relating to sanitary conditions, shall be deemed a violation of the terms of this act.

Powers and duties of state board of health.

Rule 90. The state board of health shall have power to make and enforce rules and regulations relating to the location, construction and repair of stockyards, hog-pens, stables, privies, cesspools, sinks, plumbing, drains and all other places where offensive substances or liquids may accumulate within such sanitary district and said board of health shall have power to abate all such nuisances, and may remove or correct all unsanitary conditions detrimental to the health and well-being of the community included in such sanitary district, and may, when necessary, certify the costs and expenses thereof to the county auditor, to be

assessed against the property of the offending party, and thereby made a lien upon it and collected as other taxes.

Arrest and prosecution on violation of orders.

Rule 91. When any specific order of the state board of health is neglected or disregarded by parties, after due notice, said board may cause the arrest and prosecution of all persons so offending in accordance with the terms of this act. Notice by the state board of health to abate or correct a nuisance shall be served upon parties offending in accordance with the terms of G.C. 4422.

Drainage into reservoir prohibited.

Rule 92. No sewer, drain or other connection with closets, cesspools, sinks, privies or other places where offensive or unsanitary matter accumulates, shall be drained or discharged into any state reservoir, and no garbage, offal or filth of any kind shall be thrown or discharged in any manner, into any such reservoir or immediate tributary thereto, and this rule shall apply to all houseboats and buildings erected over the waters of any state reservoir.

Penalty.

Any person convicted of violation of any of the foregoing rules to be fined not less than \$10 nor more than \$100.

Written permits; revocation.

Upon the payment of prescribed fees the Commissioner is to issue a written permit authorizing the maintenance and operation of the boats or watercraft for which fees have been paid and in the manner prescribed in such permit; any permit to be revoked on proof that such boat or boats are used for illegal purposes.

Numbered metal plates.

In carrying out the provisions of the preceding sections the Commissioner is required to procure suitable metal plates to be issued annually to persons using boats on the water of such public park or pleasure resort, canal or feeder thereto, and which are to be displayed in a conspicuous manner upon the side or end of the boat; any violation to be subject to a fine of not less than \$10 nor more than \$50.

Inspection of boats.

The Commissioner is required to cause to be inspected all boats and watercraft maintained and operated as above, and may condemn any such deemed by him unsafe for the carrying of passengers; the owner who offers it for hire to be fined not less than \$10 nor more than \$100, and the permit issued to be revoked and annulled.



XIII. RULES AND REGULATIONS GOVERNING STATE PARKS UNDER THE  
JURISDICTION OF  
THE OHIO STATE ARCHAEOLOGICAL AND HISTORICAL SOCIETY.

1. Above all, visitors to this park are respectfully requested to observe a reasonable and lawful rule of conduct at all times. You are urged to treat this park, and every object therein, as if it were your personal property in which you take an exceptional pride.
2. It is a misdemeanor to write or carve your name on or scratch or mar any tree or object within this park. You are requested to register properly and accurately in the register specially provided for that purpose. Fictitious registration is forbidden.
3. It is a misdemeanor to injure or mar trees in any manner. Branches or leaves must not be broken off. Flowers, wild flowers, plants and shrubs must not be plucked or disturbed. Hunting or disturbing of the birds, wild animals, or wildlife of any sort -- except under possible regulatory limitations -- and then only upon the written permission of the Ohio State Archaeological and Historical Society -- is positively forbidden. It is distinctly understood that this is a "wildlife sanctuary" -- where wildlife is protected from every angle.
4. Fishing in any form, including catching of minnows, is prohibited in any state park under the custody of the Ohio State Archaeological and Historical Society.
5. Shooting of firearms of any description or the carrying of firearms, either loaded or unloaded, in any state park under the control of the Ohio State Archaeological and Historical Society, is positively forbidden.
6. Drivers of vehicles over the roadways within this park must observe a safe and reasonable speed limit at all times. The interpretation of the term "safe and reasonable" will be determined by the superintendent of this park, and in cases where no superintendent is employed, by the Ohio State Archaeological and Historical Society; and it may be construed by either to permit some variations between the control and remote portions of the park and under certain varying situations and conditions. In no instance, however, will the maximum speed limit exceed 20 miles per hour.
7. Use the outdoor furnaces. Build no fires on the ground.
8. Visitors may purchase fuel for the outdoor furnaces in conveniently sized bundles from the resident superintendent of this park. Any profits thus accruing will be applied toward providing better accommodations for the visiting public. Visitors may provide their own fuel when they so desire.
9. All contributions are greatly appreciated and will be used in bettering conditions within the park.
10. Rubbish must be placed in receptacles provided for the purpose. All litter and debris must be cleaned up and the grounds left in as neat a condition as found.

11. Vehicles will be parked in areas set aside for the purpose -- unless special permission is obtained. Drivers of all vehicles will park under the direction of the park superintendent.

12. Visitors, picnickers, and campers will comply with the instructions of the superintendent of this park in every manner. Refusal or neglect to so comply will constitute a misdemeanor.

13. Advertising of any nature or the exhibiting of placards within this park on the part of outsiders is prohibited. Concession stands operated by any person or persons not officially connected with the park management, or the sale therein of any commodity, merchandise, or article, by any such person or persons, is forbidden. The delivery of any commodity, merchandise, or article to any user within this park on the part of any such outsider is strictly forbidden -- except in instances when special written permission has been obtained from the Ohio State Archaeological and Historical Society.

14. Rounions, picnic parties, and groups are advised to notify the resident superintendent as far in advance of their coming as possible. Such groups, coming unannounced, run risk of not obtaining desirable accommodations. You are requested to make reservations well in advance.

15. Drinking of beer or intoxicating liquor is banned.

16. Dogs are not permitted to run at large within this park. Permission of such on the part of the owners or by the person whom the dog accompanies, will constitute a misdemeanor.

17. Visitors must not trample upon the mounds or earthworks; monuments, memorials, ceremonial or ornamental objects and property of any and all kinds must not be damaged; nothing may be marred or injured.

18. This park closes at dark. Visitors must then depart or obtain special permission from the resident superintendent in order to remain. Such permission may be granted only after the park superintendent has been furnished ample proof of the justification of such request and upon the assurance that no damage will result and that rules are observed.

19. Campers furnishing satisfactory representations may camp within the park for a reasonable period. Those desiring such accommodations will first notify the resident superintendent of their wishes and when permission has been obtained they will register their names, addresses and automobile numbers. They will then occupy the area designated and comply with the general rules and regulations.

20. Any person acting in a loud and boisterous manner to the annoyance of another or to the detriment of this park, or who creates a nuisance of any sort similarly annoying or detrimental, may be ejected or arrested and prosecuted or both.

21. Any one who violates a reasonable and lawful rule of conduct, or who fails to observe the rules and regulations governing this and other state parks, under the custody of the Ohio State Archaeological and Historical

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Society, may be ejected and is subject to arrest and prosecution. The resident superintendent is vested with police powers and is authorized to arrest violators.

22. The resident superintendent of this park is anxious to extend every courtesy and render any service consistent with the conditions which prevail and with the rules and regulations in effect. Persons will render a distinct service when reporting violations to the undersigned.

THE OHIO STATE ARCHAEOLOGICAL AND HISTORICAL SOCIETY  
COLUMBUS, OHIO

H. R. MC PHERSON, Curator of Parks

# **Exhibit 12**

## **South Dakota (see p. 368)**

## S O U T H D A K O T A

## I. STATE PARKS.

- Jurisdiction.** State parks, excepting Custer State Park, are under the jurisdiction of the State Park Board (Acts of 1935);
- Members; terms.** The Board is composed of five members appointed by the Governor for five year terms (rotated); are to be appointed without reference to political affiliations; are to serve without compensation, but are allowed necessary traveling and subsistence expenses not to exceed \$500 for any one year.
- Officers.** The Board elects a Chairman, a Vice-Chairman, and a Secretary, and who constitute an Executive Committee, the powers of which are determined by the Board;
- Powers and duties.** Powers and duties of the Board are as follows:
- Acquire lands.** To acquire park areas by purchase, lease, gift, or by condemnation;
- Administer.** To develop and administer such areas as are acquired;
- Accept funds.** To accept and use any funds provided by any agency of the United States Government or from other public or private sources, all such funds to constitute a Revolving Fund to be disbursed by the Board;
- Revolving Fund.**
- Employ personnel.** To employ necessary personnel under such appropriations as the Legislature may grant.
- Grazing prohibited.** Acts of 1921 declare it to be unlawful for any person, association or corporation having charge or possession of any horses, mules, cattle, goats, sheep, swine, or other like animals, to cause or permit such animals to enter or graze upon any State park game preserve except on permits issued by the Board or other governing body.

## II. CUSTER STATE PARK.

- Jurisdiction;  
Members of Board.** The above park is administered by the Custer State Park Board, which consists of three members appointed by the Governor for four year terms. Members serve without compensation but are allowed necessary expenses incurred in the performance of their various duties; a secretary may be employed (1927).
- Powers and duties.** Powers and duties of the Board are as follows (1919,1927):
- Administration.** To operate, manage, improve and maintain the park and all property, real and personal, belonging to the State within

the limits of the <sup>#2365</sup> park;

- Purchase lands.** To purchase or to contract for the purchase, in fee simple, of any lands within the boundaries of the Park, suitable for park purposes, or to pay off mortgages, existing on such land as are purchased, and to pay taxes now a lien against said land;
- Eminent domain.** Is invested with the power of eminent domain and with the power to take or damage private property for public use;
- Park land purchase fund.** The State Treasurer and State Auditor are directed to create a special fund to be called the "Park Land Purchase Fund" and to which are to be credited annual appropriations to be drawn and expended by the Board;
- Same.** To acquire and hold such private property by gift, grant, devise, purchase, lease or condemnation proceedings as may be located in the park or adjacent thereto;
- Lease lands.** May rent common school lands belonging to the State or rent privately owned land, in or adjacent to the park when deemed suitable or necessary for park purposes, unless or until such lands may be purchased;
- School lands not to be sold.** The Commissioner of School and Public Lands is prohibited to advertise for sale, or sell, any school lands in the Park prior to January 1, 1938 unless requested by the Board to hold such sale;
- Highways, roads and trails.** To construct and maintain the necessary highways, roads and trails within the park boundaries and to use such moneys as are available for such purposes. The State Highway Department may enter into cooperative agreement with the Board to carry out this work. The Commission may determine the maximum expenses for the construction and maintenance during each year, but no highways, roads or trails may be built except such are designated by the Board; or the Commission may by resolution set aside or appropriate funds to the Board for the construction and maintenance of such highways, roads and trails, as the Commission may deem necessary. The Board may purchase the necessary right of way for highways and trails and may exercise the right of eminent domain. No automobile or wagon roads are to be built to the top of Harnoy Peak, nor to a higher altitude than 6400 feet;
- Park Highway Fund.** To regulate the speed limit on highways and trails, and to erect road signs at such points as may be deemed advisable; may also erect and maintain a fence around the entire park;
- Restrictions.** To regulate the speed limit on highways and trails, and to erect road signs at such points as may be deemed advisable; may also erect and maintain a fence around the entire park;
- Control of highways; signs; fences.** To regulate the speed limit on highways and trails, and to erect road signs at such points as may be deemed advisable; may also erect and maintain a fence around the entire park;
- Maintain schools.** To maintain or assist in the maintaining of schools within the park, and to pay for the same out of any funds available; but no additional schools are to be established in

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- excess of revenues derived for school purposes, except upon resolution of the park board advising the school board of its willingness to contribute the necessary funds for the maintenance of such additional schools;
- Encourage summer homes; leases. To encourage the erection of summer cottages and summer homes, may make term permits or leases for such purposes, but no lease may be made on the slopes of Sylvan Lake or within view of the Lake; the minimum rental for a site to be \$10 annually, and the Board may cancel the lease in case of failure to comply with such permit or lease, or to pay the rental. No leases may be made for homes along the highway but only upon locations designated by the Board;
- Sale of timber. May contract for and sell timber on any of the State lands in the Park, but not in excess of 100,000 lumber feet in any one year. No trees may be cut adjacent to the highway, except as may be necessary to improve the appearance of growing conditions. Proceeds derived from the sale of timber are to be placed in the General Fund of the State, except where such timber is from school land, in which case the proceeds are to be credited to the permanent school fund and applied to the purchase price of said land;
- Superintendent. Is directed to employ a Superintendent to care for the park property, manage and execute park enterprises and activities, direct and supervise other employees, and perform such other duties as the Board requires. The Board may also employ such other personnel as may be necessary, including a park Forester, or the Superintendent may be required to act as such;
- Park Forester.
- Rules and regulations. May make and enforce necessary rules and regulations, and designate one or more employees as game wardens to enforce the provisions of the Act or any of the laws of the State;
- Game warden.
- Annual reports to Governor. Must annually file with the Governor a report of all funds received from any source during the preceding year and a statement of all moneys paid out; including a report of all lands purchased, the price paid therefor, the lands rented and rental paid therefor; also a detailed report of all property sold or disposed of and the price received therefor.
- State-wide park plan. Is directed to formulate and recommend a State-wide plan for a State park system, embracing the different scenic and recreational areas in different sections of the State and report to the next Legislature.
- Hunting regulated. Hunting, trapping, killing or capturing game animals or game birds within the boundaries of the park is unlawful except under such regulations as may be prescribed by the Board. It is also unlawful to carry firearms therein or permit dogs to run at large.
- Firearms; dogs.

III. PUBLIC SHOOTING GROUNDS. #2367

How acquired. By Acts of 1927 the Game and Fish Commission is vested with the power, on behalf and in the name of the State, to acquire by gift, grant, devise, purchase, lease or condemnation, any public or privately owned real property, known as duck passes of "flyways", or any public or privately-owned real property especially useful to hunters in shooting wild aquatic fowl.

IV. STATE PLANNING.

A State Planning Board was created by Acts of 1935. Its powers and duties are as follows:

- Make surveys. To make inquiries, investigations and surveys concerning the natural and human resources of all sections of the State;
- Formulate plans. To assemble and analyze the data thus obtained and to formulate plans for the conservation of such resources and for their intelligent and systematic utilization and development;
- Recommendations. To make recommendations from time to time as to the best methods of such conservation, utilization and development;
- Draft legislation. To draft for submission to the Legislature such procedure affecting the use, development and conservation of natural resources and the promotion of industrial and social facilities as are deemed advisable;
- Publicity. To promote public interest in and understanding of the State plans or of research reports, and the use of other means of publicity and education as it deems advisable;
- Cooperation. To confer and cooperate with Federal agencies and with the executive, legislative or planning authorities of neighboring states and of counties and municipalities of such states.



# **Exhibit 13**

## **Virginia (see p. 397)**

**VIRGINIA**

## I. STATE PARKS.

Jurisdiction.	State parks are under the jurisdiction of the State Commission on Conservation and Development of the Department of Conservation and Development (Acts of 1926).
Members; appointment; terms.	The Commission consists of five members, appointed by the Governor, subject to confirmation by the General Assembly, for four year terms (rotated). One member is designated by the Governor as Chairman; the Commission may elect one of its members as Vice-Chairman; also appoints an executive Secretary and Treasurer. The Chairman is required to devote his full time to the performance of his official duties and receives a salary fixed by statute. The other members are paid traveling and other necessary expenses in attendance upon meetings or while otherwise engaged in the discharge of their official duties; also the sum of \$10 a day for each day or portion thereof while so engaged (as amended 1934).
Powers and duties.	The Commission is vested with the following powers and duties (Acts of 1926, as amended);
Rules and regulations.	To adopt rules and regulations for its own organization, the proper disposition and administration of any property to which it may acquire title or over which it may have control, and for the conduct of its business and the exercise of its powers;
Divisions; Directors.	Note: Administrative divisions have been established as follows, each headed by a Director appointed by the Commission and confirmed by the Governor:
	Division of Parks "    "    Forest Service "    "    History and Archaeology "    "    Geological Survey "    "    Publicity and Advertising "    "    Water Resources and Power
Acquire areas, lands, etc.	To acquire by gift, purchase, or by eminent domain, areas, properties, lands, or any estate or interest therein, of scenic beauty, recreational utility, historical interest, remarkable phenomena, or any other unusual features, which in its judgment should be acquired, preserved and maintained for the use, observation, education, health and pleasure of the people of Virginia. Such power and authority of acquisition to be within the limits of any appropriation, or of voluntary gifts or contributions for such purposes;
Limitation.	

Lease of property to contributors.	When any property is acquired without the aid of an appropriation, and exclusively with the aid of gifts or contributions, it may place such property in the custody of the person, persons or association making such gift or contribution, or lease the property to such person, persons or association for a period not to exceed ninety-nine years, upon terms and conditions approved by the Governor, which, in the opinion of the Commission, will best preserve and maintain such properties for the above objects and purposes;
Acquire areas for park purposes.	May purchase or otherwise acquire for park purposes such real estate as it may deem proper to extend the park system of the State, and to cooperate with the Federal Government in reducing unemployment, and in conserving the natural resources of the Commonwealth;
Appropriation; proviso.	Note: This Act (1933) carried an appropriation to enable the Commission to exercise the powers conferred, with the provision that no part of the appropriation may be expended, or any real estate be acquired or purchased under the authority of the Act, unless and until approved by the Governor;
Leases and concessions.	May grant concessions on or with respect to and, with the consent of the Governor and Attorney General, execute leases of and grant easements affecting any lands or other property owned or held (Acts of 1936);
Revolving fund; how expended.	Gifts of money, entrance and concession fees, and all funds accruing from, on account of, or to the use of the State parks or any State park acquired or held by it, other than regular and specific appropriations made by the General Assembly, constitute (unless otherwise specifically provided), a Revolving Fund under the direction and control of the Commission, and which may be expended in the conservation and development of State parks or of any State park. No unexpended part of such fund is to revert to the State Treasury at the close of any fiscal year until and unless specific provision therefor is made by the General Assembly (Acts of 1932);
Expend publicity funds.	To have control of and expend any funds created for advertising the resources and advantages of the Commonwealth in such manner as it may deem best; and to cooperate so far as may be practicable and expedient with other organizations in the State engaged in similar or related work, and to acquire by gift or by transfer property or funds to be so expended (Acts of 1926);
State Museum.	Is vested with control and supervision of the State museum (Acts of 1932);

Investigate streams and rivers.	To investigate the streams and navigable rivers within and bordering upon the State; of the methods and means of improving the same; of conserving the water supply thereof; of using the same for the production of power, and how and in what ways the said streams and waters may be made of most value to the State and to the people thereof.
II. STATE FORESTS.	
Acquire tax delinquent lands for forest purposes.	The State Commission on Conservation and Development may acquire the fee to lands sold to the Commonwealth for delinquent taxes, when it deems such land chiefly valuable for forest purposes. After lands are so acquired the Commission is required to pay annually to the counties in which such lands may lie one-fourth of the gross returns therefrom;
Acquire waste and unappropriated lands for forest purposes.	May also acquire as State forest land any waste and unappropriated land, other than unappropriated marsh and meadow land lying on the eastern shore of Virginia, as exempted from entry and grant, upon a showing that such lands are more valuable for forestry purposes than for agriculture or any other purposes;
Acquire forest lands by purchase or gift.	May also purchase lands suitable for State forests, and may accept gifts of land and money to the State for forestry purposes. Such gifts must be absolute, except that mineral and mining rights over and under land donated may be reserved by the donors, and that the lands shall be administered as State forests (Acts of 1914, as amended);
Accept lands from the United States.	May also accept gifts, donations and contributions of land from the United States, or any agency or agent thereof, and to enter into agreements with the same for acquisition by purchase, lease or otherwise, of such lands as the Commission may deem suitable for State forests, and to pledge and apply on the purchase price thereof not to exceed one-half of the gross proceeds derived from the said lands (Acts of 1936);
Manage and develop; sell products.	To provide for the management, development and utilization of any such lands so purchased, leased or otherwise acquired, and to sell or otherwise dispose of products on or derived from the land (Id);
Reimburse United States for Emergency Conservation Work.	If, upon the sale of any lands belonging to the Commonwealth, or of any products of any such lands, the Commission determines that the Commonwealth has derived a direct profit as the result of work on the lands sold, or on lands the proceeds of which are sold, done or to be done under any project carried on pursuant to the Emergency Conservation Work Act, one-half of such profit from the sale of such lands, or one-half the proceeds of the sale of such products, or such lesser

amount as may be sufficient, is to be applied to or towards reimbursing the United States Government for moneys expended by it under such Act for the work so done, to the extent and at the rate of \$1 per man per day for the time spent in such work, but not exceeding the amount of \$3 per acre. The Commission to fix and determine the amount of such profit or proceeds (Acts of 1936).

### III. PUBLIC SHOOTING AND FISHING RESERVES.

Acts of 1930 empowered the Commission of Game and Inland Fisheries

- Acquire by purchase, etc. To acquire by gift, exchange, purchase, lease or otherwise, lands and waters for game and fish refuges, preserves, or public shooting and fishing, and to establish such lands under appropriate regulations;
- Other public areas. To exercise full control of the hunting and fishing rights and privileges in and on all impounded water areas in the State resulting from power development; also in all forest and watershed areas within the State which are now owned or which may hereafter be acquired by the United States Government, subject to the rights and powers of the United States Department of Agriculture therein; and to establish refuges, sanctuaries, and public shooting and fishing reserves in said areas under such regulations as it may deem proper.
- Funds for financing. The amount received by the State Treasurer from the sale of hunting, trapping and fishing licenses, the fifteen percentum dog fund, and such other items as may accrue to the Commission are required to be set aside as a Game Protection Fund, to be used for the payment of salaries, wages and expenses incident to carrying out the provisions of hunting, trapping, inland fish and dog laws and for no other purpose.
- Use of unappropriated marsh or meadow lands. All unappropriated marsh or meadow lands lying on the eastern shore of Virginia which have remained ungranted, and which have been used as a common by the people of the State, are to continue as such common, and remain ungranted, and no land warrant located upon the same. Any of the people of the State may fish, fowl or hunt on any such marsh or meadow lands (Code of 1930).

### IV. FOREST, GAME, FISH AND RECREATION RESERVES.

- Use of private lands. Acts of 1930 authorize the owner of any forest land, or land suited to the growth of timber, desiring to do so, to offer the same, subject to pasturage, to the Commission of Game and Inland Fisheries as a forest, game, fish and recreation reserve;

- Leased to State. In the event such land is accepted, the owner is required to lease the land to the Commission on Conservation and Development until such time as the timber thereon becomes suitable for marketing; also to lease to the Commission of Game and Inland Fisheries the exclusive hunting, fishing and recreation rights or privileges so long as it may remain as a reserve;
- Commissions to develop. Thereafter it is the duty of the respective commissions to aid in the development and the increase of the forest resources of the land, and to protect it, so far as is possible, from fires and trespass; to propagate and protect game and fish, promote recreation therein, and issue rules and regulations therefor;
- Exclusive rights of State. From the time such land is leased the State is vested with the exclusive hunting, fishing and recreational rights thereon; except that the owners, their families and tenants, actually residing thereon, are allowed, without cost to themselves, such rights and privileges as the Commission of Game and Inland Fisheries is authorized to sell;
- Classes of licenses; cost. The Commission is authorized to sell hunting, fishing and limited recreation privileges on any reserves so created for an annual fee of not less than \$5 nor more than \$15 per person, except that non-residents of the State are to be charged not less than \$10 nor more than \$15 per person. The Commission may also, in its discretion, issue a limited recreation privilege which does not entitle the purchaser to hunting or fishing privileges, charging therefor whatever fee it may deem proper. All of the foregoing charges to be in addition to the present hunting and fishing licenses to be prescribed by law.
- Privileges of licensees. The license as issued entitles the holder to hunt and fish, except in the case of holders of limited recreation privileges, on all forest, fish and recreation reserves during the regular hunting and fishing seasons prescribed by law, and to camp thereon at any time, all under such rules and regulations as the Commission of Game and Inland Fisheries may prescribe. The Commission may, in its discretion, at any time close any area in such reserves against all hunting, fishing and recreation for the purpose of establishing sanctuaries thereon;
- Use of license fees. All funds accrued from the above privileges are to be paid into a fund in the State Treasury designated as the Forest, Game, Fish and Recreation Fund, and used for the payment of taxes on the real estate embraced in such areas, for the benefit and administration thereof, and for the purchase of State-owned forest demonstration and game and fish propagation and recreation areas;

**Taxes dofferred.**

When any area has been accepted, the buildings, improvements and tillable land therein are to be assessed separate from the forest land and land suitable to the growth of timber. Thereafter, on forest land or land suited to the growth of timber no tax or local levies are to be paid, unless the owner desires to do so, or the collection thereof be enforced; but the taxes or levies imposed are to be entered by the county clerk in a book specially kept for that purpose. Such accrued taxes are to carry an annual interest rate of 6% per annum, and are to be a lien upon the lands embraced in the reserve, to be payable at such time as the timber is marketed or is matured for marketing; such maturity to be determined by the State. In no event may any taxes be dofferred for a period longer than forty years. So far as possible, the funds derived from the sale of hunting, fishing and recreational privileges are to be used in advancing to the several counties the taxes or levies which have accrued. When and as such liens are paid to the county by the Commonwealth the county's lien for the taxes paid is to become the property of the Commonwealth; thereafter the amount so paid is to be reimbursed to the Commonwealth as a prerequisite to the removal of any timber;

**Withdrawal of lands.**

Any person leasing his land for a forest, game, fish and recreation reserve may withdraw the same from such area at any time after three months' notice to the Commission on Conservation and Development of his intention to do so; but as a prerequisite to withdrawal must pay all tax liens thereon, with accrued interest from the first day of December of the year in which such taxes were assessed or levied. However, in the event of such withdrawal during the first ten years of entry, the State may retain its lease of the hunting, fishing and recreation rights and privileges for a term of five years from expiration of withdrawal notice, unless a fee of not less than five cents per acre for land withdrawn be paid to the State; in which event the State will surrender such rights and privileges at the expiration of notice period. The amount of this fee is to be determined by the Commission of Game and Inland Fisheries;

**Referendum.**

The foregoing provisions are not to become operative in any county except upon a majority vote. A county once accepting may not withdraw its acceptance as to land which has been leased prior thereto; but the Commonwealth has the right at any time, acting through the General Assembly, to repeal the law or to abolish any reserves created. In the event the reserve is abolished after acceptance by any county, tax liens accruing on any real estate entered in the reserve are not to be enforced for a period of five years from the date of abolishment. The Commonwealth may at any time on three months' notice to the owner eliminate from the reserve any lands entered thereon when it deems such lands not suited for the purposes for which the reserve is created;

When county fails to adopt.

Should any county fail to adopt the provisions as set forth in the preceding paragraph, then the owners of any land in such county, suited to entry, may enter same in the reserve, in which event such lands are not to be subject to the provisions of the Act providing for assessments and the deferralment of taxes, but in lieu thereof such owners are to receive annually one-half of such a sum as may result from dividing the total receipts from the sale of all hunting, fishing and recreation privileges on such reserve by the total number of acres of land entered in the reserve, and multiplying the same by the number of acres owned by such owner. The State retains the other half of such sum to be used for the purposes hereinbefore set forth. The provisions of the paragraph also apply to all persons entering lands in the reserve and paying taxes thereon as at present. The Commission of Game and Inland Fisheries is also authorized under the provisions of this paragraph, and subject to its provisions, to lease the hunting, fishing and recreation rights and privileges on any lands not eligible to entry under the first paragraph;

Rules and regulations. The Commission on Conservation and Development is authorized to promulgate and enforce rules and regulations pertaining to the administration of forestry; the Commission of Game and Inland Fisheries is authorized to issue, promulgate and enforce rules and regulations pertaining to hunting, fishing and recreation.

#### V. GENERAL.

Destruction of trees, shrubs, etc.

It is unlawful for any person to pick, pull, pull up, tear, tear up, dig, dig up, cut, break, injure, burn or destroy, in whole or in part, any tree, shrub, vine, plant, flower, or turf, found, growing, or being upon any land reserved, set aside, or maintained by the State as a public park, or sanctuary for wild animals, bird or fish; or to deposit any trash, debris, garbage or litter thereon, without having previously obtained permission in writing of the superintendent or custodian of such park, refuge or sanctuary to do so, unless the same be done under the personal direction of such superintendent or custodian of such park, refuge or sanctuary. Any person violating this section to be guilty of a misdemeanor (Acts 1926, 1930).

Violation of rules and regulations.

Violation of any rule or regulation for the Government or use of any State reservation or park, or road or boulevard traversing the same, is punishable by a fine of not less than \$5 nor more than \$50 (Acts 1914, 1916).

Constitutional provision.

"\* \* \* nor shall the State become a party to or become interested in any work of internal improvement, except public roads and public parks \* \* \*." Appdx. State Constitution, Section 185.

Tax exemption.

All property and income of the State Commission on Conserva-



tion and Development #2376 exempt from taxation, State and local (Acts of 1926).

#### VI. STATE PLANNING.

In October of 1933, the then Governor of Virginia appointed a State Planning Board which, in the absence of suitable legislative action, acted in an unofficial capacity until the regular session of the General Assembly which convened in January of 1934. The General Assembly, during the session of January - February, 1934, passed a resolution reading as follows:

Whereas, under Title II of the National Industrial Recovery Act, the Administrator under the direction of the President of the United States, is required to prepare a comprehensive program of public works which shall include, among other things construction, repair and improvement of public highways and parkways, public buildings and any publicly owned instrumentalities and facilities and development of natural resources, including control, utilization, and purification of waters, prevention of soil or coastal erosion, development of water improvement, transmission of electrical energy, construction of river and harbor improvements and flood control, and of drainage improvements; and

Whereas, in order to effectuate in a more orderly manner this program, the Federal Emergency Administration of Public Works, under the direction of the President of the United States, has established a National Planning Board and has allotted to it the sum of \$250,000.00 with which to stimulate the preparation of State, regional, local, and city plans; and

Whereas, this program contemplates the sending of qualified technical advisors by the National Planning Board to State, city, and regional planning units; and

Whereas, because of the great interest in the development of the national capital areas, the Chesapeake Bay region, the Potomac River Valley, and the development of the Skyline Drive and the Shenandoah National Park, it has seemed advisable to the National Planning Board to place at the disposal of Maryland and Virginia the same consultants; and

Whereas, such a qualified consultant has been offered to the Commonwealth of Virginia to aid its State Planning Board; and

Whereas, former Governor Pollard, acting during the recess of the General Assembly of Virginia, appointed a State Planning Board; and

Whereas, the present Governor of Virginia is desirous of continuing that Board as heretofore constituted in order to cooperate with the President in his program;

Therefore, be it resolved by the House of Delegates (the Senate concurring therein) that the Governor be, and he is hereby authorized to continue the State Planning Board, as it now exists, with the right to change the membership thereof at pleasure, in order to cooperate in aiding to effectuate Virginia's cooperation with the purposes of the National Planning Board.

Under the authority of the above Resolution, the Board appointed by Governor John Garland Pollard (Governor in 1933) was reappointed by Governor George C. Peery (who took office in January, 1934).

#### VII. EXCERPTS FROM REGULATIONS GOVERNING PARK PERSONNEL.

The Custodian has been instructed to see that the public observes the following rules, which are quoted from rules and regulations for park personnel:

1. Drunkenness will not be tolerated on the park property and persons found guilty of this offense will be requested to leave the park. The Custodian and his assistants will see that this rule is rigidly enforced, but tact must be observed to prevent scenes likely to be objectionable to other visitors.
2. Any breach of the moral codes will be treated in a like manner.
3. Any person or persons who conduct themselves as to constitute a nuisance to other users will be firmly but courteously requested to desist. Should they persist, the Custodian will request them to leave the park.
4. The speed laws must be enforced. Any person driving in the parks to the common danger or under the influence of liquor is to be reported to the proper authorities.
5. Breaches of game laws will be reported to the proper authorities.
6. The carrying and use of fire arms is prohibited.
7. Great care is to be taken that unseemly noise and conduct at night which will affect the comfort of others does not occur.
8. Safety measures and rules governing the same for bathing and boating will be observed and it shall be the duty of the life guard to see that they are enforced and it shall be the duty of the Custodian to see that he does so.

The methods that will be adopted by each custodian will of course vary, and it will be found that in the main the public will observe the regulations that it is necessary to impose if the custodian will instruct his subordinates to avoid the use of the word "don't". It is better to secure the cooperation of the public by courteous explanation and so win their support than to threaten, but should it become necessary to enforce regulations when courteous methods have failed, firmness is expected.

VIII. LETTER TO PATRONS OF PARK CABINS.

In welcoming you to our park we wish to express our appreciation of your patronage and hope that your stay with us will be a very happy one and upon leaving, it may be with regret.

In making these cabins available to the use of the public at the present rates, the State Commission on Conservation and Development is only able to do so as long as we receive cooperation of the persons using them. I am sure you will appreciate that maintenance and operating costs are only just covered by the rental which you pay for your cabin. It is our earnest desire that the enjoyment that we hope you will receive may be also available to others under like conditions. This can only be possible if we are able to keep our operating costs down to a minimum.

We, therefore, ask for your full cooperation in order that not only may we be able to continue to make these cabins available for your pleasure at the present prices, but possibly develop more.

We ask that you aid us by keeping all equipment as clean as possible, and upon leaving that you leave the cabin, china, kitchen utensils, etc. in a clean condition. Only by so doing shall we be able to continue renting these cabins at this price.

Any additional labor costs that are involved will mean operating at a loss and necessitate an increase in the rental of these cabins.

We are anxious to receive your comments on our parks and appreciate constructive criticism at all times. Your comments will aid us in our problems.

Sincerely trusting that we may have your cooperation, I am

Yours very truly,

(Signed) R. E. BURSON  
Director of Parks

IX. INSTRUCTIONS TO PARK VISITORS.

All visitors are expected to observe the following rules in order that the park may be preserved for your enjoyment. Your admission fee and co-operation will ensure this.

Do not injure or damage any structure, rock, tree, flower, bird or wild animal within the park.

**Firearms are prohibited at all times.**

Dogs must be kept on leash while in the park.

There shall be no vending or advertising without permission of the Department of Conservation.

Fires shall be built only in places provided, visitors must put waste in receptacles provided for that purpose.

Motorists will observe speed limits as posted in the park and park in areas designated for parking.

Bathing is limited to such places and times as designated by the Division of Parks.

Drinking water should be taken only from hydrants or fountains provided for that purpose. This water supply is tested regularly for purity.

Please build fires only in designated places and see that cigars or cigarettes are out before they are thrown away.

Break your match before you drop it.

# **Exhibit 14**

## **West Virginia (see p. 410)**

## WEST VIRGINIA

## I. STATE PARKS.

Jurisdiction.	State parks are under the jurisdiction of the Conservation Commission of West Virginia (Acts of 1933).
Purpose of Act.	The declared purpose of the Act is to provide an organization for the protection, beautification, development, and use of lands, forests, fish, game, waters, plant and animal life, and the natural scenic resources of the State; and for the use of forest lands and other natural resources for projects to relieve unemployment.
Members; appointment; terms.	The Commission consists of five members and a Director, appointed by the Governor, with the advice and consent of the Senate, for six year terms (rotated). Members are required to be selected with special reference to their training and experience in relation to the principal activities required of the Commission, and for their ability and fitness to perform their duties. No member may be a candidate for or hold any other public office, nor be a member of any political committee. Members serve without compensation, but receive actual and necessary expenses incurred in the performance of official duties.
Advisory powers and duties.	The members of the Commission are to serve only as an advisory body to the Director, and, as such, have the following powers and duties:
Study legislation and administration methods.	To consider and study the entire field of legislation and administrative methods concerning the forests and their maintenance and development, the protection of fish and game, the beautification of the State and its highways, and the development of lands and natural resources;
Advise Director.	To advise with the Director concerning the conservation problems of particular localities or districts of the State;
Recommend policies.	To recommend policies and practices to the Director relative to any duties imposed upon him by law;
Investigate work of Director.	To investigate the work of the Director, and for this purpose to have access at reasonable times to all official books, papers, documents and records;
Advise Governor on conservation matters.	To advise or make recommendations to the Governor relative to conservation policy of the State;

Keep minutes of transactions.	To keep minutes of the transactions of each session, regular or special, which are declared to be public records and to be filed with the Director.
Advice to Director.	The Director may submit to the Commission or any committee thereof any matter upon which he desires its advice or opinion.
Report proceedings to Governor.	Upon the request of the Commission, the Director is required to incorporate its proceedings in his annual report to the Governor, or he may do so upon his own initiative.
Director; qualifications.	The Director is required to be selected with special reference to his training, experience, capacity and interest in the activities embraced within the law; is paid a salary fixed by statute; appoints and fixes the salaries of the heads of divisions and other personnel.
Divisions.	Note: The Director, with the advice of the Commission, and subject to the orders of the Governor, administers the work of the Commission through the following divisions, each of which is headed by an official selected by and responsible to him, namely: <p style="text-align: center;">Division of Parks Division of Forestry Division of Game Division of Fish</p>
Powers and duties.	In addition to his other powers, the Director is vested with the sole authority to:
Supervise Commission.	Exercise general supervision of, and make rules and regulations for the government of the Commission or Department;
Execute contracts for State.	Sign and execute in the name of the State any contract or agreement with the Federal government or its departments, subdivisions of the State, corporations, associations, co-partnerships or individuals;
Supervise fiscal affairs.	Supervise the fiscal affairs and responsibilities of the Department;
Devise general conservation program; conduct research.	Make a general conservation plan or program for the State; conduct research in improved conservation methods, and disseminate information on conservation matters to the residents of the State;
Organize department.	Organize his Department to give adequate treatment to the problems of fish and game, forestry, parks and playgrounds, natural resources and publicity;
Regulate hunting.	Alter the open seasons and bag limits;

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Designate refuges.	Designate localities deemed necessary and desirable for the perpetuation of any species of fish and for the purpose of replonishing adjacent fishing waters;
Surveys.	Enter private lands to make surveys or inspections for conservation purposes;
Acquire areas; how; purposes.	Acquire by purchase, condemnation, lease or agreement, or receive by gift or devise, lands or waters suitable for the following purposes;
Forests, recreation, etc.	For State forests for the purpose of growing timber, demonstrating forestry, protecting watersheds, or providing public recreation;
State parks, etc.	For State parks for the purpose of preserving scenic or historic values or natural wonders;
Shooting and fishing grounds.	For public shooting, trapping or fishing grounds or waters to provide areas in which citizens may hunt, trap or fish;
Hatcheries, nurseries.	For fish hatcheries, game farms, forest nurseries and experimental stations;
Exchange lands.	To extend and consolidate lands or waters suitable for the above purposes by exchange of other lands or waters under his supervision;
Stocking of lands or waters.	Capture, propagate, transport, sell or exchange any species of game or fish needed for stocking any lands or waters;
Protect forests, etc.	Exercise powers granted for protection of forests; regulate fires and smoking in the woods or in their proximity;
Beautification of highways.	Cooperate with other departments and agencies in the beautification of State highways;
Cooperate with State & Federal government.	Cooperate with other departments and agencies of the State and Federal government;
Record proceedings; purchase equipment, etc.	Keep a complete and accurate record of all proceedings; purchase necessary equipment;
Reports to Governor.	Report to the Governor each year all information relative to the operation and functions of his Department; also such other reports and recommendations as may be required by the Governor;
General authority.	Exercise any other power that may be necessary or proper for the orderly conduct of his business and the effective discharge of his duties. Invoke any legal or equitable remedies for the enforcement of his orders or the provisions of law.



Condemnation. Private property may be taken or damaged for the construction, maintenance and operation of parks and other works of internal improvement, for the public use. Sec. 5362, Code of 1932.

Shooting near parks. It is unlawful for any person to shoot or discharge any firearms on or near any park or other place where persons gather for purpose of pleasure. Sec. 6054, Code of 1932.

## II. STATE FOREST PARKS.

Cooperation with Federal government. Acts of 1933 further declared it to be the policy of the State to extend its cooperation to all provisions of Acts of Congress now in force or thereafter enacted providing for cooperation between States and the United States in the relief of hardship and unemployment through acquisition and development by the State of lands, State forests, and State forest parks, and the public recreational facilities, fish and game refuges therein.

Contract with Federal government; acquire areas by purchase, etc. In order to effectuate this policy, the Director, with the consent of the Governor, is authorized to enter into contracts or agreements with the United States or any of its agencies; and, with like consent, to acquire by purchase, lease or agreement any lands necessary to carry into effect the purposes of the Act.

State Forest Land Fund; what constitutes. The Act created a "State Forest Land Fund", to consist of 10% of the total revenue obtainable each year from all classes of hunting and fishing licenses; all income derived from the sale, exchange or management of State forest lands; from the sale of timber, cuttings or stumpage; from the sale of all gas and mineral rights, sale of camp sites, and leasing of camp building material. Moneys received from the United States Government or any of its agencies for the purchase of lands are excepted.

For what purpose used. The proceeds of the fund are to be used solely for the liquidation of any indebtedness incurred for the purchase or administration of lands until such indebtedness has been entirely discharged; thereafter the fund is to be used for the acquisition of lands for conservation and work relief purposes, and for the improvement, development and maintenance of the natural resources, plant and animal life of the State.

Pledge for liquidation of loans. In order to efficiently administer the Fund for the accomplishment of the described purposes, the Director is authorized to pledge such sum or sums as in his discretion, and with the approval of the Governor, may be necessary for the liquidation of loans from the United States government or any of its agencies;

Sell, purchase or exchange to consolidate tracts.	In order to consolidate forest tracts under either State or Federal administration, the Director may sell, purchase or exchange stumpage or lands within or adjacent to any National forest purchase area within the State;
Disposition of lands purchased with Federal funds.	At the expiration of the present emergency the Director, upon the request of the United States government, is directed to convey to the United States such title and interest acquired by the State in lands purchased with money granted outright to the State by the United States.
Authorities of Director.	In carrying into effect the provisions of the Act, the Director is further authorized to:
Rules and regulations.	Make rules and regulations for the use and occupancy of lands and other property under his control;
Facilities for outdoor recreation.	Provide and develop facilities for outdoor recreation, including the leasing of camp sites and the sale of camp building materials;
Dispose of products.	Remove and dispose of forest and mineral products incidental to the protection; reforestation and proper development of lands under his control;
Conduct research; utilize facilities of State University.	Conduct such investigations and research as may be necessary for the proper conduct of his work, and to this end utilize the facilities of the West Virginia University in so far as they may be adequate.
Reimbursement to Federal Government.	If and when, as a result of any work done by the establishment of conservation work camps on the State forest lands the State derives a direct profit from the sale of such lands or their products, the proceeds are to be equally divided between the Federal government until the State has paid for the work done at the rate of \$1 per man per day for the time spent on projects, subject to a maximum of \$3 per acre (Acts of 1933).
III. PUBLIC SHOOTING GROUNDS.	
Purchase; terms; reservations.	Under the authority of Acts of 1929 the Director, with the consent of the Governor, may purchase out of funds set aside for the purpose (10% annually of the revenue from hunting and fishing licenses) lands suitable for forest culture, forest parks, game and/or fish refuges, or game refuges and public shooting grounds. Such purchases may be made on terms requiring not less than one-third of the purchase price to be paid at the time of the conveyance, and the residue in not less than one and two years after date. Gifts of land by deed or will may also be accepted. When acquired by either gift or purchase, minerals and mining rights may be reserved;
Accept lands conveyed by deed or will.	

Limitation on price paid. Not more than \$5 per acre may be paid for lands for game refuges and public shooting grounds; and not more than one-third of the area may be used as a game refuge, the remainder to be used as public shooting grounds;

Set aside private lands. Any land of two thousand or more acres in extent may, with the consent of the owner, be set apart by the Director as a game refuge and public shooting grounds; not more than one-third to be used as a game refuge.

May lease lands; conditions. Lands may also be leased for similar purposes for not less than ten year periods, the rental price not to be more than the taxes thereon, and in no event to exceed ten cents per acre per annum.

#### IV. PUBLIC LAND CORPORATION.

Holds title of State. Acts of 1933 created the "Public Land Corporation of West Virginia" in which is vested the title of the State in public lands.

Acquire lands. The corporation may acquire from individuals or the State Commissioner of Forfeited Lands by purchase, lease or agreement, any lands that may be necessary for the public use;

Acquire lands. Also acquire by purchase, condemnation, lease, agreement or exchange, and to receive by gifts or devise, lands, rights or way or easements, waters and minerals suitable for any public purpose;

Sell or exchange. For the purpose of consolidating lands under either State or Federal administration, may sell, purchase or exchange lands or stumpage;

Use of income. All income received from the use and development of public lands is to be used solely for the purpose of the liquidation of obligations incurred for the acquisition, development and administration of such lands until all indebtedness or other obligations have been discharged. Funds are then to be paid into the general school funds;

Borrow funds for purchasing. May negotiate loans from the Federal government or any proper agency thereof, for the purchase, as provided by law, of such lands as may be necessary for the public use and the acquisition of which has been authorized by law;

Allocate lands for public uses. May designate lands to which it has title for development and administration for the public use, including forestation, stock grazing, agricultural rehabilitation and homesteading, and may contract or lease for the proper development of oil, gas, mineral and water rights within or upon the lands of property under its control;

Allocate lands for public uses.

Is directed to convey, assign or allot lands to proper departments or other agencies of State government for administration and control within the functions of such departments or other agencies as provided by law; also to make proper lands available for the purpose of cooperating with the Federal government in the relief of unemployment and hardship.

# **Exhibit 15**

## **Wisconsin (see p. 423)**

## W I S C O N S I N

## I. STATE PARKS.

- Jurisdiction.** State parks are under the jurisdiction of the State Conservation Commission (Laws of 1931, 1935).
- Members; appointment; terms.** The Commission consists of six members, appointed by the Governor, by and with the advice and consent of the Senate. Two members are to be appointed in each odd year for a term of six years, three from the territory north and three from the territory south of a line running east and west through the south limits of the City of Stevens Point; are to receive no pay for their services, but are allowed actual and necessary traveling expenses and subsistence while absent from their homes in attendance upon meetings of the Commission or in the discharge of their official duties. The Commissioners appointed are to be persons having knowledge of and interest in conservation. Members elect a Chairman and Secretary.
- Conservation Director.** The Commission employs a Conservation Director, to continue in office at its pleasure, as the administrative head of the State Conservation Department, and is responsible to the Commission for the execution of its policies. The Director employs, by and with the advice and consent of the Commission, such technical and administrative assistance as may be necessary for the execution of such policies. The Director also exercises the powers of the Commission in the interim of its meetings but subordinate thereto, but has no authority to make rules and regulations.
- Divisions.** Administrative divisions have been established by the Commission as follows:
- |                                    |                          |
|------------------------------------|--------------------------|
| Division of Fisheries              | Division of Recreational |
| " " Law Enforcement                | Publicity                |
| " " Forests and Parks              | " " Education            |
| " " Forest Protection              | " " Public               |
| " " Cooperative Forestry           | " " Relations            |
| " " Clerical                       | " " Game Management      |
| " " Contract Commercial<br>Fishing |                          |
- Powers and duties of the Commission.** Powers and duties of the Commission are as follows (Laws of 1931, 1935):

By-laws.	May make and establish such rules and by-laws as it may deem useful to itself and its subordinates in the conduct of the business entrusted to it;
Jurisdiction over parks and other lands.	Is empowered and required to have and take the general care, protection and supervision of all State parks, of all State fish hatcheries and lands used therewith; of all State forests, and of all lands owned by the State or in which it has any interests, except lands, the care and supervision of which are vested in some other officer, body or board;
Acquire park land; scenic and historical values.	To acquire by purchase, condemnation, lease or agreement, and to receive by gift or devise, lands or waters suitable and needed for State park purposes; for preserving scenic or historical values, or natural wonders;
Appropriation.	No land may be purchased until after the Legislature has appropriated or the Commission has otherwise acquired the necessary money for that specific purpose;
Blocking lands.	May extend and consolidate lands or waters suitable for the above purposes by exchange of other lands or waters under their supervision;
Donations for park purposes.	To accept grants, conveyances and devises of land, and bequests and donations of money, to be used for park purposes, if unconditional, or subject to such conditions only as the Commission finds are reasonable and not inconsistent with the use of such property for park purposes;
Continued possession of homestead.	Whenever any lands have been acquired which have been occupied as a homestead by the owner for 25 years or more, the Commission is required, if requested by such owner, to enter into a contract whereby he is to be permitted to remain for a term not exceeding his natural life upon the portion of such lands, not to exceed one acre in extent, upon which the homestead buildings are located; is to be allowed to fence such portion of lands and be afforded access to highways; the land and the buildings thereon to be used as a home only, subject to the rules of the Commission relating to the sale of intoxicants, to sanitation, and to the preservation of the park;
Control of private lands.	If in negotiating for such purchases it is ascertained that any lands or premises situated within the limits of a proposed State park have a value which is incommensurate with their value for the purpose of such park, the Commission may enter into written agreement with the owner for such control or supervision by the State over such land or premises as it deems necessary to the reasonable requirements of said park; and may extend over the lands and premises pursuant to any such agreement, such protective, police and

- other of its powers as it may deem advisable;
- Accessibility.** Whenever any lands under its care and supervision are inaccessible because surrounded by lands privately owned, and whenever in its opinion the usefulness or value of such lands, whether so surrounded or not, will be increased by access thereto over lands not belonging to the State, it may acquire such lands as may be necessary to construct highways that will furnish the needed access;
- Ornamentation.** To lay out and ornament any State park and construct all proper roads and bridges therein;
- Camping.** Permit people to camp in and use the parks under restrictions and rules made by it, and to make such rules and regulations, with the Governor's approval, as may be necessary to manage and control the same;
- Establish services and recreational facilities.** Establish and furnish, at a reasonable charge, such services, conveniences, and recreational facilities as will render the parks more attractive to tourists and the general public and increase the number of visitors thereto. Among such services, may operate portable launches in the Devil's Lake State Park. All moneys received from any of such services and facilities to be paid into the Conservation Fund;
- Disposition of fees.**
- Police supervision.** Exercise police supervision over all parks; its agents or representatives of any park being authorized and empowered to arrest, with or without warrant, any person within the park area committing an offense against the State laws or in violation of any rule or regulation of the Commission;
- Protect trees and shrubs.** To enforce laws for the prevention of destruction of shrubs and trees in the parks;
- Conservation wardens.** To appoint conservation wardens to enforce the laws which it is required to administer;
- Lease park lands.** May lease for terms not exceeding 15 years parts or parcels of park lands or properties, or grant franchises or concessions; the proceeds to be paid into the State treasury to the credit of the Conservation Fund, and are appropriated therefrom to be used by the Commission for the purchase of State park lands, and for the purchase, construction, improvement and maintenance of park buildings, or for the improvement of park grounds; all subject to the approval of the Governor;
- Licenses to prospect.** Licenses may also be granted to prospect for ore or mineral upon any of said lands; security to be taken that the licenses will fully inform the Commission of every discovery of



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- ore or mineral and will restore the surface to its former condition and value if no discovery of valuable deposits be made;
- Sale of products. May remove wood, timber, rocks, stones, earth or other products from the parks and sell the same to the highest bidder;
- Use of land by societies. May allow State agricultural and horticultural societies to establish and maintain upon any portions of the parks which it deems suitable such museums, experiment stations and buildings as will best serve the requirements of such societies;
- For school purposes. May allow the use of portions of the parks, which it deems suitable, for buildings and playgrounds for school purposes; all of which to be under the general supervision of the Commission;
- Names for parks. May designate by an appropriate name any State park not expressly named by the Legislature;
- Investigations. To investigate, and in its annual report to the Governor make a detailed statement of the facts regarding any proposed park; also recommendations regarding the requirement of any new parks, the extension of existing parks, and such other recommendations it deems necessary;
- Same. Investigate and consider the propriety and desirability of securing and preserving all places of historical interest and of natural beauty, and include in its report its recommendations thereon;
- Same. To consider the natural resources of the State and report to the Governor from time to time the results of its investigations, with recommendations of such measures as it deems necessary or suitable to conserve such resources and preserve them, so far as practicable, unimpaired.
- Same; services. To inaugurate such other studies, investigations and surveys, and establish such services deemed necessary to carry out the provisions and purposes of the conservation laws;
- Research. To conduct research in improved conservation methods, and to disseminate information to the residents of the State in conservation matters;
- Game and fish propagation. To capture, propagate, transport, sell or exchange any species of game or fish needed for stocking or restocking any lands or waters of the State;

- Cooperation.** To enter into cooperative agreements with persons, firms, corporations or governmental agencies for purposes consistent with the purposes and provisions of the conservation laws, including agreements with the highway authorities with regard to planting trees or other vegetation in or along highways, or furnishing stock for such planting;
- Sale of lands.** May sell at public or private sale lands and structures owned by the State and under its jurisdiction when it determines that said lands are no longer necessary for the State's use for conservation purposes;
- Note: State park lands are not held for sale and are not subject to the foregoing provision.
- Disposition of funds.** The funds derived to be deposited in the Conservation Fund to be used exclusively for the purpose of purchasing other areas of land for the creating and establishment of public hunting and fishing grounds, wild life and fish refuges, and State parks;
- Interdepartmental cooperation.** Cooperate with the several State departments and officials in the conduct of matters in which the interest of the respective departments or officials overlap;
- Publicity.** To collect, compile and distribute information and literature as to the facilities, advantages and attractions of the State, the historic and scenic points and places of interest, and the transportation and highway facilities; also to plan and conduct a program of information and publicity designed to attract tourists, visitors and other interested persons from outside the State to the State; also to encourage and coordinate the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the State for the same purposes.
- Maps of parks.** Provide a suitable and durable set of maps of each park so arranged that additions thereto can be made whenever lands are added to them; each parcel of land designated thereon donated to the State as a gift for park purposes to have written thereon the name of the donor; and in close proximity to each map to be inscribed a schedule of all legislative acts affecting the park represented;
- Publications.** May issue pamphlets from time to time; may also issue a publication or magazine at stated intervals, all pertaining to fish and game, forests, parks and other kindred subjects of general information, and may sell subscriptions thereto; the same to be self-sustaining, and no moneys, except from the receipts therefrom are ever to be used therefor;

- State Park roads.** Sums are annually appropriated for the construction and maintenance of roads, including fire roads, in the State parks and forests and other public lands, and for highway or fire roads leading from the most convenient State or Federal trunk highway to such lands. All work done to be determined by the Conservation Commission for State parks and forests. All work to be done by or under authority of the Highway Commission. Outside the limits of the park, forest and public land areas, not more than two direct connections to the most convenient State trunk highway may be built or maintained;
- U. S. may acquire lands for parks, etc.** Consent of the State is given to the United States to acquire by purchase, gift, lease, or condemnation, with adequate compensation therefor, areas of land and water within boundaries approved by the Governor and the county board of the county in which the land is located, for the establishment of State forests, State parks, or other State conservation areas to be administered by the State under long-term leases, treaties or cooperative agreements (Laws of 1935).
- Restricting private use of islands.** No lease to be hereafter (1931) issued or any lease extended or renewed on any unsurveyed and unattached islands in inland lakes north of the township line between townships 33 and 34 north, except that the Commission may extend or renew any such leases in existence June 25, 1925, to public, charitable, religious, educational or other associations not organized for profit; and except it may extend or renew any such leases in existence June 25, 1925, on islands upon which improvements have been made.
- Destruction of Indian mounds.** It is unlawful except upon permit by the Commission, to destroy, deface, mutilate, injure, or remove any Indian burial, linear or effigy mounds, enclosures, cemeteries, graves, plots of corn hills, garden beds, boulder circles, pictograph rocks, caches, shell or refuse heaps, spirit stone or maniton rocks, boulder mortars, grindstone rocks, or other prehistoric or historic Indian remains located upon the public lands, State parks, forestry reserves, lands of State educational or other State institutions, or upon other lands or properties belonging to the State (Laws of 1931).
- Conservation Fund.** All moneys, except fines, accruing to the State by reason of any provision of the fish and game laws, or otherwise received or collected by each and every person for or in behalf of the State Conservation Commission, if not payable into the forest reserve fund, constitutes the Conservation Fund, and is required to be paid, within one week after receipt, into the State treasury and credited to said fund. No money may be expended or paid from the Fund except in pursuance of an appropriation by law; but any unappropriated surplus may be expended, subject to the approval of the Governor, Secretary of State, and State Treasurer, for the

purchase of lands from counties for forestry purposes and owned by counties by virtue of any tax deed, for additional equipment, new buildings, new hatcheries, or hatchery ponds, property improvements, increasing the warden force at any particular period, or any other similar special purpose except road work or improvement work on the State parks (Laws of 1931).

Reforestation fund.

All moneys received from State forest lands are to be paid into the Reforestation Fund and are appropriated to the Commission for the purchase or improvement of additional land for forest or park purposes (Laws of 1931, 1935).

Constitutional provision.

The State or any of its cities may acquire by gift, purchase, or condemnation lands for establishing, laying out, widening, enlarging, and maintaining memorial grounds, streets, squares, parkways, boulevards, parks, playgrounds, sites for public buildings, and reservations in and about and along and leading to any or all of the same; and after the establishment, laying out and completion of such improvements, may convey any such real estate thus acquired and not necessary for such improvements, with reservations concerning the future use and occupation of such real estate, so as to protect such public works and improvements, and their environs, and to preserve the view, appearance, light, air, and usefulness of such public works (Art. XI, Sec. 3a, State Const.)

## II. STATE FORESTS.

Jurisdiction.

The Conservation Commission executes all matters pertaining to forestry within the jurisdiction of the State, and directs the management of the State forests (Laws of 1931, 1935);

Acquire areas; recreation.

May acquire by purchase, condemnation, lease or agreement, and receive by gift or devise lands suitable for State forests for the purpose of growing timber, demonstrating forestry methods, protecting watersheds, or providing recreation;

Purchase of county tax deed lands.

May purchase, with the approval of the Governor, Secretary of State and State Treasurer, lands owned by any county by virtue of any tax deed issued to such county, and which the county is willing to sell, and when such lands are adapted for forestry purposes; but the purchase price may not exceed the amount due the county for taxes, interest and charges;

Exchange.

For the purpose of blocking out State-owned and county-owned forest lands, the State or county is authorized to exchange

any of such lands for other lands adapted to forestry purposes, whether publicly or privately owned. The word "exchange" includes the purchasing of lands without conveying other lands in exchange therefor. The exchange of such lands, when owned by the State, to be subject to the approval of the Governor. All exchanges to be determined on the basis of equal values.

Sale.

For the purpose of blocking out State forest areas, for the acquisition of recreational areas, or for otherwise extending the usefulness of State forest lands, is authorized to sell parcels of the State forest lands, or the timber thereon;

Regulation of camp fires.

May regulate camp fires and smoking in the woods at such times and in such designated localities as it may find reasonably necessary to reduce the danger of destructive fires;

U. S. to be reimbursed.

The Governor, in the name and on behalf of the State, may contract or enter into agreements with the President of the United States as the President may deem necessary or advisable in carrying out the Emergency Conservation Work program whereby if, as the result of any conservation work project on State, county or municipally owned lands the State derives a direct profit from the sale of any such land, or the products thereof, the proceeds are to be divided equally between the State and the Federal government until the latter has been repaid the amount of its investment in such work, computed at the rate of \$1 per man per day, with a maximum limitation of \$3 per acre of land purchased.

Constitutional provision.

The State may appropriate moneys for the purpose of acquiring, preserving and developing the forests of the State (Art. VIII, Sec. 10, State Constitution).

### III. PUBLIC SHOOTING AND FISHING GROUNDS.

How acquired.

The Conservation Commission may acquire by purchase, condemnation, lease or agreement, and receive by gift or devise, lands or waters suitable for public shooting, trapping or fishing grounds or waters for the purpose of providing areas in which any citizen may hunt, fish or trap (Laws of 1931, 1935).

### IV. STATE PLANNING.

A State Planning Board was created by Acts of 1931 (amended 1935).

Powers.

It is declared to be the duty of the Board, and it is vested with power, jurisdiction and authority;

Assemble data. To assemble and correlate data and information with reference to the development of the State and its subdivisions which may be appropriate subjects of State concern; the general character and extent, among other things, of parks, reservations, forests; also, the general location and extent of forests, agriculture areas and open development areas for purposes of conservation, food and water supply, sanitary and drainage facilities, and the protection of urban and rural development; also a land utilization program, including the general classification and allocation of the land within the State amongst agricultural, forestry, recreational, soil and water conservation, industrial, urbanization and other uses and purposes;

Purpose of study. Such studies are to be made with the general purpose of guiding and accomplishing a coordinated, adjusted, efficient and economic development of the State, which will, in accordance with present and future needs and resources, best promote the health, safety, order, convenience and welfare of the State as well as efficiency and economy in the process of development;

Cooperation. All State boards, commissions, departments and institutions are directed to cooperate with the Board to further these ends.

V. RULES AND REGULATIONS.

-----  
IN THE MATTER OF establishing :  
certain rules and regulations :  
for the management and control : Order No. M-173  
of all state parks in the state:  
of Wisconsin :  
-----

Section 1. WHEREAS, in accordance with the power and authority delegated to the state conservation commission of Wisconsin by and under the provisions of section 23.09 of the Wisconsin statutes, the aforesaid state conservation commission upon its own motion has caused a careful and extensive investigations to be made relative to the necessity of promulgating rules and regulations for the management and control of all state parks, and

Section 2. WHEREAS, upon the evidence presented to it after such investigations the state conservation commission of Wisconsin verily believes that certain regulations should be adopted for the management and control of all state parks so as to protect such areas from depredation, and to insure to the people of this state and its tourists and visitors continued opportunities for recreation under proper safeguards while within the boundaries of such parks.

Section 3. NOW, THEREFORE, IT IS HEREBY ORDERED AND DECLARED under and pursuant to the provisions of section 23.09 of the Wisconsin statutes that the following rules and regulations shall be adopted and enforced within the boundaries of all state parks in Wisconsin, and it shall be unlawful for any person or persons to violate any of the following provisions as set forth in this order:

(1) State property. It shall be unlawful for any person or persons to disturb, molest, deface, remove, or destroy any trees, shrubs, plants, or other natural growth or to carve on any rocks, signs, walls, structures, drive nails in trees, or to injure or deface in any manner any park buildings, fences, tables, or other state property.

(2) Property of others. It shall be unlawful for any person or persons to disturb, molest, or remove the property or personal effects of others while on state park lands.

(3) Refuse. It shall be unlawful for any person or persons to dispose of any garbage, bottles, tin cans, paper, or other waste material in any manner except by placing in receptacles provided for such purposes. The bathing of dogs, washing of cars or clothing, or throwing of broken bottles, tin cans, or sewage in any of the lakes or streams within the boundaries of state parks is prohibited.

(4) Fires. It shall be unlawful for any person or persons to build any campfire or burn any rubbish except at designated fireplaces or to throw away any cigarettes, cigars, or pipe ashes without first extinguishing them.

(5) Peddling. It shall be unlawful for any person or persons to peddle or vend in or on any of the state parks unless authorized by the state conservation commission in writing.

(6) Safety. It shall be unlawful for any person or persons to drive an automobile, truck, motorcycle, or other vehicle at a speed greater than twenty-five miles per hour on state park roads.

(7) Firearms. It shall be unlawful for any person or persons to have in their possession or under their control any firearms of any kind unless the same is unloaded and within a carrying case; and to hunt, trap, or disturb any wild animals or birds at any time within the boundaries of a state park. It is unlawful to allow any dogs to run at large at any time within the boundaries of a state park.

(8) Parking. It shall be unlawful for any person or persons to park or leave unattended any automobiles, trucks, trailers, wagons, motorcycles, boats, or other similar equipment except in spaces and areas designated for such purposes.

(9) Personal conduct. It shall be unlawful for any person or persons to be intoxicated, to use profane language, to practice rowdyism or to otherwise conduct themselves in an improper manner while within the boundaries of a state park.

Section 4. IT IS FURTHER ORDERED that nothing in this order shall prohibit or hinder the state conservation commission, its park superintendents, or other duly authorized agents, or any peace officers, from performing their official duties on such state park areas.

Section 5. IT IS FURTHER ORDERED that this order shall become effective one week after publication in the official state paper, namely the Sheboygan Press of Sheboygan, Wisconsin, the Superior Telegram of Superior, Wisconsin, and the Wisconsin State Journal of Madison, Wisconsin.

Section 6. IT IS FURTHER ORDERED that this order shall be in force and effect from and after August 20, 1936.

Section 7. THIS ORDER was made and passed by the State Conservation Commission of Wisconsin at a meeting duly called and held by the said commission in the city of Madison, Wisconsin, this 21st day of July, 1936.

Section 8. IT IS FURTHER ORDERED that the Director of the State Conservation Commission of Wisconsin is authorized to validate this order by signing the same.

STATE CONSERVATION COMMISSION OF WISCONSIN

By (Signed) H. W. MacKenzie,  
Conservation Director.

State of Wisconsin )  
                          ) ss.  
County of Dane      )

Barney Devine, being first duly sworn, deposes and says that he is the duly qualified and acting Chief Conservation Warden and that as such Chief Conservation Warden he has custody and possession of Order No. M-173, the same being the original order passed by the State Conservation Commission under the provisions of section 23.09 of the Wisconsin statutes, and that the foregoing copy of the said order hereto attached is a true and exact copy of such original order.

Barney Devine.

Subscribed and sworn to  
before me this 20th day  
of August, 1936.

C. A. Bontly,  
Notary Public.

My commission expires August 13, 1939.



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### CERTIFICATE OF SERVICE

Case Names: ***Reno May, et al. v. Robert Bonta, et al.;***  
***Carralero, Marco Antonio, et al. v. Rob Bonta***

Case Nos. **8:23-cv-01696-CJC (ADSx); 8:23-cv-01798-CJC (ADSx)**

I hereby certify that on December 7, 2023, I electronically filed the following document with the Clerk of the Court by using the CM/ECF system:

**SUR-REBUTTAL DECLARATION OF LEAH GLASER IN  
SUPPORT OF DEFENDANT'S OPPOSITION TO PLAINTIFFS'  
MOTIONS FOR PRELIMINARY INJUNCTION (with Exhibits 1-15)**

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished electronically by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct.

Executed on December 7, 2023, at San Francisco, California.

Vanessa Jordan  
Declarant

*Vanessa Jordan*  
Signature

1 ROB BONTA  
 Attorney General of California  
 2 MARK R. BECKINGTON  
 R. MATTHEW WISE  
 3 Supervising Deputy Attorneys General  
 TODD GRABARSKY  
 4 JANE REILLEY  
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 E-mail: Robert.Meyerhoff@doj.ca.gov  
 9 *Attorneys for Rob Bonta, in his Official Capacity as  
 Attorney General of the State of California*

10 IN THE UNITED STATES DISTRICT COURT  
 11 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
 12

13 **RENO MAY, an individual, et al.;**  
 14  
 15 Plaintiffs,

16 v.

17 **ROBERT BONTA, in his official  
 capacity as Attorney General of the  
 State of California, and Does 1-10,**  
 18

Case No. 8:23-cv-01696 CJC (ADSx)  
 8:23-cv-01798 CJC (ADSx)

**SUR-REBUTTAL DECLARATION  
 OF DR. MARY FISSELL IN  
 SUPPORT OF DEFENDANT'S  
 OPPOSITION TO PLAINTIFFS'  
 MOTIONS FOR PRELIMINARY  
 INJUNCTION**

Date: December 20, 2023  
 Time: 1:30 p.m.  
 Courtroom: 9B  
 Judge: Hon. Cormac J. Carney  
 Action Filed: September 15, 2023

19 **MARCO ANTONIO CARRALERO, an  
 individual, et al.,**  
 20  
 21 Plaintiffs,

22 v.

23 **ROBERT BONTA, in his official  
 capacity as Attorney General of  
 California,**  
 24  
 25  
 26

27 Defendant.  
 28

1                   **SUR-REBUTTAL DECLARATION OF DR. MARY FISSELL**

2           I, Dr. Mary Fissell, declare under penalty of perjury that the following is true  
3 and correct:

4           1.     This declaration is based on my own personal knowledge and  
5 experience, and if I am called to testify as a witness, I could and would testify  
6 competently to the truth of the matters discussed in this declaration.

7           2.     I have been retained by the Office of the Attorney General for  
8 California as an expert on the history of medical facilities and hospitals in America,  
9 with an emphasis on the similarities and differences between hospitals as they  
10 existed in the Founding era (in and around the year 1791) and hospitals as they  
11 exist in the modern era.

12          3.     I previously provided a declaration in the above-captioned matters in  
13 support of the State of California's opposition to the *May* and *Carralero* Plaintiffs'  
14 motions for preliminary injunction. See Decl. of Dr. Mary Fissell, *May v. Bonta*,  
15 C.D. Cal. No. 8:23-cv-01696 CJC (ADSx) (Dkt. No. 21-3); *Carralero v. Bonta*,  
16 C.D. Cal. No. 8:23-cv-01798 CJC (ADSx) (Dkt. No. 20-3) (Fissell Decl.). My  
17 professional background and qualifications, and my retention and compensation  
18 information, are set forth in Paragraphs 3 and 4 of my prior declaration.

19          4.     I have been asked by the Office of the Attorney General to review and  
20 provide an expert opinion regarding some of the statements made in the Plaintiffs'  
21 reply briefs and supporting documents in these matters. *May* Dkt. Nos. 29, 29-9,  
22 29-14, 29-15; *Carralero* Dkt. No. 29. I have reviewed those briefs and documents,  
23 and have prepared this sur-rebuttal declaration in response.

24   **I.    RESPONSE TO STATEMENTS MADE IN *MAY* PLAINTIFFS' EVIDENTIARY**  
25   **OBJECTIONS TO FISSELL DECLARATION**

26          5.     The *May* Plaintiffs object to my opinion that "[t]o the extent that early  
27 hospital rules do not specify that inmates or visitors could not carry firearms, this  
28 absence is due to the fact that the nature of these institutions made it very unlikely

1 that such a rule would be necessary.” Fissell Decl. ¶ 14. Specifically, they assert  
2 that I provide “no citation to facts or sources” to support this opinion and claim that  
3 I made an “admission” that I am “speculating” as to this opinion. *See* Pls.’  
4 Evidentiary Objections to Fissell Decl. ¶ 2, *May v. Bonta* Dkt. No. 29-7.

5 6. First, the *May* Plaintiffs’ claim that I did not cite to facts or sources in  
6 support of my opinion is inaccurate. To the contrary, my declaration includes a  
7 detailed factual description of the nature of Founding-era hospitals (including, but  
8 not limited to, the indigent patient populations served by these early hospitals and  
9 the emphasis these institutions placed on order and control), and this factual  
10 description is supported by numerous citations to primary and secondary sources.  
11 *See* Fissell Decl. ¶¶ 5-12. The expert opinion that I provide in Paragraph 14 of my  
12 declaration is supported by, and predicated upon, these historical facts and citations.

13 7. Second, my declaration does not contain any “admission” that I am  
14 “speculating” in rendering this expert opinion. The historical profession, from  
15 Carlo Ginzburg to Marisa Fuentes, has regularly analyzed silences and documents  
16 and created plausible, historically sound explanations for these silences by  
17 examining the circumstances in which the document was crafted. Careful attention  
18 to a document’s creation is a hallmark of professional historical scholarship. Here,  
19 I reached the opinion set forth in Paragraph 14 of my declaration after a diligent  
20 examination and analysis of the circumstances under which Founding-era hospital  
21 rules were written, as described in Paragraphs 5-12 of my declaration.

22 **II. RESPONSE TO STATEMENTS MADE BY THE *MAY* PLAINTIFFS’ DECLARANT,**  
23 **CLAYTON CRAMER**

24 8. The *May* Plaintiffs’ declarant, Clayton Cramer, concedes that I provide  
25 “logical explanations for the absence” of rules or statutes explicitly prohibiting  
26 arms in Founding-era hospitals, but then claims that “other evidence suggests that  
27 [my] reasoning is based on false premises.” Clayton Cramer Rebuttal Decl. ¶ 57,  
28 *May v. Bonta* Dkt. No. 29-15. However, Cramer does not identify the purported

1 “other evidence” that he is referring to, nor does he explain what “false premises”  
2 my reasoning is allegedly based upon.

3 9. Cramer also cites to my statement that there were few hospitals in  
4 Founding-era America because it was a largely rural country that lacked the  
5 population densities sufficient to support a large number of hospitals. *See* Fissell  
6 Decl. ¶ 1. Cramer agrees that this statement is “certainly true,” but then goes on to  
7 argue that there was another reason for the scarcity of hospitals: families caring for  
8 the mentally ill. *See* Clayton Cramer Rebuttal Decl. ¶¶ 59-62, *May v. Bonta* Dkt.  
9 No. 29-15. He then discusses Founding-era home health care for the mentally ill,  
10 including the details of a case involving a father who provided domiciliary care to  
11 his mentally ill son in Symsbury, Connecticut. *Id.*

12 10. However, Cramer’s discussion of home care for certain mentally ill  
13 patients is not relevant to how Founding-era hospitals operated because, as  
14 explained in my declaration, early hospitals serviced those who could not afford  
15 home care. Nor does this discussion undermine any of my opinions. To the  
16 contrary, Cramer’s statements are entirely consistent with my opinion that home  
17 care was one dimension of a system of care that developed in a largely rural  
18 economy, in which there was low population density and many people who were  
19 able to care for their ill relatives in a domestic setting because they had the space to  
20 do so. As stated in my declaration, the preference for receiving medical treatment  
21 at home—rather than in a hospital—is a major contributing factor to the paucity of  
22 hospitals in early America.

23 11. Next, Cramer discusses whether urbanization promotes mental illness  
24 (*see* Clayton Cramer Rebuttal Decl. ¶¶ 63-66, *May v. Bonta* Dkt. No. 29-15), but  
25 this discussion is not pertinent to—nor does it contradict—any of my opinions.

26 12. Paragraph 67 of Cramer’s rebuttal declaration is in fundamental  
27 agreement with my analysis and opinions. Hospital care in eighteenth-century  
28 America largely consisted of caretaking because, in Cramer’s words, “[w]ithout X-

1 ray machines, and IVs, what could a hospital do, other than bed rest?” Clayton  
2 Cramer Rebuttal Decl. ¶¶ 67, *May v. Bonta* Dkt. No. 29-15. Indeed, much medical  
3 care in any Founding-era setting was a mix of nursing care and watchful waiting,  
4 and the inmates of infirmaries were in need of warm beds and regular meals as  
5 much as medical care. Cramer’s acknowledgement of “the limits of the [colonial  
6 period] medical profession’s toolbox” (*id.*) directly supports my opinion that  
7 hospitals in late eighteenth and early nineteenth century America were very  
8 different from the high-tech medical workplaces that exist today.

9 13. Cramer then objects that I do “not ever point to institutional rules or  
10 laws regulating arms possession seem (*sic*).” Clayton Cramer Rebuttal Decl. ¶¶ 67,  
11 *May v. Bonta* Dkt. No. 29-15. First, given the time constraints imposed by  
12 Plaintiffs’ motions for preliminary injunction and the patchy survival of early  
13 American records, I cannot and do not definitely state that no Founding-era hospital  
14 had a written rule explicitly prohibiting firearms. Second, as set forth in my  
15 declaration, such rules would not have been necessary because the inmates of  
16 Founding-era hospitals were too destitute to own firearms; had they not been  
17 destitute, they would not have been eligible for admission to such institutions.

18 14. In response to my opinion that specific rules governing firearms were  
19 unnecessary because “because it was assumed that those who had managed to  
20 navigate the networks of charity and patronage to gain admission were going to be  
21 well-behaved” (Fissell Decl. ¶ 8), Cramer points to the mentally ill who were  
22 confined to the Pennsylvania Hospital (Clayton Cramer Rebuttal Decl. ¶¶ 73, *May*  
23 *v. Bonta* Dkt. No. 29-15). However, this example is complicated by the fact that in  
24 this particular institution, care for the mentally ill was administered in a separate  
25 area of the hospital than care for patients with physical illnesses. The mentally ill  
26 included paying patients, who might be physically restrained. There were many  
27 more attendants for this part of the hospital than the medical part upstairs, and  
28 inmates’ behavior was governed closely by such attendants. It is an exception to

1 the usual functioning of infirmaries, almshouses, and poorhouses both because it  
2 took mentally-ill *paying* patients, and it because it relied upon physical restraints  
3 and close attendance as much as written rules to govern behavior. Fissell Decl. ¶ 8.  
4 Given such physical restraints and close attendance of the mentally ill at  
5 Philadelphia Hospital, it would have been even more unnecessary for this  
6 institution to have a separate written rule explicitly prohibiting firearms. Moreover,  
7 hospitals of any kind were rare in early America, and institutions dedicated to the  
8 care of the mentally ill were even scarcer. Limiting the historical analysis to only  
9 those hospitals that provided mental health treatment does not provide a complete  
10 and accurate historical picture of Founding-era health care facilities.

11 **III. RESPONSE TO STATEMENT MADE IN *CARRALERO* PLAINTIFFS' REPLY BRIEF**

12 15. Finally, the *Carralero* Plaintiffs claim that “there is historical evidence  
13 that doctors *on house calls* carried firearms”; in support of this claim, they cite to  
14 one source for the proposition that one doctor “carried guns while visiting patients  
15 for medical *house calls*.” *Carralero v. Bonta* Dkt. No. 29 at 28 n.11 (emphasis  
16 added). However, the *Carralero* Plaintiffs do not present any evidence that  
17 Founding-era doctors carried firearms while treating patients in hospitals, and the  
18 fact that one such doctor carried a firearm while making house calls has no bearing  
19 on this issue.

20  
21 I declare under penalty of perjury under the laws of the United States of  
22 America that the foregoing is true and correct.

23 Executed on December 4, 2023, at Baltimore, Maryland.

24  
25 

26  
27  
28  
\_\_\_\_\_  
Dr. Mary Fissell

Case 8:23-cv-01696-CJC-ADS Document 34 Filed 12/07/23 Page 7 of 7 Page ID #:2233

**CERTIFICATE OF SERVICE**

Case Names: ***Reno May, et al. v. Robert Bonta, et al.;***  
***Carralero, Marco Antonio, et al. v. Rob Bonta***

Case Nos. **8:23-cv-01696-CJC (ADSx); 8:23-cv-01798-CJC (ADSx)**

I hereby certify that on December 7, 2023, I electronically filed the following document with the Clerk of the Court by using the CM/ECF system:

**SUR-REBUTTAL DECLARATION OF DR. MARY FISSELL IN  
SUPPORT OF DEFENDANT’S OPPOSITION TO PLAINTIFFS’  
MOTIONS FOR PRELIMINARY INJUNCTION**

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished electronically by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct.

Executed on December 7, 2023, at San Francisco, California.

Vanessa Jordan  
\_\_\_\_\_  
Declarant

*Vanessa Jordan*  
\_\_\_\_\_  
Signature



1 ROB BONTA  
 Attorney General of California  
 2 MARK R. BECKINGTON  
 Supervising Deputy Attorney General  
 3 TODD GRABARSKY  
 JANE REILLEY  
 4 LISA PLANK  
 ROBERT L. MEYERHOFF  
 5 Deputy Attorneys General  
 State Bar No. 298196  
 6 300 South Spring Street, Suite 1702  
 Los Angeles, CA 90013-1230  
 7 Telephone: (213) 269-6177  
 Fax: (916) 731-2144  
 8 E-mail: Robert.Meyerhoff@doj.ca.gov  
 Attorneys for Rob Bonta, in his Official Capacity as  
 9 Attorney General of the State of California

10 IN THE UNITED STATES DISTRICT COURT  
 11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 **RENO MAY, an individual, et al.,**  
 14  
 Plaintiffs,  
 15  
 v.  
 16 **ROBERT BONTA, in his official**  
**capacity as Attorney General of the**  
 17 **State of California, and Does 1-10,**  
 18  
 Defendants.

Case Nos. 8:23-cv-01696 CJC (ADSx)  
 8:23-cv-01798 CJC (ADSx)

**SUR-REBUTTAL DECLARATION  
 OF PATRICK J. CHARLES IN  
 SUPPORT OF DEFENDANT'S  
 OPPOSITION TO PLAINTIFFS'  
 MOTIONS FOR PRELIMINARY  
 INJUNCTION**

Date: December 20, 2023  
 Time: 1:30 p.m.  
 Courtroom: 9B  
 Judge: Hon. Cormac J. Carney  
 Action Filed: September 15, 2023

21 **MARCO ANTONIO CARRALERO, an**  
 22 **individual, et al.,**  
 23  
 Plaintiffs,  
 24  
 v.  
 25 **ROBERT BONTA, in his official**  
**capacity as Attorney General of**  
 26 **California,**  
 27  
 Defendant.

1           **SUR-REBUTTAL DECLARATION OF PATRICK J. CHARLES**

2           Pursuant to 28 U.S.C. § 1746, I, Patrick J. Charles, declare and state as  
3 follows:

4           1.     I am over the age of eighteen (18) years, competent to testify to the  
5 matters contained in this declaration and testify based on my personal knowledge  
6 and information.

7           2.     I have been retained by the Office of the Attorney General for  
8 California as a historical and constitutional expert on Second Amendment matters. I  
9 also have expertise in legal history and its multiple uses in adjudicating  
10 constitutional questions.

11          3.     I previously provided a declaration in the above-captioned matters in  
12 support of the State of California's opposition to the plaintiffs' motions for  
13 preliminary injunction. *See* Decl. of Patrick J. Charles, *May v. Bonta*, C.D. Cal. No.  
14 8:23-cv-01696 CJC (ADSx) (Dkt. No. 21-2); *Carralero v. Bonta*, C.D. Cal. No.  
15 8:23-cv-01798 CJC (ADSx) (Dkt. No. 20-2).

16          4.     I have been asked by the Office of the Attorney General to review and  
17 provide an expert opinion regarding some of the statements made in the plaintiffs'  
18 reply briefs and supporting documents in these matters. *May* Dkt. Nos. 29, 29-9,  
19 29-14, 29-15; *Carralero* Dkt. No. 29. I have reviewed those briefs and documents,  
20 and have prepared this sur-rebuttal declaration in response.

21          5.     This sur-rebuttal declaration was compiled and completed outside my  
22 official duties for the United States Air Force (USAF), Department of Air Force  
23 (DAF), and Air Force Historical Research Agency (AFHRA). Moreover, the  
24 contents and opinions expressed in this declaration are solely my own, and not  
25 those of the USAF, DAF, AFHRA, the Department of Defense, or the federal  
26 government.

27  
28

1 **I. RESPONSE TO PLAINTIFFS' GENERAL STATEMENTS ON SENSITIVE**  
2 **PLACES**

3 6. As the Supreme Court has acknowledged, the Statute of Northampton  
4 and its tenets “survived both *Sir John Knight's Case* and the English Bill of  
5 Rights,” *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111, 2142 (2022), and  
6 subsequently was adopted in the American Colonies, *id.* at 2142-43; *see also* JOEL  
7 PRENTISS BISHOP, COMMENTARIES ON THE LAWS OF STATUTORY CRIMES § 784  
8 (1873) (noting that the “offence” codified by the Statute of Northampton was  
9 already part of the “earlier common law,” which “bears a date long anterior to the  
10 settlement of this country” that is “adapted to the wants of every civilized  
11 community”). And one of the key tenets of the Statute of Northampton that was  
12 embraced in the American Colonies was its “fairs” and “markets” language. 2 Edw.  
13 3, c. 3 (1328) (Eng.).

14 7. This is historically indisputable as several late eighteenth century  
15 American legal sources attest. *See* 2 THE PERPETUAL LAWS, OF THE  
16 COMMONWEALTH OF MASSACHUSETTS, FROM THE ESTABLISHMENT OF ITS  
17 CONSTITUTION TO THE SECOND SESSION OF THE GENERAL COURT, IN 1798, at 259  
18 (1799) (confirming that no person “shall ride or go armed offensively, to the fear or  
19 terror of the good citizens of this Commonwealth”); FRANCOIS-XAVIER MARTIN, A  
20 COLLECTION OF STATUTES OF THE PARLIAMENT OF ENGLAND IN FORCE IN THE STATE  
21 OF NORTH CAROLINA 60-61 (1792) (attached hereto as **Exhibit A**) (confirming the  
22 survival of the “fairs” and “markets” language by the late eighteenth century); A  
23 COLLECTION OF ALL SUCH ACTS OF THE GENERAL ASSEMBLY OF VIRGINIA, OF PUBLIC  
24 AND PERMANENT NATURE, AS ARE NOW IN FORCE 30 (1803),  
25 <https://catalog.hathitrust.org/Record/009779357> (confirming the survival of the  
26 “fairs” and “markets” language at the turn of the nineteenth century).

27 8. Furthermore, the Statute of Northampton is not the only English statute  
28 that regulated armed carriage at specific, sensitive locations. *See* Charles Decl.

1 ¶¶ 9-10. Plaintiffs’ declarant, Clayton Cramer, claims that laws cited in my  
2 declaration would have only applied in instances where the carrying of arms would  
3 disrupt government functions. *See* Clayton Cramer Rebuttal Decl. ¶¶ 31-35, *May v.*  
4 *Bonta* Dkt. No. 29-15. That is mistaken. For instance, the 1351 Royal Proclamation  
5 prohibited going armed “within the City of London, or within the suburbs, or in any  
6 other places between said city and the Place of Westminster.” *Royal Proclamation*  
7 *as to the Wearing of Arms in the City, and at Westminster; and as to Playing at*  
8 *Games in the Palace at Westminster*, MEMORIALS OF LONDON AND LIFE 268-69, 273  
9 (H.T. Riley ed., 1868). And although the Royal Proclamation’s preamble states that  
10 this rule of law was laid down because people with arms were attempting to disrupt  
11 the proceedings of Parliament, the legal language of the proclamation is clear in its  
12 prohibition of carrying arms in those locations for any reason. *Id.*

13 9. Cramer also errs in his search for 4 Hen. 4, c. 29 (1402), which stated  
14 that “no Man be armed nor bear defensible armor to Merchant Towns Churches nor  
15 Congregations in the same, nor in the Highways, in affray of the Peace or the  
16 King’s Liege people.” Cramer asserts there was “no such law.” Cramer Rebuttal  
17 Decl. ¶ 35. But it is contained in volume two of the *Statutes of the Realm*. *See* 2  
18 THE STATUTES OF THE REALM 141 (1816) (1963 reprint),  
19 <https://catalog.hathitrust.org/Record/012297566> (included as Exhibit 6 to  
20 Defendant’s Compendium of Historical Laws and Treatises, *May* Dkt. 22).

21 10. Thus, it remains true that “armed carriage restrictions and the English  
22 common law against ‘going armed’ in urban and densely populated locations indeed  
23 made their way into the American Colonies and subsequent United States.” Charles  
24 Decl. ¶ 12. Similarly, laws prohibiting unlawful “armed assemblies...no matter  
25 whether said assemblies were deemed the militia or not” were also part of American  
26 law prior to, contemporaneous with, and after the ratification of the Second  
27  
28

1 Amendment.<sup>1</sup> Charles Decl. ¶ 12. William Rawle’s treatise *A View of the*  
2 *Constitution of the United States* confirms this was indeed the law of the land by  
3 the early-to-mid nineteenth century.<sup>2</sup> WILLIAM RAWLE, A VIEW OF THE  
4 CONSTITUTION OF THE UNITED STATES 126 (2d ed., 1829) (noting that the Second  
5 Amendment “ought not...in any government...be abused to the disturbance of the  
6 public peace,” which included the assembling “of persons with arms, for an  
7 unlawful purpose”).

8 11. While the Plaintiffs dispute this, see Pls.’ Evidentiary Objections to  
9 Charles Decl. ¶ 2, *May v. Bonta* Dkt. No. 29-9; Cramer Rebuttal Decl. ¶¶ 30-38, the  
10 evidentiary record is rather clear and straightforward: location specific restrictions  
11 on armed carriage in densely populated locations, what are otherwise known as  
12 “sensitive places,” were part of American law prior to, contemporaneous with, and  
13 after the ratification of the Second Amendment. In short, there is indeed evidence  
14 supporting Anglo-American history and tradition of prohibiting the carrying of  
15 dangerous weapons at so-called “sensitive places.”

## 16 **II. RESPONSE TO PLAINTIFFS’ STATEMENTS ON REGULATIONS OF LIQUOR** 17 **AND ARMS BEARING**

18 12. Although the Plaintiffs and Cramer object to conclusions on the  
19 regulatory history of liquor and arms bearing, they do not provide any substantive  
20 historical evidence that counters it. The combination of liquor and arms bearing was  
21 widely deemed dangerous by the mid-to-late nineteenth century, as numerous laws  
22 attest. *See* Charles Decl. ¶¶ 22-26.

23 <sup>1</sup> My declaration cites laws and historical research showing that “armed  
24 assemblies circa the late eighteenth century, no matter whether said assemblies  
25 were deemed the militia or not,” were generally deemed unlawful. Charles Decl.  
26 ¶ 12. Yet Cramer inaccurately claims that my declaration cites these sources for the  
27 proposition that the carrying of arms “in urban and densely populated locations”  
28 was prohibited. Cramer Rebuttal Decl. ¶¶ 41-47.

26 <sup>2</sup> Here, too, Cramer inaccurately characterizes my declaration as having  
27 “grossly misquoted” Rawle. Cramer Rebuttal Decl. ¶¶ 48-50. In actuality, my  
28 declaration (Charles Decl. ¶ 12), quoted verbatim language from Rawle’s treatise,  
which states that the Second Amendment does not protect any “assemblage of  
person with arms, for an unlawful purpose...” RAWLE, *supra*, at 129.

1 **III. RESPONSE TO PLAINTIFFS’ STATEMENTS ON REGULATION OF ARMS**  
2 **BEARING IN PLACES OF WORSHIP**

3 13. Although the Plaintiffs assert that many eighteenth-century era “bring  
4 your guns to church laws” were not racist, the historical record strongly suggests  
5 otherwise—and indeed, Cramer concedes as much. Cramer Decl. ¶ 55.

6 14. To be sure, in accordance with their compulsory militia power, the  
7 colonies of Massachusetts and Rhode Island, enacted several laws requiring  
8 parishioners to bring their firearms to church to either (a) conduct mandatory militia  
9 training or (b) have their arms available should the colony come under attack from  
10 indigenous tribes. However, in the southern American Colonies, particularly  
11 Virginia, Maryland, Georgia, and South Carolina, where the institution of slavery  
12 was rampant, “bring your guns to church” laws were enacted for the racist purpose  
13 of maintaining slavery. This is not only my assessment having personally examined  
14 these laws and their historical genesis, *see* Patrick J. Charles, *Racist History and the*  
15 *Second Amendment: A Critical Commentary*, 43 CARDOZO L. REV. 1343, 1351  
16 (2022), but also is the view of others, including Dr. Salley Hadden, who specializes  
17 in this area, SALLY E. HADDEN, *SLAVE PATROLS: LAW AND VIOLENCE IN VIRGINIA*  
18 *AND THE CAROLINAS* 23-24, 140-41 (2001).

19 **IV. RESPONSE TO PLAINTIFFS’ STATEMENTS ON THE RELEVANCE ON**  
20 **CARRY PROHIBITIONS IN COMMERCIAL OR CORPORATE LIMITS**

21 15. Plaintiffs mischaracterize my declaration’s discussion on ordinances  
22 prohibiting the carrying of firearms in the “commercial” or “corporate” limits as  
23 “prohibiting carry in entire cities...” Pls. Evidentiary Objections to Charles Decl.  
24 ¶ 6. From the mid-to-late nineteenth century, however, the “commercial” or  
25 “corporate” limits generally encompassed those areas where the people regularly  
26 congregated to conduct shopping, business, and government affairs.  
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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 2, 2023, at Auburn, Alabama.

  
\_\_\_\_\_  
PATRICK J. CHARLES

# **Exhibit A**



24627

North Carolina. Laws, Statutes, etc., 1792.

A Collection of the Statutes of the Parliament of England  
in Force in ... North Carolina.

Newbern, 1792. xxvi, 424, [ 3 ] pp.

AAS copy.

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




---

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

---

NEW BERN:  
 FROM THE EDITOR'S PRESS.

---

1792.

( 60 )

## C H A P. VIII.

*Nothing shall be taken for Beaupleader.*

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

## C H A P. XIV.

*Nene shall commit Maintenance.*

**I**TEM, Because the King desireth that common right be administered to all persons, as well poor as rich, he commandeth and defendeth, that none of his Counsellors, nor of his house, nor none other of his Ministers, nor no great man of the realm by himself, nor by other, by sending of letters, nor otherwise, nor none other in this land, great nor small, shall take upon them to maintain quarrels nor parties in the country, to the let and disturbance of the common law.

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

## C H A P. I.

*A Confirmation of the Great Charter and the Charter of the Forest.**[Unnecessary to be inserted.]*

## C H A P. III.

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

**I**TEM, It is enacted, that no man great nor small, of what condition soever he be, except the King's servants in his presence, and his Ministers in executing of the King's precepts, or of their office, and such as be in their company assisting them, and also upon a cry made for arms to keep the peace, and the same in such places where such acts happen, be so hardy to come before the King's Justices, or other of the King's

( 61 )

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

---

C H A P. V.

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

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

---

C H A P. VI.

*Justices shall have Power to punish Breakers of the Peace.*

**I**TEM, as to the keeping of the peace in time to come, it is ordained and enacted that the statutes made in time past, with the statute of Winchester, shall be observed and kept in every point: and where it is contained in the end of said statute of Winchester, that the Justices assigned shall have power to enquire of defaults, and to report to the King in his next parliament, and the King to remedy it, which no man hath yet seen, the same Justices shall have power to punish the offenders and disobeyers.

Q

Case 8:23-cv-01696-CJC-ADS Document 33 Filed 12/07/23 Page 13 of 13 Page ID #:2226

### CERTIFICATE OF SERVICE

Case Names: *Reno May, et al. v. Robert Bonta, et al.;*  
*Carralero, Marco Antonio, et al. v. Rob Bonta*

Case Nos. **8:23-cv-01696-CJC (ADSx); 8:23-cv-01798-CJC (ADSx)**

I hereby certify that on December 7, 2023, I electronically filed the following document with the Clerk of the Court by using the CM/ECF system:

**SUR-REBUTTAL DECLARATION OF PATRICK J. CHARLES IN  
SUPPORT OF DEFENDANT'S OPPOSITION TO PLAINTIFFS'  
MOTIONS FOR PRELIMINARY INJUNCTION (with Exhibit A)**

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished electronically by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct.

Executed on December 7, 2023, at San Francisco, California.

Vanessa Jordan  
\_\_\_\_\_  
Declarant

*Vanessa Jordan*  
\_\_\_\_\_  
Signature

1 ROB BONTA  
 Attorney General of California  
 2 MARK R. BECKINGTON  
 R. MATTHEW WISE  
 3 Supervising Deputy Attorneys General  
 TODD GRABARSKY  
 4 JANE REILLEY  
 LISA PLANK  
 5 ROBERT L. MEYERHOFF  
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 8 Fax: (916) 731-2144  
 E-mail: Robert.Meyerhoff@doj.ca.gov  
 9 *Attorneys for Rob Bonta, in his Official Capacity as  
 Attorney General of the State of California*

10 IN THE UNITED STATES DISTRICT COURT  
 11 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
 12  
 13

14 **RENO MAY, an individual, et al.,**  
 Plaintiffs,  
 15  
 16 v.  
 17 **ROBERT BONTA, in his official  
 capacity as Attorney General of the  
 18 State of California, and Does 1-10,**  
 Defendants.  
 19

Case Nos. 8:23-cv-01696 CJC (ADSx)  
 8:23-cv-01798 CJC (ADSx)

**SUR-REBUTTAL DECLARATION  
 OF HOLLY BREWER IN  
 SUPPORT OF DEFENDANT'S  
 OPPOSITION TO PLAINTIFFS'  
 MOTION FOR PRELIMINARY  
 INJUNCTION**

Date: December 20, 2023  
 Time: 1:30 p.m.  
 Courtroom: 9B  
 Judge: Hon. Cormac J. Carney

22 **MARCO ANTONIO CARRALERO, an  
 individual, et al.,**  
 Plaintiffs,  
 23  
 24 v.  
 25 **ROBERT BONTA, in his official  
 capacity as Attorney General of  
 26 California,**  
 Defendant.  
 27  
 28

1       **SUR-REBUTTAL DECLARATION OF PROFESSOR HOLLY BREWER**

2           I, Holly Brewer, declare under penalty of perjury that the following is true  
3 and correct:

4           1.       This declaration is based on my own personal knowledge and  
5 experience, and if I am called to testify as a witness, I could and would testify  
6 competently to the truth of the matters set forth in this declaration.

7           2.       I previously provided a declaration in support of the State of  
8 California's opposition to the plaintiffs' motions for preliminary injunction filed in  
9 *May v. Bonta*, C.D. Cal. No. 8:23-cv-01696 CJC (ADSx) (Dkt. No. 21-1) and  
10 *Carralero v. Bonta*, C.D. Cal. No. 8:23-cv-01798 CJC (ADSx) (Dkt. No. 20-1).  
11 See Decl. of Professor Holly Brewer (herein referred to as the "Brewer  
12 Declaration" or "Declaration"). My professional background and qualifications,  
13 and my retention and compensation information, are set forth in Paragraphs 3-7 and  
14 Paragraph 8 of the Declaration, respectively.

15           3.       The Declaration was prepared pursuant to a request from the Office of  
16 the Attorney General of the State of California to provide an expert opinion on  
17 several aspects of the history of early America, including to comment on assertions  
18 made by the *May* and *Carralero* Plaintiffs in their preliminary injunction motions  
19 about the existence in early America of certain entities and establishments that  
20 today are frequented by children, and on the history of certain aspects of firearms  
21 regulation in the Anglo-American legal tradition.

22           4.       For this rebuttal declaration, I have been asked by the Office of the  
23 Attorney General to review and provide a response and/or an expert opinion  
24 regarding certain statements (discussed herein below) made in the *Carallero*  
25 Plaintiffs' reply brief (*Carralero* Dkt. No. 29) and in the Rebuttal Declaration of  
26 Clayton Cramer (*May* Dkt. Nos. 29-15) ("Cramer Rebuttal Decl.") filed in support  
27 of the *May* Plaintiffs' reply. I have reviewed those statements and prepared this  
28 sur-rebuttal declaration.

1           5.       The opinions I provide in this sur-rebuttal declaration are based on my  
2 review of the referenced statements and the citations in support thereof and of  
3 documents filed in this lawsuit, and on my education, expertise, and research. The  
4 opinions contained herein are made pursuant to a reasonable degree of professional  
5 certainty

6       **I.    RESPONSE TO STATEMENTS MADE IN REBUTTAL DECLARATION OF**  
7       **CLAYTON CRAMER FILED IN SUPPORT OF *MAY* PLAINTIFFS’ REPLY**

8           6.       The *May* Plaintiffs’ declarant Clayton Cramer purports to critique my  
9 Declaration in various respects. To start with, Cramer asserts in his Declaration  
10 “Summary” that “[a]n astonishing number of [Brewer’s] sources either do not  
11 support or sometimes contradict her claims” that “institutions similar to those  
12 declared “sensitive areas” by SB 2 did not exist in the Founding Era.” Cramer  
13 Rebuttal Decl. ¶¶ 1-2. However, Cramer’s Declaration fails to identify *any* source  
14 contradicting the referenced established facts—that no public libraries, museums,  
15 zoos, stadiums, arenas, amusement parks, or playgrounds existed before 1791—or  
16 my opinions about them.

17           7.       Indeed, and tellingly, Cramer himself repeatedly expresses  
18 concurrence with these opinions in his rebuttal declaration. Cramer Rebuttal Decl.  
19 ¶¶ 4<sup>1</sup>, 5-8, 17. As one example, in paragraph 8, Cramer explicitly disagrees with  
20 the *Carrelero* Plaintiffs’ contention that venues analogous to stadiums, arenas and  
21 amusement parks were “widespread” during the Founding era. *Id.* ¶ 8.

22           8.       In addition to concurring with my key points that no public libraries,  
23 museums, zoos, stadiums, arenas, amusement parks, or playgrounds existed before  
24 1791, Cramer expressly agrees that this necessarily means there could not have  
25

26 \_\_\_\_\_  
27 <sup>1</sup> Cramer’s statements in paragraph 4 mistakenly assume that my reference to  
28 “the *Carralero* Plaintiff[s]” erroneous arguments that public libraries and  
museums existed in the Founding Era were directed at his declaration in support  
rather than those Plaintiffs’ brief. See Brewer Decl. ¶¶ 13-15.



1 been any historical laws regulating these institutions. Cramer Rebuttal Decl. ¶¶ 4,  
2 5-8, 17.

3 9. The purpose of Cramer’s meandering discussion relating to  
4 recreational spectator activities of the 1740s to 1790s is unclear. *See* Cramer  
5 Rebuttal Decl. ¶¶ 8-17. While Cramer has an idiosyncratic perspective on certain  
6 aspects of 18th century horse races and cock-fights, he ultimately agrees that  
7 modern events in crowded stadiums “have no Founding Era analog.”

8 10. My Declaration concluded that in the absence of public libraries,  
9 museums, playgrounds, zoos, amusement parks and major sporting events in the  
10 colonial era, the closest analogue to these sites and events in the era of the new  
11 republic would have been public schools that were first built in the wake of the  
12 Revolution, at a time when firearm regulations often did exist. Brewer Decl. ¶ 23.  
13 Cramer opines that my “knowledge of the history of American public education is  
14 deficient”; he argues that New England colonies created public schools starting in  
15 1635. Cramer Rebuttal Decl. ¶¶ 18-20.

16 11. Cramer’s assertion is confusing, but might be based on Massachusetts’  
17 earliest experiments with rudimentary public schools, which in this context were a  
18 classic example of an “outlier.” These schools, of which there were very few in the  
19 seventeenth century, consisted of education that lasted at most for a few months,  
20 and that had as its purpose to encourage children to learn to read the Bible in order  
21 to keep the devil at bay. As stated in the Massachusetts’ 1647 law, parents and  
22 masters should teach children to read the Bible because “[i]t being one chief project  
23 of that old deluder, Satan, to keep men from the knowledge of the Scriptures.” *See*  
24 *American Education: the Colonial Experience* (New York: Harper Collins, 1970),  
25 “Old Deluder Laws” at 181). That 1647 law required that every town of above 50  
26 families should hire a tutor, and every town with more than 100 families should set  
27 up a grammar school to prepare boys who were capable to prepare to study for the  
28 ministry (at Harvard College). Such was the limited nature of public education in

1 the colonial period, during which many colonies and colonial governors did more to  
2 hinder such efforts than to support them. The historical record manifestly supports  
3 my opinion that public schools as we would think of them today—that is, schools  
4 that taught a variety of subjects, that children would attend for years (as opposed to  
5 months), and that prepared all children to become future citizens—began to slowly  
6 expand only after the Revolution.<sup>2</sup>

7 12. Cramer also attempts to critique my related opinion that college  
8 students in the period just after the Revolution were subject to relatively systematic  
9 rules barring weapons, but he does not cite evidence that contradicts the opinion.

10 13. First, I cited four examples of such firearm regulations at prominent  
11 institutions of the time, with citations, in paragraph 22 of my Declaration. Brewer  
12 Decl. ¶ 22, n. 9-12. All of these regulations date to between 1795 and 1838. I have  
13 included more below, in paragraph 16.

14 14. Second, rather than providing evidence to the contrary, Cramer in fact  
15 identifies additional examples of such firearm bans at colleges in his rebuttal  
16 declaration, including prohibitions on carrying “deadly weapons” that were in place  
17 at Oakland College of Mississippi in 1831 and at Illinois College in 1850. Cramer  
18 Rebuttal Decl. ¶ 24.<sup>3</sup>

19 <sup>2</sup> The most comprehensive evaluations of the history of public education in  
20 the United States are by Lawrence Cremin, who wrote three massive volumes over  
21 the course of his career. The two that relate to this question are *American*  
22 *Education: the Colonial Experience* (New York: Harper Collins, 1970), “Old  
23 *Deluder Laws*” at 181, and *American Education, the National Experience* (New  
24 *York: Harper Collins, 1980*). During the colonial period, in particular, royal  
25 governors often explicitly opposed free education, which they thought bred dissent.  
26 So in 1671 the governor of Virginia, William Berkeley, responded to an official  
27 inquiry about whether free schools existed in the colony with “I thank God, there  
28 are no free schools, nor printing; and I hope we shall not have these hundred years;  
for learning has brought disobedience, and heresy, and sects into the world, and  
printing has divulged them, and libels against the best governments. God keep us  
from both.” See Cremin, *Colonial Experience* at 178.

<sup>3</sup> Cramer notes that the two weapons bans he cites prohibit the “carrying” of  
deadly weapons but not “possession” of deadly weapons within one’s residence or  
room, but these nuances notwithstanding, these examples too support my opinion  
that there was a post-Revolution historical tradition of firearm restrictions at  
colleges. See Cramer Rebuttal Decl. ¶ 24.

1           15. Because such post-Revolution regulations were made locally, by the  
2 schools themselves, and many such regulations were not published, they have not  
3 all survived as historical artifacts, certainly not in an easily searchable and  
4 published form. For example, the University of Pennsylvania’s *Rules and*  
5 *Regulations*, when published in 1820, set up general procedures for punishment of  
6 students for misbehavior, without any details about what would be punishable. The  
7 details were left up to the trustees to elaborate at future meetings.<sup>4</sup> That all such  
8 records about rules and regulations were not published in full means that any search  
9 through published records would miss many manuscript copies of rules and  
10 regulations that would include details about firearm restrictions in place during this  
11 time frame. Any such search is thus necessarily incomplete. But just because they  
12 are not searchable in the printed record does not mean that they did not exist.

13           16. In preparing this rebuttal declaration, I was able to fairly efficiently  
14 find several more examples that appeared in virtually every set of comprehensive  
15 rules that were published. While most of the published rules, unsurprisingly, were  
16 from prominent institutions, they do show a comprehensive pattern that suggests  
17 such policies were routine at most institutions. I immediately refound (and reread)  
18 Yale’s *Rules and Regulations* for the college in 1808, which I mentioned in my first  
19 account; the relevant rule therein stated that “[i]f any students shall keep any kind  
20 of fire-arms or gun-powder, or shall fire any gunpowder . . . he shall be  
21 admonished, rusticated, or otherwise punished as the case may require.”<sup>5</sup> Note that  
22 “rusticated” meant suspended from the college (that is, sent to “rusticate” in the  
23 country). Harvard College’s rules, as published in 1820, stated that “no student  
24 shall keep a gun or pistol or any gunpowder within the college or town of  
25

26 \_\_\_\_\_  
27 <sup>4</sup> *Rules and Regulations of the University of Pennsylvania* (Philadelphia,  
1820), 14-15.

28 <sup>5</sup> *Laws of Yale College* (New Haven: Oliver Steele, 1808), 24.

1 Cambridge,” upon penalty of monetary fines.<sup>6</sup> Dartmouth’s rules, published in  
2 1822, prohibited firing any weapon anywhere near college (upon a heavy fine).<sup>7</sup>  
3 William & Mary’s *Laws and Regulations* as published in 1830 prohibited “carrying  
4 arms privately” (meaning when not in some kind of formal military review or in use  
5 in a class—“gunnery” was studied in geometry). In addition, William and Mary’s  
6 rules prohibited “shooting or making noise in the night or day in the city” as well as  
7 dueling. All three gun-related offenses could lead to suspension.<sup>8</sup>

8 17. Relatedly, Cramer disputes my claim that students attending college in  
9 the 1790s were explicitly excluded from having to participate in the militia by *most*  
10 state militia statutes. Cramer Rebuttal Decl. ¶ 21. It is a bit tedious to go through  
11 all of these exemptions, but I note here that I went through all related statutes for all  
12 thirteen original states before stating that opinion (and can provide the text for all of  
13 them as required). For purposes of brevity, I focus here on some of the states that  
14 Cramer highlighted as *not* having such rules, to show that they in fact did.

15 18. Connecticut’s statute of 1793, for example, which Cramer says was  
16 exceptional, is actually more the rule. Connecticut exempted from military service  
17 “the President, Professors, and Tutors of College, and Students till the time of  
18 taking their second degrees” as well as “schoolmasters.”<sup>9</sup>

19 19. Cramer then states that in Virginia there was no such exception.  
20 However, there was, at least when there was no active war. In 1777, in the midst of  
21 the revolutionary war itself, Virginia students and professors both were expected to  
22 be part of the militia (1777), which was an understandable necessity. But when  
23 peace arrived, in October of 1782, Virginia exempted all faculty and most students

24 \_\_\_\_\_  
25 <sup>6</sup> *Laws of Harvard College* (Cambridge, MA: University Press, 1820), 24.

26 <sup>7</sup> *Dartmouth College Laws for the Use of the Students* (Haverhill, NH: Goss,  
27 1822), 18.

28 <sup>8</sup> *Laws and Regulations of the College of William and Mary in Virginia*  
(Richmond: Thomas White, 1830), 4. The reference to “gunnery” being taught as  
part of mathematics is at page 8.

<sup>9</sup> *Acts and Laws of the State of Connecticut in America* (1796), 302.

1 from militia service: “*And be it further enacted, That the rector, professors, masters*  
2 *and tutors, duly elected for, and bona fide acting as such in the said academy, and*  
3 *in all other seminaries and public schools, and also all students thereof, under the*  
4 *age of twenty-one years, shall be, and are hereby exempted from military duty.*”<sup>10</sup>

5 20. In Georgia, another state that Cramer singled out, the militia act of  
6 1792 excluded, along with legislators, ferrymen, and madmen, “all tutors and  
7 students.”<sup>11</sup>

8 21. While in Delaware students did have to serve in the militia, they did  
9 not have to provide weapons, so they could hardly be expected to, as Cramer  
10 asserts, access them on short notice for emergency service. See Cramer Rebuttal  
11 Decl. ¶ 21. Delaware explicitly exempted from militia duty “teachers in colleges,  
12 academies, Latin schools, and schoolmasters.” But immediately afterward,  
13 language was added stating that not only students but all young men did not have to  
14 supply their own weapons: “all young men under the age of twenty-one years, and  
15 all servants . . . shall be exempted from furnishing the necessary arms, ammunition  
16 and accoutrements.”<sup>12</sup> There were a few other states like Delaware (that did not  
17 exempt students but also did not expect them to have weapons), but most statutes  
18 resembled the ones in Connecticut, Virginia, and Georgia discussed above. In  
19 summary, as previously noted, students were generally not expected to serve in the  
20 militia.

21 22. Finally, Cramer notes that the college student firearm bans were  
22 “rules, not laws.” Cramer Rebuttal Decl. ¶¶ 21, 26. This is true, and of course I  
23 described the college firearms restrictions that I cited as “rules” and not as “laws.”

24 \_\_\_\_\_  
25 <sup>10</sup> William Waller Hening, *Statutes at Large of Virginia*, (Richmond:  
Cochrane, 1821-3) 9:313, 11:166. Italics mine.

26 <sup>11</sup> *Laws of the State of Georgia from their First Establishment to 1799*  
(Philadelphia: R. Aiken, 1800), p. 467 (Paragraph 32).

27 <sup>12</sup> Delaware. *Laws of the State of Delaware from the Fourteenth Day of*  
28 *October, One Thousand Seven Hundred, to the Eighteenth Day of August, One*  
*Thousand Seven Hundred and Ninety-Seven*. New-Castle, Samuel & John  
Adams. 1797, p. 1135.

1 Such rules demonstrate that there was a historical tradition of relevant firearm  
2 restrictions that reflected community norms and practices. It would have been  
3 bizarre at the time, when legislatures met only part of every year and created many  
4 fewer laws, for them to so comprehensively regulate how students should behave.  
5 They left that up to the institutions themselves, as shown above.

## 6 **II. RESPONSE TO STATEMENTS MADE IN *CARRALERO* PLAINTIFFS' REPLY BRIEF**

7 23. On page 13 of their Reply brief, the *Carralero* Plaintiffs assert that  
8 "California [] misunderstands why students could be disarmed at the Founding,"  
9 and that I "conceded" in my Declaration that "early firearms regulations on college  
10 campus[sic] disarmed students not because they are vulnerable but because their  
11 schools exercised *in loco parentis* authority over them." *Carallero* Reply brief, p.  
12 13, lines 4-9, referencing paragraph 22 of my Declaration. These assertions reflect  
13 a misunderstanding of the status of minors during this period as well as of the  
14 concept of *loco parentis*. Children under the age of 21 were considered legally  
15 incapable in most ways, requiring the supervision of others. They were considered  
16 vulnerable, and in need of help, advice, and supervision, even if they attended  
17 college (as demonstrated above). William Blackstone's widely-read digest of the  
18 Common Law, which was reprinted in many editions during the founding era, put  
19 the issue of minors' legal disabilities precisely:

20 The legal power of a father (for a mother, as such, is entitled  
21 to no power, but only to reverence and respect) the power of a  
22 father, I say, over the persons of his children ceases at the age  
23 of twenty one, for they are then enfranchised by arriving at  
24 years of discretion, or that point which the law has established  
25 . . . when the empire of the father, or other guardian, gives  
26 place to the empire of reason.<sup>13</sup>

27 \_\_\_\_\_  
28 <sup>13</sup> William Blackstone, *Commentaries on the Laws of England* (1765–1769;  
rpt. Chicago, 1979), I, 441, 450.

1 That is, until a young man (or woman) reached the age of 21 and had full use of his  
2 reason and therefore full capacity to make judgments, he had no independent  
3 political and legal capacity. This position was echoed by many judges in other  
4 treatises that provided the foundation of legal education during this period. James  
5 Kent, in his influential *Commentaries on American Law*, wrote in 1826: “The  
6 necessity of guardians results from the inability of infants to take care of  
7 themselves; and this inability continues, in contemplation of law, until the infant  
8 has attained the age of twenty-one years.”<sup>14</sup> Those under 21 were accordingly  
9 subject to greater state supervision than nearly any other legal entity during the  
10 early years of the republic. It is for that reason that the concept of “in loco  
11 parentis” even existed.<sup>15</sup>

12 24. My statement in paragraph 22 of the declaration that students lived  
13 under the authority of colleges operating in *loco parentis* for those under the age of  
14 21 is in no way a concession that firearms restrictions for students were enacted for  
15 a purpose other than public safety, and in fact the opposite is true. *Loco parentis*  
16 assumed then, as it does now, that minors need to be supervised by parents,  
17 masters, guardians, professors and others, for their own benefit as well as,  
18 correspondingly, for public safety.

19 I declare under penalty of perjury under the laws of the United States of  
20 America that the foregoing is true and correct.

21 Executed on December 5, 2023, at University Park, Maryland.

22 

23 \_\_\_\_\_  
24 Holly Brewer

25  
26  
27 <sup>14</sup> James Kent, *Commentaries On American Law* [1826] 2:259 (3d ed., 1836).

28 <sup>15</sup> Holly Brewer, *By Birth or Consent: Children, Law, and the Anglo-American Revolution in Authority* (Chapel Hill, UNC Press, 2005), chapter 7.

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### CERTIFICATE OF SERVICE

Case Names: *Reno May, et al. v. Robert Bonta, et al.;*  
*Carralero, Marco Antonio, et al. v. Rob Bonta*

Case Nos. **8:23-cv-01696-CJC (ADSx); 8:23-cv-01798-CJC (ADSx)**

I hereby certify that on December 7, 2023, I electronically filed the following document with the Clerk of the Court by using the CM/ECF system:

**SUR-REBUTTAL DECLARATION OF HOLLY BREWER IN  
SUPPORT OF DEFENDANT'S OPPOSITION TO PLAINTIFFS'  
MOTION FOR PRELIMINARY INJUNCTION**

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished electronically by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct.

Executed on December 7, 2023, at San Francisco, California.

Vanessa Jordan  
\_\_\_\_\_  
Declarant

*Vanessa Jordan*  
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 13 **SOUTHERN DIVISION**

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 15 ERIC HANS, an individual; GARY  
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 18 individual; JOSE FLORES, an  
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 19 DDS, an individual; SECOND  
 AMENDMENT FOUNDATION; GUN  
 20 OWNERS OF AMERICA; GUN  
 OWNERS FOUNDATION; GUN  
 21 OWNERS OF CALIFORNIA, INC.;  
 THE LIBERAL GUN CLUB, INC.; and  
 22 CALIFORNIA RIFLE & PISTOL  
 ASSOCIATION, INCORPORATED,

23 Plaintiffs,

24 v.

25 ROBERT BONTA, in his official  
 capacity as Attorney General of the  
 26 State of California, and DOES 1-10,

27 Defendants.

Case No.: 8:23-cv-01696 CJC (ADSx)

**REBUTTAL DECLARATION OF  
 CLAYTON CRAMER**

Hearing Date: December 20, 2023  
 Hearing Time: 1:30 p.m.  
 Courtroom: 9 B  
 Judge: Hon. Cormac J. Carney

TABLE OF AUTHORITIES

**Cases**

*Carr v. State,*

34 Ark. 448 (Ark. 1879).....40, 41

*Cockrum v. State,*

24 Tex. 394, 401 (1859). .....39

*English v. State,*

35 Tex. 473, 489 (1872). .....39, 40

*Eslava v. State,*

49 Ala. 355 (Ala. 1873).....41

*New York State Rifle & Pistol Assn, Inc. v. Bruen,*

142 S. Ct. 2111, 2139,2121(2022) .....*passim*

*State v. Huntley,*

25 N.C. 418, 422, 423 (1843).....31, 37

*State v. Smith,*

11 La. Ann. 633, 634 (1856). .....31, 38

*Wright v. Commonwealth,*

77 Pa. St. 470, 471 (1875).....33, 34

**Statutes**

1 Colonial Laws of New York from the Year 1664 to the

Revolution 49-50 (1894). .....6

1 Laws of the Commonwealth of Massachusetts 36-7 (1807) ..... 12

1 Statutes: Revised Edition (1870). .....47

2 Edw. III, Stat. Northampt., § 3 (1328). .....47

23 State Records of North Carolina, Ch. 25 at 29 (1904). ..... 6

28 Journals of the Continental Congress 378 (1785). .....5

3 Statutes of the Realm (1819) ..... 10

4 Statutes of the Realm (1819) ..... 10

1 7 Edw. II (1313).....47

2 A Collection of all the Public Acts of Assembly, of the Province of North-Carolina:

3 Now in Force and Use... 215 (1751).....6

4 Aaron Learning and Jacob Spicer, The Grants, Concessions, and Original

5 Constitutions of the Province of New-Jersey 78 (1752).....6

6 Acts Passed at the First Session of the Twenty First General Assembly for the

7 Commonwealth of Kentucky 100-101 (1813). ....28, 44

8 Ala. Code § 3274 (1852) .....28, 44

9 Allen D. Candler, comp., 18 Colonial Records of the State of

10 Georgia 7, 11 (1910).; .....5

11 Allen D. Candler, comp., 19(part 1) The Colonial Records of the State of

12 Georgia 188 (1910). .....5

13 Allen D. Candler, comp., 19(part 2) The Colonial Records of the State of

14 Georgia 104 (1910). .....5

15 Cal. Laws ch. 63 at 67 (1870).....28, 44

16 Cal. Laws, ch. 128 at 115 (1864).....28, 44

17 Cal. Laws ch. 339 § 5 at 696 (1923).....26

18 Cal. Laws, ch. 485 at 748 (1863).....28, 44

19 Charles J. Hoadly, ed., Records Of The Colony And Plantation Of New Haven, From

20 1638 To 1649 96-97 (1857).....6

21 Connecticut, Acts and Laws of the State of Connecticut, in America 144 (1791).....6

22 Henning's General Laws of California, Act 1182 at 532 (1917).....28, 44

23 James T. Mitchell and Henry Flanders, ed., 9 Statutes at Large of Pennsylvania from

24 1682 to 1801 Ch. 750 at 77 (1898). .....6

25 Laws and Acts of Rhode Island, and Providence Plantations Made from the First

26 Settlement in 1636 to 1705, reprinted in John D. Cushing, ed., The Earliest Acts

27 and Laws of the Colony of Rhode Island and Providence Plantations, 1647-

28 1719 106 (1977). .....15

1 Laws of the Government of New-Castle, Kent and Sussex Upon  
 2 Delaware 150, 154 (1741)..... 15  
 3 Laws of the State of Indiana, Passed at the Fourth Session of the General  
 4 Assembly 39 (1820); .....28, 54  
 5 Laws of the State of New Jersey 279 (1800)..... 13  
 6 Militia Laws of the United States, and of the Commonwealth of Massachusetts. to  
 7 Which Are Added, Judicial Decisions on the Same 87-88 (1815)..... 13  
 8 Nathaniel B. Shurtleff, ed., 1 Records of the Governor and Company of the  
 9 Massachusetts Bay in New England 190 (1853) ..... 6  
 10 New Hampshire, Acts and Laws, Passed by the General Court or Assembly of the  
 11 Province of New-Hampshire in New-England 91 (1716)..... 6  
 12 New Jersey, Acts of the Council and General Assembly of the State of New-Jersey...  
 13 65 (1784). ..... 6  
 14 New Jersey, The Laws and Acts of the General Assembly of His Majesties Province  
 15 of Nova Caesarea or New-Jersey... 139 (1717)..... 6  
 16 Penn. Const. Article IX, §21 (1790).....34  
 17 Public Records of the Colony of Connecticut 15 (1850). .....5  
 18 Revised Laws of Indiana, in Which Are Comprised All Such Acts of a General Nature  
 19 as Are in Force in Said State; Adopted and Enacted by the General Assembly at  
 20 Their Fifteenth Session 192 (1831)..... 28, 44  
 21 Revised Statutes of the State of Arkansas, Adopted at the October Session of the  
 22 General Assembly of Said State, A.D. 1837 Div. VIII, Art. I, §  
 23 13, at 280 (1838) ..... 28, 44  
 24 Tex. Laws ch. 34 at 25 (1871) ..... 28, 44  
 25 William Brigham, ed., The Compact with the Charter and Laws of the  
 26 Colony of New Plymouth 285-286 (1836). ..... 6  
 27 William Hand Browne, ed., 3 Archives of Maryland 345 (1885). ..... 6  
 28

1 William Walter Hening, 12 Statutes at Large; Being a Collection of  
 2 All the Laws of Virginia... 10 (1823)..... 6  
 3 William Walter Hening, 7 Statutes at Large; Being a Collection of All  
 4 the Laws of Virginia... 94-95 (1820)..... 6  
 5 **Other Authorities**  
 6 11 Public Records of the Colony of Connecticut 313 (1880) ..... 17, 18  
 7 7 Debates Of The Convention To Amend The Constitution Of Pennsylvania:  
 8 Convened At Harrisburg, November 12, 1872 258 (1873)..... 35  
 9 Benjamin Franklin, Some Account of the Pennsylvania Hospital From Its First Rise  
 10 to the Beginning of the Fifth Month, Called May, 1754 4-5 (1817)..... 22  
 11 Central Pacific Railroad and leased lines rules, regulations and instructions for the  
 12 use of agents, conductors, etc. 204 (1882)..... 43  
 13 Clayton E. Cramer, Guns on Campus, 27:4 Academic Questions 411-425 (Dec.  
 14 2014)..... 7  
 15 Derick Moore, U.S. Census Bureau, U.S. Population Estimated at 334,233,854 on  
 16 Jan. 1, 2023,..... 3  
 17 Duane Hamilton Hurd, 1 History of Norfolk County, Massachusetts...  
 18 312 (1884). ..... 18  
 19 E. Fuller Torrey and Judy Miller, The Invisible Plague: The Rise of  
 20 Mental Illness from 1750 to the Present 122 (2001)..... 19  
 21 Eric Nellis and Anne Decker Cecere, Eighteenth-Century Records of the Boston  
 22 Overseers of the Poor 976-979 (2006)..... 21  
 23 G. Lewis, A. David, S. Andreasson, P. Allebeck, Schizophrenia and city life, Lancet,  
 24 [July 18, 1992] 340(8812):137-40 ..... 18  
 25 Herbert Goldhamer and Andrew W. Marshall, Psychosis and Civilization: Two  
 26 Studies in the Frequency of Mental Disease (1953). ..... 19  
 27  
 28

1 Humphry William Woolrych, A PRACTICAL TREATISE ON  
 2 MISDEMEANOR 221-2 (1842).....48  
 3 Irvine Loudon, The Nature of Provincial Medical Practice in Eighteenth-Century  
 4 England, 29 Medical History 1 (1985).....20  
 5 Isaac, Rhys. *The Transformation of Virginia, 1740-1790*, University of North  
 6 Carolina Press, 1999. *ProQuest Ebook Central*,  
 7 <http://ebookcentral.proquest.com/lib/cwidaho/detail.action?docID=4321901>.  
 8 Created from cwidaho on 2023-11-07 15:53:40. ....4  
 9 James W. North, The History of Augusta, From the Earliest Settlement to the Present  
 10 Time... 87 (1870)..... 18  
 11 Jesse Chickering, A Statistical View Of The Population Of Massachusetts,  
 12 From 1765 To 1840 7 (1846). .... 19  
 13 John Carpenter, Liber Albus: The White Book of the City Of London 229 (1861). 10  
 14 John Swett, American Public Schools: History and Pedagogics 7-33 (1900).....5  
 15 John Sylvester Davies, An English Chronicle of the Reigns of Richard II., Henry the  
 16 Fourth., Henry V., and Henry VI. written before the year 1471... 173 (1856). ... 11  
 17 Joshua Hempstead, Diary of Joshua Hempstead of New London, Connecticut 139,  
 18 141-2 (1901)..... 17  
 19 Laws of Illinois College, 1850, in Illinois State Historical Society, Papers in Illinois  
 20 History and Transactions 254 (1906). .... 7  
 21 Laws of Yale-College, in New- Haven, in Connecticut, Enacted by the President and  
 22 Fellows, The Sixth Day of October, A. D. 1795 25-26 (1800)..... 7  
 23 Leonard MacNally, 1 The Justice of the Peace for Ireland: Containing the Authorities  
 24 and Duties of That Officer 32 (1808).....48  
 25 Lloyd Vernon Briggs, History of the Psychopathic Hospital, Boston,  
 26 Massachusetts 4 (1922)..... 19  
 27 Martin, A Collection of Statutes of the Parliament of England in Force in the State of  
 28 North Carolina iii (1792)..... 36, 37

1 Oakland College (Miss.), Constitution and Laws of the Institution of learning Under  
2 the Care of the Mississippi Presbytery 10 (1831)..... 7  
3 Of Patients, Charter, Laws, and Rules of The Pennsylvania Hospital 25 (1859). ...22  
4 Rhys Isaac, The Transformation of Virginia, 1740-1790 98-101 (1979)..... 3  
5 Thomas George Morton, History of the Pennsylvania Hospital 4 (1895). .... 18  
6 Thomas K. Walsh, Succoring the Needy: Almshouses and the Impotent Poor in  
7 Reformation England, c. 1534-1640 126 (M.A. thesis, Dalhousie University,  
8 Feb. 2015).....22  
9 U.S. Bureau of the Census, Table 2. Population of the 24 Urban Places: 1790,..... 3  
10 U.S. Census Bureau, 1790 Fast Facts,..... 3  
11 U.S. Census Bureau, New Mexico ..... 15, 50  
12 U.S. Patent Office, Improvement In *Fire-Arms* .....49  
13 William Blackstone, 2 Commentaries on the Laws of England 110 (1838).....48  
14 William Rawle, A View of the Constitution of the United States of  
15 America 125-126 (1829)..... 14  
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1 Rebuttal to Holly Brewer<sup>1</sup>

2 I. Summary

3 1. Brewer attempts to show that institutions similar to those declared  
4 “sensitive areas” by SB 2 did not exist in the Founding Era, and that the lack of laws  
5 regulating arms in these non-existent institutions therefore allows modern laws with  
6 no pre-1791 equivalent.

7 2. An astonishing number of her sources either do not support or  
8 sometimes contradict her claims.

9 3. Brewer seems to argue that the presence of children changes the risk in  
10 a public safety equation. If CCW holders represent some special danger to children,  
11 why does California even issue CCWs? Are those so licensed unusually dangerous?  
12 Because the tragic and too frequent school mass murders take place in locations  
13 already declared gun-free zones (which do not seem to discourage mass murderers),  
14 the case is at least equally valid that CCW licensees should be *encouraged* to be  
15 armed where children are present.

16 II. Brewer’s Declaration

17 **A. Public Libraries**

18 4. Brewer claims in ¶¶12-14 that public libraries and museums did not  
19 exist in the Founding Era and characterizes my claim on this as “erroneous.” (I  
20 assume this criticism is aimed at my declaration; historians usually *cite* facts and  
21 disagreements.) My declaration was very clear that there were no public libraries in  
22 the period before 1791 and few in the early Republic:

23 There is the Library Company of Philadelphia founded by Benjamin  
24 Franklin in 1731, but this was “was a subscription library and  
25 supported by members.” “The first free modern public library was

26 \_\_\_\_\_  
27 <sup>1</sup> Attached to my rebuttal declaration is an appendix examining some of the historical laws the  
28 Attorney General cited in his opposition brief in misleading or out-of-context ways, as his own  
compendium reveals. The appendix was prepared by the Plaintiffs’ counsel in consultation with me. I  
reviewed it in its entirety, including both the Attorney General’s description of the historical laws cited, as  
well as the full copies of the historical laws or other sources in the Attorney General’s submitted  
compendium volumes, and hereby confirm the appendix as being true and correct.



1 opened in 1833” in Peterborough, N.H. This was “was the first  
2 institution funded by a municipality with the explicit purpose of  
3 establishing a free library open to all classes of the community.”  
Boston opened a public library in 1848.<sup>2</sup>

4 5. The point of establishing that public libraries did not exist was to show  
5 that laws similar to SB 2 could not have existed before 1791. Brewer seems to have  
6 misunderstood my declaration. Moreover, my understanding is that SB 2 makes  
7 private libraries off-limits for carry by default as well through a separate provision.

8 **B. Museums**

9 6. Again, Brewer asserts at 15 that public museums did not exist but that  
10 institutions that assert pre-1791 roots were private entities. This I do not dispute.  
11 Again, the absence of such public institutions means that there were no similar pre-  
12 1791 laws regulating firearms possession. While private institutions might well have  
13 had rules concerning firearms possession, these were not laws. Brewer also fails to  
14 give examples of firearms rules of these institutions. Regardless, SB 2 is not limited  
15 to public museums.

16 **C. Zoos**

17 7. Brewer at ¶16 again admits the absence that there were “no playgrounds  
18 or public zoos during the Founding era, neither in the colonies nor the new United  
19 States.” Thus, there were no laws regulating firearms possession. At best, she points  
20 to “the royal zoo in London (in the Tower of London), which was open to the public  
21 in some cases and at some times, but certainly had guards and restrictions” yet fails  
22 to give any examples of such rules. She relies on the unfalsifiable claim: “Being  
23 surrounded by guards and with quietly made policies, it had no need for a public  
24 statute to regulate the weapons of those who entered.” She even admits in n. 6, that,  
25 “Such menageries were also, of course, across the ocean in the 1790s, no longer part  
26 of the same country,” and thus irrelevant to American traditions.

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<sup>2</sup> Declaration Of Clayton Cramer Iso Pls.’ Mot. Prelim. Inj, ¶80.

1           8. At ¶17: “The *Carrelero* Plaintiffs additionally contend that venues  
2 analogous to stadiums, arenas and amusement parks were “widespread” during the  
3 Founding era...” I agree with Brewer’s criticism. Much of my declaration was a  
4 demonstration that such public venues were rare or non-existent; hence, the absence  
5 of laws regulating arms possession before 1791.

6           At ¶18:

7           The one purported Founding era analog to any of these places that they  
8 identify is horse races, and they cite two examples of these races in New  
9 Jersey and Virginia, respectively. Horse races were common, but with  
10 their attendees usually counted in the dozens, or possibly a hundred or  
11 more. Usually they were run on private estates, but sometimes on public  
12 greens, such as at Williamsburg in Virginia. Children might have been  
present occasionally, but so too would the town watch/militia be present  
at such public events, serving formally as a kind of security. On private  
estates, the crowds were doubtless even smaller, and they would have  
made their own rules.

13           9. The 1979 edition of Brewer’s source “Rhys Isaac, *The Transformation*  
14 *of Virginia, 1740-1790* (Chapel Hill: UNC Press, 1980), 98-101” is a section on horse  
15 racing that says *nothing* about numbers in attendance, militia, public greens, or  
16 private estates. It does mention races at Fredericksburg and Williamsburg.<sup>3</sup>

17           10. While Brewer’s claim seems logical, her source does not support her  
18 characterization of it. Even if the number of attendees is correct, the U.S. population  
19 in 1790 was 3,929,214;<sup>4</sup> on January 1, 2023, the Census Bureau estimates  
20 334,233,854.<sup>5</sup> There were five U.S. cities with populations larger than 10,000 at the  
21 1791 census;<sup>6</sup> everything was on a much smaller scale back then.

22           11. At ¶19:

23 \_\_\_\_\_  
24 <sup>3</sup> Rhys Isaac, *THE TRANSFORMATION OF VIRGINIA, 1740-1790* 98-101 (1979).

25 <sup>4</sup> U.S. Census Bureau, *1790 Fast Facts*,  
[https://www.census.gov/history/www/through\\_the\\_decades/fast\\_facts/1790\\_fast\\_facts.html](https://www.census.gov/history/www/through_the_decades/fast_facts/1790_fast_facts.html), last accessed  
26 October 18, 2023.

27 <sup>5</sup> Derick Moore, U.S. Census Bureau, *U.S. Population Estimated at 334,233,854 on Jan. 1, 2023*,  
<https://www.census.gov/library/stories/2022/12/happy-new-year-2023.html>, last accessed October 18,  
28 2023.

<sup>6</sup> U.S. Bureau of the Census, *Table 2. Population of the 24 Urban Places: 1790*,  
<https://www2.census.gov/library/working-papers/1998/demographics/pop-twps0027/tab02.txt>, last  
accessed November 7, 2023.

1 Cock-fights were another kind of event popular during the colonial and  
2 early national era, but they too would have been fought on private  
3 estates, and sometimes behind private taverns, such as the one that  
4 archeologists located behind a tavern in Williamsburg, Virginia. While  
5 doubtless a few young people attended such events, these were *events,*  
6 *like horse races, that involved particularly the elite (and adults),* and at  
7 which they gambled. [emphasis added]

8 12. Again, Brewer cites THE TRANSFORMATION OF VIRGINIA, 1740-1790 but  
9 this time, pp. 98-105. But again, her source disagrees with her. Cock-fighting is on  
10 pp. 101-104; 98-100 have no mention of cock-fighting. Concerning the elite nature  
11 of these events, Isaac reports:

12 The excitement engendered by the mortal combat between the birds  
13 extended to all ranks of society. Philip Fithian recorded the keen  
14 engagement of slaves. "Easter Monday," he entered in his diary, "a  
15 general holiday; *Negroes now are all disbanded till Wednesday morning*  
16 *& are at Cock Fights through the County.*" On the following Sunday he  
17 observed "before Breakfast . . . a Ring of Negroes at the Stable, fighting  
18 Cocks." <sup>7</sup> [emphasis added]

19 13. Yes, "Negroes" as elites.

20 14. At n. 8:

21 I would add that cock-fights (fights between roosters who had spears on  
22 their ankles and then fought to their death) were attended by very small  
23 crowds as compared with today's spectator sporting events. They would  
24 have been rarely attended by children. One account did acknowledge  
25 the presence of a fifteen year old: "While the bettors urged the cocks on  
26 to battle, a child of fifteen, who was near . . . leaped for joy and cried,  
27 'Oh! it is a charming diversion!'" (p. 103).

28 15. The quote about the child is correct, but there is nothing in the cited  
pages indicating that they "would have been rarely attended by children."

16. At ¶20:

It is not really fair to compare the limited and small sporting events of  
the eighteenth century, which were horse races or cock fights, to modern  
amusement parks and stadiums, which involve vastly more people and  
prominently include children as part of the crowds.

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<sup>7</sup> Isaac, Rhys. *The Transformation of Virginia, 1740-1790*, University of North Carolina Press, 1999. ProQuest Ebook Central, <http://ebookcentral.proquest.com/lib/cwidaho/detail.action?docID=4321901>. Created from cwidaho on 2023-11-07 15:53:40.

1           17. What we are looking for is not “fairness” but whether a modern law has  
2 a pre-1791 equivalent or analog. Brewer is admitting that these modern events have  
3 no Founding Era analog. The absence of laws regulating arms at these events simply  
4 adds to the failure of SB2 to have a pre-1791 equivalent.

5           **D. Schools**

6           18. At ¶21:

7           The best historical analogue to all of these sites, from public libraries to  
8 amusement parks, were the new public schools that began to be funded  
9 and built in the wake of the American Revolution. The American  
10 Revolution initiated a state-led movement to provide access to education  
11 for most children, though of course it did not happen in the same way in  
12 every state, and there were racial and gender exceptions, beginning first  
13 on the level of public universities.

14           19. Brewer’s knowledge of the history of American public education is  
15 deficient. New England colonies created public schools starting in 1635,<sup>8</sup> although  
16 some of these institutions were “supported in part by tuition fees, and were also  
17 applied to schools under church control.”<sup>9</sup> The higher levels of primary education  
18 were grammar schools modeled on their English equivalents and they “were  
19 supported in part by tuition fees and in part by town appropriations.”<sup>10</sup>

20           20. The idea that the post-Revolutionary public school system was “state-  
21 led” also calls into question Brewer’s knowledge of this subject. A case can be made  
22 that the Land Ordinance (1785) by reserving the 16<sup>th</sup> section of each township “for  
23 the maintenance of public schools”<sup>11</sup> shows that the national government led the  
24 movement. And secondary sources have long recognized this leadership role.<sup>12</sup>

25           21. While neither set of Plaintiffs challenge restrictions as to schools for  
26 purposes of preliminary injunction, Brewer writes at ¶22:

27           As these public schools began, they were in fact accompanied by  
28 relatively systematic rules barring weapons. Students attending college

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<sup>8</sup> John Swett, AMERICAN PUBLIC SCHOOLS: HISTORY AND PEDAGOGICS 7-33 (1900).

<sup>9</sup> *Id.*, at 10.

<sup>10</sup> *Id.*, at 9.

<sup>11</sup> 28 JOURNALS OF THE CONTINENTAL CONGRESS 378 (1785).

<sup>12</sup> Swett, *op. cit.*, 39-40.

1 in this era were explicitly excluded from having to participate in the  
2 militia by most state militia statutes.

3 Brewer gives no source for this claim. Laws requiring males as young as 15  
4 to possess arms for militia duty were the norm in the Founding Era.<sup>13</sup>

5 Contrary to Brewer's claim that "Students attending college in this era" were  
6 exempted from militia duty, such exemptions were the exception, not the norm.  
7 Some states exempted faculty (but not students) from this obligation to be armed for  
8 militia duty, such as New Jersey in 1778.<sup>14</sup> A few states, such as Connecticut in  
9 1786, exempted both faculty and students (along with a few other occupations) from  
10 militia duty, and therefore the obligation to be armed,<sup>15</sup> but these appear to be the  
11 exception. Even states that sometimes exempted students as well as faculty from the  
12 duty to be armed for militia duty, such as Virginia did in 1757,<sup>16</sup> more often exempted  
13 only faculty.<sup>17</sup> In this period, students were generally obligated to arm themselves  
14 for militia duty. presumably, because militia could be called on short notice for an  
15 emergency, college students subject to militia duty must have had access to their  
16 muskets.

17 <sup>13</sup> PUBLIC RECORDS OF THE COLONY OF CONNECTICUT 15, 542 (1850).; Allen D. Candler, comp.,  
18 COLONIAL RECORDS OF THE STATE OF GEORGIA 7, 11 (1910).; Allen D. Candler, comp., 19(part 1) THE  
19 COLONIAL RECORDS OF THE STATE OF GEORGIA 188 (1910).; Allen D. Candler, comp., 19(part 2) THE  
20 COLONIAL RECORDS OF THE STATE OF GEORGIA 104 (1910).; William Hand Browne, ed., 3 ARCHIVES OF  
21 MARYLAND 345 (1885).; Nathaniel B. Shurtleff, ed., 1 RECORDS OF THE GOVERNOR AND COMPANY OF  
22 THE MASSACHUSETTS BAY IN NEW ENGLAND 190 (1853); New Hampshire, ACTS AND LAWS, PASSED BY  
23 THE GENERAL COURT OR ASSEMBLY OF THE PROVINCE OF NEW-HAMPSHIRE IN NEW-ENGLAND 91  
24 (1716).; Charles J. Hoadly, ed., RECORDS OF THE COLONY AND PLANTATION OF NEW HAVEN, FROM 1638  
25 TO 1649 96-97, 131, 201 (1857).; Aaron Learning and Jacob Spicer, THE GRANTS, CONCESSIONS, AND  
26 ORIGINAL CONSTITUTIONS OF THE PROVINCE OF NEW-JERSEY 78, 135 (1752).; New Jersey, THE LAWS  
27 AND ACTS OF THE GENERAL ASSEMBLY OF HIS MAJESTIES PROVINCE OF NOVA CAESAREA OR NEW-  
28 JERSEY... 139 (1717).; 1 COLONIAL LAWS OF NEW YORK FROM THE YEAR 1664 TO THE REVOLUTION 49-  
50 (1894).; 23 STATE RECORDS OF NORTH CAROLINA, Ch. 25 at 29 (1904).; A COLLECTION OF ALL THE  
PUBLIC ACTS OF ASSEMBLY, OF THE PROVINCE OF NORTH-CAROLINA: NOW IN FORCE AND USE... 215  
(1751).; James T. Mitchell and Henry Flanders, ed., 9 STATUTES AT LARGE OF PENNSYLVANIA FROM 1682  
TO 1801 Ch. 750 at 77 (1898).; William Brigham, ed., THE COMPACT WITH THE CHARTER AND LAWS OF  
THE COLONY OF NEW PLYMOUTH 285-286 (1836)..

<sup>14</sup> New Jersey, ACTS OF THE COUNCIL AND GENERAL ASSEMBLY OF THE STATE OF NEW-  
JERSEY... 65 (1784).

<sup>15</sup> Connecticut, ACTS AND LAWS OF THE STATE OF CONNECTICUT, IN AMERICA 144 (1791).

<sup>16</sup> William Walter Hening, 7 STATUTES AT LARGE; BEING A COLLECTION OF ALL THE LAWS OF  
VIRGINIA... 94-95 (1820).

<sup>17</sup> William Walter Hening, 12 STATUTES AT LARGE; BEING A COLLECTION OF ALL THE LAWS OF  
VIRGINIA... 10 (1823).

1           22. Brewer cites college rules (not laws) from Yale, University of North  
2 Carolina, and the University of Virginia forbidding students from keeping or carrying  
3 weapons: “These policies were implemented for the maintenance of public safety.”  
4 Reviewing these rules suggests other possible motives. Yale’s prohibition on keeping  
5 “any kind of fire-arms, or gun-powder” is adjacent to “If any Scholar shall go a-  
6 fishing or sailing, or more than two miles from the College...” and “or shall undress  
7 himself for swimming in any place, exposed to public view,” playing hand or foot-  
8 ball, and requiring “in studying time, shall abstain from hallooing, singing, noisiness  
9 and loud talking, in the College, or College-yard...” These are all nuisances. The  
10 prohibition on possessing or firing “gun-powder” may simply be another attempt at  
11 dealing with student hijinks.<sup>18</sup>

12           23. The North Carolina rule is curious: “No Student shall keep a dog, or fire  
13 arms, or gunpowder. He shall not carry, keep, or own at the College, a sword, dirk,  
14 sword-cane, or any deadly weapon; nor shall he use fire arms without permission  
15 from the President.” Why would a student need permission to use something he was  
16 not allowed to possess?

17           24. Brewer cites for the Virginia rule: “University of Virginia Board of  
18 Visitors Minutes (October 4–5, 1824) 1, 6–7 (1824),  
19 [https://encyclopediavirginia.org/entries/university-of-virginia-board-of-visitors-  
20 minutes-october-4-5-1824/](https://encyclopediavirginia.org/entries/university-of-virginia-board-of-visitors-minutes-october-4-5-1824/).” There is no such rule at that URL.

21           Had Brewer examined the secondary literature on this subject<sup>19</sup> she would  
22 have seen that others have found other college rules restricting weapons possession  
23 by students, but also a more nuanced set of rules as well. Oakland College of  
24 Mississippi, like many of the other schools of this period, prohibited “wearing or  
25 carrying a dirk or other deadly weapon” but did not actually prohibit possession of  
26

27           <sup>18</sup> LAWS OF YALE-COLLEGE, IN NEW-HAVEN, IN CONNECTICUT, ENACTED BY THE PRESIDENT  
28 AND FELLOWS, THE SIXTH DAY OF OCTOBER, A. D. 1795 25-26 (1800).

<sup>19</sup> Clayton E. Cramer, *Guns on Campus*, 27:4 ACADEMIC QUESTIONS 411-425 (Dec. 2014).

1 such weapons in one's residence.<sup>20</sup> Similarly, Illinois College's 1850 student code  
2 prohibited carrying deadly weapons, but appears not to have regulated possession in  
3 one's room.<sup>21</sup>

4 25. Hundreds of members of the Oberlin College community, including  
5 both students and professors, armed themselves with rifles and handguns on a few  
6 minutes' notice as part of their successful effort to prevent a deputy U.S. marshal and  
7 two private slavecatchers from taking a runaway slave back South.<sup>22</sup> Nor were these  
8 armed students a violation of the college's rules. The only weapon restrictions in the  
9 Oberlin College regulations were that, "No student when in Town, shall use firearms,  
10 or burn gun-powder in any way, without permission from a member of the Faculty."<sup>23</sup>

11 26. Even if colleges generally prohibited students from possessing arms,  
12 these rules would not qualify as laws. Students alone were subject to them. Since  
13 *Tinker v. Des Moines Independent Community School District* (1969), the idea that  
14 the Bill of Rights ceases to protect the rights of a student is completely dead.

#### 15 Rebuttal to Patrick J. Charles

#### 16 III. Summary

17 27. Charles severely and repeatedly misstates historical laws.

18 28. He repeatedly points to laws that *Bruen* has already rejected as  
19 irrelevant.

20 29. His claims about mandatory bringing of guns to church laws are  
21 historically wrong.

#### 22 IV. Ancient and Discredited History

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26 <sup>20</sup> Oakland College (Miss.), CONSTITUTION AND LAWS OF THE INSTITUTION OF LEARNING UNDER  
THE CARE OF THE MISSISSIPPI PRESBYTERY 10 (1831).

27 <sup>21</sup> *Laws of Illinois College, 1850*, in Illinois State Historical Society, PAPERS IN ILLINOIS HISTORY  
AND TRANSACTIONS 254 (1906).

28 <sup>22</sup> Nat Brandt, THE TOWN THAT STARTED THE CIVIL WAR 71-88 (1990),

<sup>23</sup> Oberlin College, LAWS AND REGULATIONS OF OBERLIN COLLEGE, 11 (11<sup>th</sup> ed. 1859).

1           **A. Statute of Northampton**

2           30. Charles at ¶9 starts his declaration with the Statute of Northampton  
3 (1328), which *Bruen* specifically rejected because of temporal distance to 1791 and  
4 evidence that it was not a general prohibition on being armed in public: “Rather, it  
5 appears to have been centrally concerned with the wearing of armor.... If it did apply  
6 beyond armor, it applied to such weapons as the "launcegay," a 10- to 12-foot-long  
7 lightweight lance.”<sup>24</sup> Why Charles is making a claim already rejected by *Bruen*  
8 eludes me.

9           **B. Disruptions to Governmental Function**

10          31. Charles at ¶9 next points to a 1351 Royal Proclamation that he  
11 characterizes as a ban on public carry. Reading the full text reveals a narrow ban on  
12 disrupting governmental functions such as a legislature or court:

13           FORASMUCH as heretofore at the Parliaments and Councils of our  
14 Lord the King, broils, riots, and disputes, have arisen and been "  
15 moved, for that people have gone to the places where such  
16 Parliaments and Councils have been summoned and assembled,  
17 armed with haketons, with plates, with swords, and with long  
18 daggers, and with other manner of arms; by reason whereof the  
19 business of our Lord the King and of his realm has both beer  
20 impeded," and the great people and others who have come there, by  
21 command of the King, have been alarmed thereat ; —our Lord the  
22 King, desiring to provide a remedy against such evils, doth forbid that  
23 any one, on pain of forfeiture of so much as unto the King he may  
24 forfeit, of whatsoever estate or condition he be, shall go armed with  
25 haketon, or with plate, or with habergeon 2 [ or with sword] , or with  
26 long dagger, or with any other manner of arms suspected, within the  
27 City of London, or within the suburbs, or in any other places between  
28 the said city and the Palace of Westminster, " or anywhere in the  
Palace...<sup>25</sup>

29           **C. Other Ancient Laws**

30          32. Charles at ¶9 points to a 1419 law that does indeed appear to prohibit  
31 the carrying of arms in London. *Bruen*, however, rejects the relevance of these  
32 ancient laws:

<sup>24</sup> *New York State Rifle & Pistol Assn, Inc. v. Bruen*, 142 S. Ct. 2111, 2139, 2140 (2022).

<sup>25</sup> Memorials of London And London Life, in the XIIIth, XIVth, AND XVth Centuries 268 (1868)



1 We categorize these historical sources because, when it comes to  
 2 interpreting the Constitution, not all history is created equal.  
 3 "Constitutional rights are enshrined with the scope they were  
 4 understood to have *when the people adopted them.*" Heller, 554 U.S.  
 5 at 634-635, 128 S.Ct. 2783 (emphasis added). The Second  
 6 Amendment was adopted in 1791; the Fourteenth in 1868. Historical  
 7 evidence that long predates either date may not illuminate the scope  
 8 of the right if linguistic or legal conventions changed in the  
 9 intervening years. It is one thing for courts to "reac[h] back to the  
 10 14th century" for English practices that "prevailed up to the period  
 11 immediately before and after the framing of the Constitution." ... It is  
 12 quite another to rely on an "ancient" practice that had become  
 13 "obsolete in England at the time of the adoption of the Constitution"  
 14 and never "was acted upon or accepted in the colonies."<sup>26</sup>

15 33. Charles also asserts that similar laws are present at "229, 555, 556,  
 16 558, 560, 580." P. 229 is devoted entirely to regulation of "Corn-dealers."<sup>27</sup> 'Pp.  
 17 555-580 are within an index.<sup>28</sup>

18 34. Charles at ¶10 both acknowledges that English law was essentially  
 19 silent as to sensitive places but offers a tantalizing exception:

20 35. Review of the official STATUTES OF THE REALM (revised ed.  
 21 1870) shows no such law. The statutes listed under 4 Hen. IV are dated 1402, and  
 22 none contain this text or anything even close to it. Searching for the word  
 23 "Congregations" found matches only in 14 Charles II. c. 4 and 15 Charles II c. 6, 7.  
 24 Neither contained this text. Nor did the 1819 editions.<sup>29</sup> I did eventually find the  
 25 statute in an unofficial version:

26 CAP. XXIX.

27 Welshmen shall not be armed.

28 That from henceforth no man be armed nor bear defensible armour to  
 merchant towns churches nor congregations in the same, nor in the high  
 ways, in affray of the peace or the King's liege people, upon pain of  
 imprisonment, and to make fine and random at the King's will, except  
 those which be lawful liege people to our sovereign lord the King.<sup>30</sup>

<sup>26</sup> *New York State Rifle & Pistol Assn, Inc. v. Bruen*, 142 S. Ct. 2111, 2139, 2136 (2022).

<sup>27</sup> John Carpenter, *LIBER ALBUS: THE WHITE BOOK OF THE CITY OF LONDON* 229 (1861).

<sup>28</sup> *Id.*, at 555, 556, 558, 560, 580.

<sup>29</sup> 3 STATUTES OF THE REALM (1819); 4 STATUTES OF THE REALM (1819).

<sup>30</sup> 2 Statutes at Large, From the 15<sup>th</sup> Year of K. Edward III. To The 13<sup>th</sup> Year of K. Henry IV.  
 Inclusive C. 29 at 443 (1762).

1           36. This is part of a series of laws generally impairing Welshmen:  
2 “Englishmen shall not be convict by Welshmen in Wales,” “There shall be no wasters,  
3 vagabonds, &c in Wales,” “There shall be no congregations in Wales.”<sup>31</sup> The closing  
4 clause of the supposed law “except those which be lawful liege people to our  
5 sovereign lord the King,” shows that Englishmen were exempt from this prohibition.

6           37. This ban on armed Welshmen is no surprise:

7           The laws of the early part of this reign were not conciliatory towards the  
8 Welsh. By stat. 2 Hen. IV. Jan. 1401, no person born in Wales of Welsh  
9 parentage could purchase land or tenement in or near the cities in the  
10 Marches of Wales: he could not henceforth receive the freedom of any  
11 city or borough. All Welsh citizens were to produce security for their  
12 conduct: they were not to be admitted to any municipal office, nor to  
13 wear armour in their town or borough. ( Stat. Realm, ii . 124.) No  
14 Welshman might purchase land in England , &c . (129.) By stat. 4 Hen.  
15 IV., Sept. 30, 1402, Englishmen could not be tried by a Welsh jury in  
16 Wales ; minstrels, rhymers, wasters, and other vagabonds, were  
17 condemned; meetings were not allowed ; no Welshman might carry  
18 arms...<sup>32</sup>

19           38. Charles has used an unofficial collection of statutes that does not match  
20 the official collection, identified it with the wrong year, and left out the title and  
21 closing clause that establishes that only those not bound to the king by oath of loyalty  
22 were prohibited from being armed.

#### 23           **D. American Laws**

24           39. Charles at ¶11 admits that:

25           As to whether this broad, English understanding of what constituted a  
26 “sensitive place”—that is where arms bearing could be restricted—  
27 traveled across the Atlantic, local enforcement records did not survive  
28 for historical posterity, and therefore it is impossible for historians or  
anyone to reconstruct exactly how often, when, and where armed  
carriage restrictions were enforced.

          40. Having admitted that such records are hard to find, Charles in ¶12 cites  
two works by him to prove that such laws existed:

---

<sup>31</sup> Id., c. 26, 27, 28 at 443.

<sup>32</sup> John Sylvester Davies, *An English Chronicle of the Reigns of Richard II., Henry the Fourth., Henry V., and Henry VI. written before the year 1471...* 173 (1856).

1 A by-now-familiar thread runs through these three statutes: They  
2 prohibit bearing arms in a way that spreads "fear" or "terror" among the  
3 people. As we have already explained, Chief Justice Holt in *Sir John*  
4 *Knight's Case* interpreted this *in Terrorem Populi* element to require  
5 something more than merely carrying a firearm in public. See *supra*, at  
6 2140-2141. Respondents give us no reason to think that the founding  
7 generation held a different view. Thus, all told, in the century leading up  
8 to the Second Amendment and in the first decade after its adoption, there  
9 is no historical basis for concluding that the pre-existing right enshrined  
10 in the Second Amendment permitted broad prohibitions on all forms of  
11 public carry.<sup>33</sup>

12 41. Charles in ¶12 then cites a long list of statutes that he claims prohibited  
13 carrying arms "in urban and densely populated locations...." The titles of the acts  
14 alone should make one suspicious of their purpose. Here is the actual text of these  
15 laws:

16 42. "AN ACT TO PREVENT ROUTS, RIOTS, AND TUMULTUOUS  
17 ASSEMBLIES, AND THE EVIL CONSEQUENCES THEREOF, SEPTEMBER  
18 SESSION, CHAPTER VIII (Mass. 1786)..." This statute prohibits "if any persons  
19 to the number of twelve, or more, being armed with clubs, or other weapons; or if  
20 any number of persons, consisting of thirty or more, shall be unlawfully, routously,  
21 riotously, or tumultuously assembled."<sup>34</sup> Only a party of twelve or more armed with  
22 clubs were prohibited. Other arms are not listed and an individual (or even eleven  
23 people armed with clubs) did not violate the law.

24 43. "AN ACT FOR THE MORE SPEEDY AND EFFECTUAL  
25 SUPPRESSION OF TUMULTS AND INSURRECTIONS IN THE  
26 COMMONWEALTH, SEPTEMBER SESSION, CHAPTER IX (Mass. 1787)..."  
27 This statute passed February 20, 1787, was very clearly a response to Shay's  
28 Rebellion:

WHEREAS in a free government, where the people have a right to bear  
arms for the common defence, and the military power is held in  
subordination to the civil authority, it is necessary for the safety of the  
state that the virtuous citizens thereof should hold themselves in  
readiness, and when called upon, should exert their efforts to support the  
civil government, and oppose the attempts of factious and wicked men  
who may wish to subvert the laws and constitution of their country ; and

<sup>33</sup> *New York State Rifle & Pistol Assn, Inc. v. Bruen*, 142 S. Ct. 2111, 2139, 2144 (2022).

<sup>34</sup> 1 *Laws of the Commonwealth of Massachusetts* 36-7 (1807).

1 whereas a delay in suppressing tumults and insurrections, in divers  
2 counties of the state, has been attended with alarming consequences,  
3 such tumults and insurrections having lately grown into the unnatural  
4 and dangerous rebellion, which now exists in the commonwealth: for  
5 the prevention of like consequences in future:

6 SECTION 1. BE it enacted by the Senate and House of Representatives,  
7 in General Court assembled, and by the authority of the same, *That*  
8 *whenever an insurrection shall have taken place in either of the counties*  
9 *of the commonwealth, to obstruct the course of justice, or the due*  
10 *execution of the laws, or there is reason to apprehend that a dangerous*  
11 *insurrection for such purposes will be excited,* it shall be the duty of the  
12 civil officers in such county, as well the sheriff as the justices of the  
13 several courts of judicature within such county, immediately to give  
14 information thereof to his Excellency the Governor, for the time being;  
15 who is hereby requested thereupon to exercise the powers vested in him  
16 by the constitution, and to give immediate directions to the major-  
17 general or commanding officer of the division where such insurrection  
18 exists or is apprehended, and if he shall think it necessary, to the major-  
19 general or commanding officer of any other division or divisions, to  
20 detach from his or their division or divisions, such part of the militia for  
21 the support of the civil authority, as he shall judge fully adequate for that  
22 purpose, and for the apprehension and safe keeping of those who may  
23 be concerned in such insurrection.<sup>35</sup> [emphasis added]

24 44. “AN ACT TO PREVENT ROUTS, RIOTS, AND TUMULTUOUS  
25 ASSEMBLIES (N.J. 1797)...”

26 That from and after the publication of this act, if any persons, to the  
27 number of twelve or more, being armed with clubs, guns, swords, or  
28 other weapons, or if any number of persons, consisting of thirty or more,  
shall be unlawfully, routously, riotously, or tumultuously assembled...<sup>36</sup>

45. This law did not prohibit individuals or even groups as large as eleven  
from carrying arms.

46. “AN ACT TO PREVENT HUNTING WITH FIRE-ARMS IN THE  
CITY OF NEW-YORK, AND THE LIBERTIES THEREOF (NY 1763); AN ACT  
AGAINST RIOTS AND RIOTERS (Pa. 1705)...” This New York law prohibited  
hunting in the city. The full text is clear that while carrying or discharge of firearms  
was restricted, it was a very narrow limitation:

WHEREAS it has long been the practise of great Numbers of Idle and  
disorderly persons in and about the City of New York, and the Liberties  
thereof to hunt with Fire arms, and to tread down the Grass and Corn

<sup>35</sup> MILITIA LAWS OF THE UNITED STATES, AND OF THE COMMONWEALTH OF MASSACHUSETTS. TO  
WHICH ARE ADDED, JUDICIAL DECISIONS ON THE SAME 87-88 (1815).

<sup>36</sup> LAWS OF THE STATE OF NEW JERSEY 279 (1800).

1 and other Grain standing and Growing in the Fields and Inclosures there,  
2 to the Great Danger of the Lives of his Majesty's Subjects, the Ruin and  
3 destruction of the most valuable improvements, the grievous Injury of  
4 the Proprietors and the great discouragement of their Industry. IN  
5 ORDER therefore the more Effectually to punish and prevent such  
6 abuses as aforesaid BE IT ENACTED by his Honour the Lieutenant  
7 Governor the Council and the General Assembly and it is hereby  
8 Enacted by the authority of the same that if any Person or Persons  
9 whatsoever other than the Owner Proprietor or Possessor or his or her  
10 white servant or servants Do and shall at any time or times from and  
11 after the Publication of this Act *carry shoot or discharge any Musket*  
12 *Fowling piece or other fire arm whatsoever into upon or through any*  
13 *Orchard Garden Cornfield or other inclosed Land whatsoever within*  
14 *the City of New York or the Liberties thereof without Licence in writing*  
15 *first had and Obtained for that purpose from such Owner Proprietor or*  
16 *Possessor of such Orchard, Garden Cornfield or other inclosed Land or*  
17 *shall enter into or pass through any orchard Garden Cornfield or*  
18 *Mowing Ground in any of the aforesaid places without Fire arms...*<sup>37</sup>  
19 [emphasis added]

20 47. This law prohibited shooting into or trespassing (even if unarmed) into  
21 private property and not as Charles describes these laws prohibiting carrying arms in  
22 "urban and densely populated locations."

23 48. In ¶12, Charles quotes out of context

24 WILLIAM RAWLE, A VIEW OF THE CONSTITUTION OF THE  
25 UNITED STATES 126 (2d ed., 1829) (noting that the Second  
26 Amendment "ought not...in any government...be abused to the  
27 disturbance of the public peace," which included the assembling "of  
28 persons with arms, for an unlawful purpose"). This is because it had long  
been understood that any armed assemblage required the consent of  
government officials.

49. Reading Rawle's actual discussion shows that Charles has grossly  
misquoted him:

The corollary, from the first position, is, that *the right of the people to keep and bear arms shall not be infringed*. The prohibition is general. No clause in the Constitution could by any rule of construction be conceived to give to congress a power to disarm the people. Such a flagitious attempt could only be made under some general pretence by a state legislature. But if in any blind pursuit of inordinate power, either should attempt it, this amendment may be appealed to as a restraint on both....

This right ought not, however, in any government, to be abused to the disturbance of the public peace. An assemblage of persons with arms, for an unlawful purpose, is an indictable offence, and even the carrying of arms abroad by a single individual, attended with circumstances

<sup>37</sup> 4 COLONIAL LAWS OF NEW YORK Ch. 1233 at 748-749 (1894).

1 giving just reason to fear that he purposes to make an unlawful use of  
2 them, would be sufficient cause to require him to give surety of the  
3 peace. If he refused he would be liable to imprisonment.<sup>38</sup> [emphasis in  
4 the original]

5 50. An individual carrying arms “attended with circumstances giving just  
6 reason to fear that he purposes to make an unlawful use of them,” might be required  
7 to post a surety bond. But absent those circumstances, “The prohibition is general.”

#### 8 **E. Drunkenness and Arms**

9 51. Starting at ¶22, Charles attempts to establish that laws prohibiting the  
10 possession of alcohol at, or vending of alcohol adjacent to, militia musters create  
11 some sensitive places doctrine relevant to SB 2. If California wishes to use this  
12 reasoning, they are free to prohibit alcohol at government-sponsored military  
13 training. Because federal law pre-empts state law at military bases, such a law is  
14 likely limited to California National Guard trainings, assuming that there is not  
15 already such a law or regulation in place. These laws did not prohibit armed persons,  
16 regardless of militia status, from drinking at a tavern. Armed non-militia members  
17 could drink adjacent to a militia muster, even if they could not buy it there.

18 52. At ¶24, Charles cites laws that apply outside the militia muster context.  
19 Of these, only two predate the 1868 date that *Bruen* requires. One is an 1852 New  
20 Mexico Territory law that prohibits carrying weapons to balls or Fandangos where  
21 alcohol is served. The other is an 1867 Kansas law that prohibits “any person under  
22 the influence of intoxicating drink” from carrying deadly weapons.

23 53. The population of New Mexico Territory at the 1860 census was 93,516;  
24 the State of Kansas at the 1870 census, 364,399.<sup>39</sup> New Mexico Territory at the 1860  
25 census was 0.2% of the U.S. population. At the 1870 census, New Mexico Territory  
26 was 91,874. The total of New Mexico Territory and Kansas was 456,273, or 1.2% of  
27 the U.S. population.

28 <sup>38</sup> William Rawle, A VIEW OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA 125-126 (1829).

<sup>39</sup> U.S. Census Bureau, *New Mexico*, <https://www2.census.gov/library/publications/decennial/1940/population-volume-1/33973538v1ch07.pdf>, last accessed November 9, 2023.



1 is that the burden is on the state to demonstrate that *laws* (and not institutional *rules*)  
2 prohibited arms possession in the Founding Era.

3 58. Of course, hospitals are free today to impose rules banning weapons and  
4 require no statutory authority. Where I live in Idaho, hospitals and related facilities  
5 are festooned with signs prohibiting weapons. Refusal to follow the institution's rules  
6 are grounds for removal for trespass. Why California hospitals need a statute on this  
7 subject is a bit mystifying.

## 8 VI. Hospital Need in Colonial America

### 9 A. The Rarity of Hospitals in Colonial America

10 59. Dr. Fissell claims in ¶1 that “Such institutions were scarce because  
11 America was largely a rural country, composed of villages and towns that lacked  
12 sufficient population to support a hospital.” While certainly true, there were other  
13 reasons for the dearth of hospitals. One of my specializations is the history of mental  
14 illness treatment in America, so much of my commentary reflects my knowledge in  
15 that area. In the case of mental illness, some colonies relied on family  
16 institutionalization.

17 60. In New England, where historians have done the most thorough  
18 research, mentally ill colonists seldom appear to be a matter of legal action. The law  
19 did occasionally lock up a mentally ill person who committed a serious crime for the  
20 safety of the community. The few examples from the records are somewhat startling  
21 for their compassionate, family-based approach. One example is Connecticut, which  
22 tried one Roger Humphry, who “while a soldier in the army in the year 1757, become  
23 delirious and distracted and in his distraction killed his mother....” At trial in  
24 Hartford, he “was found not guilty altogether on the account of his distraction....”<sup>41</sup>  
25 Roger was at first confined to the jail in Hartford, but upon the request of Roger’s

26 \_\_\_\_\_  
27 <sup>41</sup> 11 PUBLIC RECORDS OF THE COLONY OF CONNECTICUT 313 (1880). Sarah Frazier of  
28 Connecticut, who killed an Indian woman with an ax, was found not guilty by reason of “distraction” in  
1724. Joshua Hempstead, DIARY OF JOSHUA HEMPSTEAD OF NEW LONDON, CONNECTICUT 139, 141-2  
(1901).



1 father Benajah Humphry, the legislature granted permission for Benajah to take his  
2 son home to Symsbury. Benajah was “hereby directed and ordered to take and safely  
3 keep said Roger and provide for him.” The legislature also instructed the Symsbury  
4 town government to supervise the securing of Roger. Benajah was to pay for keeping  
5 his son secure — but the legislature granted him £40 to help, a sizeable grant,  
6 equivalent to roughly a year’s wages.

7 61. This must have been a very painful situation — Benajah’s wife was  
8 dead; his son was insane; and he had taken it upon himself (with help from the  
9 colonial government) to maintain, effectively, an insane asylum for one.<sup>42</sup> We have  
10 similar examples of public funds to build family-operated individual insane asylums  
11 in Amesland, Pennsylvania in 1676<sup>43</sup> and in Braintree, Massachusetts in 1689 and in  
12 1699.<sup>44</sup>

13 62. There are doubtless many more instances of persons whose mental  
14 illness, while serious, did not prevent them from being cared for at home. John  
15 Howard, born in 1733, came from a comfortable family in Maine and showed great  
16 promise. But during the French & Indian War, while on an expedition to Canada, he  
17 fired on one occasion when in the woods at what he supposed to be a bear; it proved  
18 to be one of the party, and that he had unfortunately taken his life. No blame was  
19 imputed to Howard, but the occurrence so affected him that he sank into hopeless  
20 insanity. “He lived long at the fort, gentle and inoffensive, but possessed of immense  
21 imaginary wealth.”<sup>45</sup>

## 22 **B. Urbanization and Increased Need For Mental Hospitals**

23 63. Dr. Fissell explains that “Inpatient mental health care was very rare in  
24 the American colonies and early republic.” True, but why? Urbanization may have

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25 <sup>42</sup> 11 PUBLIC RECORDS OF THE COLONY OF CONNECTICUT 313 (1880). In 1761, Benajah again  
26 requested assistance from the legislature in caring for his son, and they gave him twenty pounds more. *Id.*,  
at 590-1.

27 <sup>43</sup> Thomas George Morton, HISTORY OF THE PENNSYLVANIA HOSPITAL 4 (1895).

28 <sup>44</sup> Duane Hamilton Hurd, 1 HISTORY OF NORFOLK COUNTY, MASSACHUSETTS... 312 (1884).

<sup>45</sup> JAMES W. NORTH, THE HISTORY OF AUGUSTA, FROM THE EARLIEST SETTLEMENT TO THE  
PRESENT TIME... 87 (1870).

1 increased mental illness rates as well. While we do not know if this was true in the  
2 eighteenth century, some recent studies suggest that being born or growing up in an  
3 urban area increases one's risk of developing schizophrenia and other psychoses.<sup>46</sup>  
4 In the twentieth century, comparison of insanity rates revealed that urban areas had  
5 much higher rates of mental hospital admissions for schizophrenia and bipolar  
6 disorder — almost twice as high for New York City compared to the rest of New  
7 York State. State by state comparisons in the nineteenth and twentieth centuries also  
8 revealed that more urban states, such as California and the northeastern states, had  
9 much higher rates of mental illness.<sup>47</sup>

10 64. Older statistical examinations of mental hospital admissions argue that  
11 at least in the period from 1840 to 1940, while mental hospital admissions increased  
12 (because of increased availability), there was no large and obvious increase in  
13 insanity.<sup>48</sup> A more recent study of mental illness data shows, much more  
14 persuasively, that psychosis rates rose quite dramatically between 1807 and 1961 in  
15 the United States, England & Wales, Ireland, and the Canadian Atlantic provinces. A  
16 study of Buckinghamshire, England shows more than a ten-fold increase in psychosis  
17 rates from the beginning of the seventeenth century to 1986.<sup>49</sup>

18 65. In 1764, Thomas Hancock left £600 to the city of Boston to build a  
19 mental hospital for the inhabitants of Massachusetts. The city declined to accept this  
20 gift, on the grounds that there were not enough insane persons to justify building such

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21  
22 <sup>46</sup> G. Lewis, A. David, S. Andreasson, P. Allebeck, *SCHIZOPHRENIA AND CITY LIFE*, LANCET, [July  
23 18, 1992] 340(8812):137-40, abstract available at  
24 [http://www.ncbi.nlm.nih.gov/entrez/query.fcgi?cmd=Retrieve&db=PubMed&list\\_uids=1352565](http://www.ncbi.nlm.nih.gov/entrez/query.fcgi?cmd=Retrieve&db=PubMed&list_uids=1352565), last  
25 accessed September 13, 2006; M. Marcelis, F. Navarro-Mateu, R. Murray, J.P. Selten, J. Van Os,  
26 *Urbanization and psychosis: a study of 1942-1978 birth cohorts in The Netherlands*, PSYCHOLOGICAL  
27 MEDICINE, [July 1998] 28(4):871-9, abstract available at  
28 [http://www.ncbi.nlm.nih.gov/entrez/query.fcgi?cmd=Retrieve&db=PubMed&list\\_uids=9723142](http://www.ncbi.nlm.nih.gov/entrez/query.fcgi?cmd=Retrieve&db=PubMed&list_uids=9723142), last  
accessed September 13, 2006; E. Fuller Torrey and Judy Miller, *THE INVISIBLE PLAGUE: THE RISE OF  
MENTAL ILLNESS FROM 1750 TO THE PRESENT* 122 (2001).

<sup>47</sup> *THE INVISIBLE PLAGUE*, *op. cit.*, 291-2.

<sup>48</sup> Herbert Goldhamer and Andrew W. Marshall, *PSYCHOSIS AND CIVILIZATION: TWO STUDIES IN  
THE FREQUENCY OF MENTAL DISEASE (1953)*. *THE INVISIBLE PLAGUE*, *op. cit.* 295-297, discusses the  
many problems with Goldhamer and Marshall's use of the data.

<sup>49</sup> *THE INVISIBLE PLAGUE*, *op. cit.*, 120-123, 298-9.

1 a facility.<sup>50</sup> Massachusetts had a population of 244,149 in 1765;<sup>51</sup> if the population  
2 of the time suffered the same schizophrenia rates as today, that would mean that there  
3 were 610 to 1562 schizophrenics in the province. Even accounting for the greater  
4 tolerance of small town life for the mentally ill, this lends credence to Torrey and  
5 Miller’s claim of rising psychosis rates.

6 66. Urban life today is not the same as urban life then, and even the scale of  
7 what constitutes “urban” is dramatically different — but it is an intriguing possibility  
8 that the increased rates of mental illness at the close of the Colonial period were the  
9 result of urbanization.

### 10 C. Hospital Capabilities

11 67. Another reason that hospitals were scarce in the colonial period were  
12 the limits of the medical profession’s toolbox. Without X-ray machines, and IVs,  
13 what could a hospital do, other than bed rest? Bed rest could be done at home just as  
14 well. Surgical procedures were limited by the lack of anesthetics and the likely death  
15 from sepsis if major surgery were attempted. “Surgery, in particular, has been too  
16 often portrayed as an agonizing business of ‘heroic’ and desperate capital operations;  
17 here it will be shown that such operations were rare events, and over ninety-five per  
18 cent of country surgical practice consisted of simple, but often effective,  
19 procedures.”<sup>52</sup>

20 Where Are the Rules or Laws?

21 68. Dr. Fissell does not ever point to institutional rules or laws regulating  
22 arms possession seem. Why?

23  
24  
25  
26 \_\_\_\_\_  
<sup>50</sup> Lloyd Vernon Briggs, HISTORY OF THE PSYCHOPATHIC HOSPITAL, BOSTON, MASSACHUSETTS  
4 (1922).

27 <sup>51</sup> Jesse Chickering, A STATISTICAL VIEW OF THE POPULATION OF MASSACHUSETTS, FROM 1765  
TO 1840 7 (1846).

28 <sup>52</sup> Irvine Loudon, *The Nature of Provincial Medical Practice in Eighteenth-Century England*, 29  
MEDICAL HISTORY 1 (1985).

1           **D. Poverty**

2           69. In ¶6, she argues that one explanation is that almshouses and poorhouses  
3 “began as refuges for the desperately indigent, but since sickness was often a key  
4 cause of poverty,” poor people would likely have no firearms. While this might be a  
5 useful explanation for a relatively valuable item such as a pistol, knives and other  
6 inexpensive arms seem not to have been the subject of rules or laws. This suggests  
7 that the absence of rules and laws may not be attributable to poverty of these down-  
8 and-out patients.

9           **E. Strict Rules**

10          70. Dr. Fissell in ¶7 points to the strict disciplinary rules of almshouses.  
11 Modern hospitals are also pretty strong on rules: bans on possession of arms by  
12 patients and visitors (rules often not enforced by statute); limits on the number of  
13 visitors; no alcoholic beverages; no smoking. If these strict rules prohibited  
14 possession of arms, it is odd that they have left no tracks, when other rules appear  
15 which Dr. Fissell lists.

16          71. One list of inmate rules for Boston’s poorhouse is detailed and restrictive, but  
17 which makes no reference to arms, knives, or anything that might be considered a  
18 weapon.<sup>53</sup>

19           **F. Well-Behaved Patients**

20          72. In ¶8, she points to voluntary hospitals where admission “were not based  
21 solely upon medical considerations, but on relationships of patronage and charity....  
22 No mention was made of specific rules governing patients’ behavior in voluntary  
23 hospitals, because it was assumed that those who had managed to navigate the  
24 networks of charity and patronage to gain admission were going to be well-behaved.”

25          73. This would be a more persuasive argument except for one of the  
26 examples that Dr. Fissell gives: Pennsylvania Hospital. While the hospital was

27 \_\_\_\_\_  
28 <sup>53</sup> Eric Nellis and Anne Decker Cecere, EIGHTEENTH-CENTURY RECORDS OF THE BOSTON  
OVERSEERS OF THE POOR 976-979 (2006).

1 clearly intended to care for both physical and mental illnesses, the concern about the  
2 mentally ill seems to have been strongest selling point — at least as judged by the  
3 petition requesting governmental assistance. The petition to the Pennsylvania  
4 Assembly showed concern for both the well-being of the mentally ill, and the dangers  
5 to the community as a whole:

6  
7 That with the numbers of people the number of lunaticks, or persons  
8 distempered in mind, and deprived of their rational faculties, hath  
greatly increased in this province.

9 That some of them going at large, are a terrour to their neighbours, who  
10 are daily apprehensive of the violences they may commit; and others are  
continually wasting their substance, to the great injury of themselves  
11 and families, ill disposed persons wickedly taking advantage of their  
unhappy condition, and drawing them into unreasonable bargains, &c.<sup>54</sup>

12  
13 74. These were people who would seem not likely to fit into the “well-  
14 behaved” category. If there was a need to disarm patients such as these, one might  
15 expect some evidence in rules or Pennsylvania statutes. There are certainly no such  
16 rules as late as the Charter, Laws, and Rules of The Pennsylvania Hospital (1859),  
when revolvers were readily available for purchase with no background checks.<sup>55</sup>

### 17 **G. English Practice**

18  
19 75. One Reformation-era almshouse in England, Charterhouse, was unique  
20 in several ways: “Wearing weapons was likewise forbidden, a rule *unique* to the  
21 Charterhouse and likely stemming from the fact that it was largely populated with  
22 ex-military men.”<sup>56</sup> [emphasis added] Whether this remained English and American  
23 practice two centuries later is unknown, but it certainly suggests that Fissell’s  
24 assumptions on this matter require examination.

25  
26 <sup>54</sup> Benjamin Franklin, SOME ACCOUNT OF THE PENNSYLVANIA HOSPITAL FROM ITS FIRST RISE TO  
THE BEGINNING OF THE FIFTH MONTH, CALLED MAY, 1754 4-5 (1817).

<sup>55</sup> *Of Patients*, CHARTER, LAWS, AND RULES OF THE PENNSYLVANIA HOSPITAL 25 (1859).

27 <sup>56</sup> Thomas K. Walsh, SUCCORING THE NEEDY: ALMSHOUSES AND THE IMPOTENT POOR IN  
REFORMATION ENGLAND, c. 1534-1640 126 (M.A. thesis, Dalhousie University, Feb. 2015),  
28 <https://dalspace.library.dal.ca/bitstream/handle/10222/56285/Walsh-Thomas-MA-Hist-February-2015.pdf?sequence=1>, last accessed November 11, 2023.

1 Rebuttal to Leah Glaser

2 VII. Summary

3 76. Glaser's declaration fails to identify any laws before 1868 that restrict  
4 possession of a firearm.

5 VIII. Relevance

6 77. Dr. Glaser's declaration, while interesting as a history of parks, is of no  
7 relevance to any case involving the standards set down by *Bruen*. The only firearms  
8 restrictions that she identifies in her declaration is in 40, which is a prohibition on  
9 discharge of firearms in 1894. Her attached exhibits 4 and 5 list rules that prohibit  
10 firearms possession, asserting that in Exhibit 4 section IV item N2: "To carry or have  
11 firearms in possession in a state park is unlawful," yet she does not cite any state law  
12 to that effect. Her Exhibits 4 and 5 were published in 1936 (see n. 39). None of her  
13 firearms possession restrictions pre-date 1868.

14 Rebuttal to Michael Kevane

15 IX. Summary

16 78. Dr. Kevane's declaration fails to identify Founding Era or pre-1868 laws  
17 restricting firearms possession in the public library system.

18 X. Relevance

19 79. Dr. Kevane's declaration, while interesting as a history of libraries, is  
20 no relevance to any case involving the standards set down by *Bruen*. He identifies  
21 no firearms restrictions associated with libraries. He admits in ¶¶8-11 that there were  
22 no public libraries in America until 1833, well past the Founding Era. Even in the  
23 1833-1868 period, he identifies not even one firearms restriction.

24 Rebuttal to Jeanne Kisacky

25 XI. Summary

26 80. Dr. Kisacky's declaration fails to identify Founding Era or pre-1868 laws  
27 restricting firearms possession in hospitals, either as statutes or even as institutional  
28 rules. I am hard pressed to see what purpose it was supposed to have for this case.

1 XII. Relevance

2 81. Dr. Kisacky's declaration, while interesting as a history of hospitals, is  
3 of no relevance to any case involving the standards set down by *Bruen*.

4 82. She identifies no firearms restrictions associated with hospitals in any  
5 era.

6 83. In paragraph 18 she cites how "At the New York Hospital, 'any patient  
7 misbehaving by going out without leave, getting drunk, swearing, or be [sic] guilty  
8 of other disorderly conduct,' could be confined or discharged regardless of  
9 condition." Notably missing in this rule are firearms and weapons.

10 Rebuttal to Peter C. Mancall

11 XIII. Summary

12 84. Dr. Mancall's declaration fails to identify any laws restricting firearms  
13 possession in drinking establishments or gambling establishments. I am hard pressed  
14 to see what purpose it was supposed to have for this case.

15 XIV. Taverns

16 85. Dr. Mancall's declaration, in 10-15 discusses the licensing of taverns  
17 and:

18 In an age of widespread availability of alcohol and the potential for  
19 social chaos and violence, municipal authorities focused on the most  
20 lethal weapons of that era—swords. But it is reasonable to conclude  
21 from the context that legislators would have banned any weapon that  
22 contributed to violence in these establishments. They outlawed swords  
23 because it was much easier for a drunken man (or woman) to slash or  
24 stab someone in a tavern.

25 86. Yet he lists not a single statute regulating the carrying of swords. At  
26 best, he quotes a secondary source: "Since gentlemen sometimes wore their swords  
27 in the ordinaries, despite laws to the contrary, aggressive banter could have fatal  
28 consequences." The logical next step for an historian would be to look in Rhys  
Isaac's book to see what Isaac's source was for this claim. I must conclude that he  
either made no attempt or found nothing there to support his claim about prohibitions  
on swords in taverns.

## 1 XV. Gambling

2 87. Dr. Mancall in 16-30 makes a strong case for banning alcohol gambling  
3 establishments but cites no laws restricting firearms in gambling establishments.

4 Rebuttal to Sharon Ann Murphy

## 5 XVI. Summary

6 88. Dr. Murphy's declaration fails to identify any laws restricting firearms  
7 possession in financial institutions. I am hard pressed to see what purpose it was  
8 supposed to have for this case.

## 9 XVII. Financial Institution

10 89. Dr. Murphy's declaration discusses in detail the development of  
11 banking, and a fascinating history of early American bank robberies and robberies in  
12 transit, including stagecoach robberies, but fails to identify even one statute or even  
13 institutional rule that restricted firearms in banks and other financial institutions.

14 Rebuttal to Joshua Salzman

## 15 XVIII. Summary

16 90. Dr. Salzman's declaration fails to identify any *laws* restricting firearms  
17 possession specific to transportation infrastructure. Mostly, he points to *rules* of  
18 private companies that in the mid-twentieth century (far past the dates of importance  
19 to *Bruen*) prohibited passengers from bringing guns into passenger cars. Before those  
20 twentieth century rules, he only has rules for checking guns as baggage and presents  
21 no evidence that railroads required passengers to do so.

22 91. Salzman's list of *rules* are overwhelmingly after the *Bruen* cutoff date  
23 of 1868. Salzman attempts to explain this absence of *rules* as an artifact of the  
24 overriding state and local bans on carrying of weapons which would have made  
25 railroad company rules unnecessary. The problem is that many states by the twentieth  
26 century had licensing laws for concealed carry. Even state laws that were general  
27 prohibitions on concealed carry often exempted "travelers" from those bans. See n.

28



1 65, below. A person on a train would be a “traveler” by any rational understanding  
2 of that word.

### 3 XIX. Transportation Systems

4 92. Dr. Salzman's declaration discusses in detail the development of  
5 transportation systems in America but does not get around to the issue in this case  
6 until 2/3 of the way through.

7 93. Starting at ¶69, he purports to list firearms restrictions on transit  
8 systems. He admits that he “was not able to perform an exhaustive search and  
9 analysis of all historic railroad rule books that are still in existence today.”

10 94. In ¶70:

11 First, many rule books and timetables do not mention firearms at all. I  
12 examined approximately seventy documents, in both online and brick  
13 and mortar archives, dating from the middle of the 19th century to the  
14 late 20th century, and I found mentions of firearms in approximately  
fifteen percent of those books. One possible explanation for this is that  
municipal and state laws, not railroad policies, dealt with the question  
of concealed carry.

15 95. This is an interesting claim. Open carry remained, and remains lawful,  
16 in much of the United States, including California cities until 1967, throughout the  
17 period for which he examined rule books. States begin to issue licenses to carry  
18 concealed weapons during this period (one example close to home is California's  
19 1923 concealed weapon license law<sup>57</sup>) and thus a lack of railroad rules explains  
20 nothing.

21 96. In ¶71:

22 Second, some railroads made references to the practice of transporting  
23 guns as luggage stowed on baggage cars, and they noted proper safety  
24 procedures for transporting guns. There were no instances in which I  
25 saw reference to passengers or employees- other than railroad police-  
26 being allowed to take loaded weapons on train cars. The 1880 timetable  
27 for the Union Pacific Railroad, for example, stated that "Dogs and Guns  
will be transported in baggage car, by special arrangement of owner with  
train baggageman, the rate charged on the former never to exceed one-  
half cent per mile, for distances over 50 miles, and on the latter, 5 cents  
for each passenger division.

28 <sup>57</sup> Cal. Laws ch. 339 § 5 at 696 (1923).

1           97. A hunter travelling by train would likely not carry a rifle with him, or  
2 even a handgun. Stowing it as luggage would certainly explain these rules. The lack  
3 of “reference to passengers or employees-other than railroad police-being allowed to  
4 take loaded weapons on train cars,” is an absence of evidence, not evidence of  
5 absence issue. Unless there was a prohibition on carrying guns on the train, there is  
6 no evidence that the practice was prohibited. Of course, these were only institutional  
7 rules, not laws.

8           98. Starting at ¶73, Salzman finally lists railroad rules that limit possession  
9 of loaded firearms. The first of these, in 1883, is past the date *Bruen* considers  
10 relevant, and again, these are not laws but the rules of private companies.

11           99. In ¶76, Salzman quotes “Rules and Regulations for the Government of  
12 Employees,” that “prohibited ... carrying concealed weapons while on duty or about  
13 the company's property.” Again, too late and as the title makes clear this regulates  
14 employees, not passengers. He also quotes from a 1943 Santa Fe Railroad rule, again  
15 too late, but this at least prohibits passengers from having “guns into passenger cars  
16 unless they are disconnected” by which I assume they mean unloaded, but perhaps  
17 disassembled. This is an odd terminology; searching for the words “firearm” and  
18 “disconnected” in the Google books repository in the 20<sup>th</sup> century finds no matches  
19 for this phrasing.<sup>58</sup> Arguendo, I will assume that this mean unloaded. It is odd that  
20 Salzman found no other matches that used this terminology, or that prohibited  
21 carrying handguns.

22           100. In ¶78, Salzman observes: “In light of the fact that many railroad rule  
23 books and timetables did not make any comment on the matter of guns on trains, it  
24 is also necessary to consider state and municipal laws that would have applied to  
25 travelers to understand the rules about carrying guns on mass transit.” This might

26           58

27 [https://www.google.com/search?q=firearm+disconnected&sca\\_esv=581711571&tbs=cdr:1,cd\\_min:1900,cd\\_max:1999,bkv:a&tbm=bks&sxsrf=AM9HkKI1H70r1O5JNs0k4\\_aTuLDI58u6Fg:1699799197906&source=Int&sa=X&ved=2ahUKEwiws4W71b6CAxW-m2oFHWVXBVsQpwV6BAgBEAY&biw=1920&bih=965&dpr=2](https://www.google.com/search?q=firearm+disconnected&sca_esv=581711571&tbs=cdr:1,cd_min:1900,cd_max:1999,bkv:a&tbm=bks&sxsrf=AM9HkKI1H70r1O5JNs0k4_aTuLDI58u6Fg:1699799197906&source=Int&sa=X&ved=2ahUKEwiws4W71b6CAxW-m2oFHWVXBVsQpwV6BAgBEAY&biw=1920&bih=965&dpr=2), last accessed November 12, 2023.

1 well be true but at least some nineteenth century laws prohibiting concealed of arms  
2 had an exception for those travelling: “Sec. 1. BE it enacted by the general assembly  
3 of the commonwealth of Kentucky, That any person in this common-wealth, who  
4 shall hereafter wear a pocket pistol, dirk, large knife, or sword in a cane, concealed  
5 as a weapon, *unless when travelling on a journey*, shall be fined in any sum, not less  
6 than hundred dollars;”<sup>59</sup> [emphasis added] Other concealed carry laws that exempted  
7 the never statutorily defined “travellers” include the 1820 and 1831 Indiana bans, the  
8 1838 Arkansas ban, and the 1863 California ban.<sup>60</sup>

9 101. The California ban was short-lived; it was repealed in 1870.<sup>61</sup> While  
10 some cities and counties passed local bans in following years, there was no statewide  
11 ban until 1917.<sup>62</sup> Travelers in California might well have been unaware of local bans,  
12 especially if they were just passing through a restrictive county. At least for  
13 California and states that exempted travelers from the ban on concealed carry,  
14 Salzman’s explanation does not work.

15 102. In ¶¶78-79, Salzman points to an 1871 Chicago ordinance banning  
16 concealed carry of deadly weapons. Salzman tells us, “Chicago, for instance, was  
17 the fifth largest U.S. city in 1870, and it was a national leader in the development of  
18 intracity and intercity transportation systems.” The careless or busy reader might  
19 misread this ordinance as being limited to “intracity and intercity transportation...”  
20 It was a general ban on concealed carry, not the licensed concealed carry that SB 2  
21  
22

23 <sup>59</sup> ACTS PASSED AT THE FIRST SESSION OF THE TWENTY FIRST GENERAL ASSEMBLY FOR THE  
COMMONWEALTH OF KENTUCKY 100-101 (1813).

24 <sup>60</sup> LAWS OF THE STATE OF INDIANA, PASSED AT THE FOURTH SESSION OF THE GENERAL  
ASSEMBLY 39 (1820); REVISED LAWS OF INDIANA, IN WHICH ARE COMPRISED ALL SUCH ACTS OF A  
25 GENERAL NATURE AS ARE IN FORCE IN SAID STATE; ADOPTED AND ENACTED BY THE GENERAL  
ASSEMBLY AT THEIR FIFTEENTH SESSION 192 (1831); REVISED STATUTES OF THE STATE OF ARKANSAS,  
26 ADOPTED AT THE OCTOBER SESSION OF THE GENERAL ASSEMBLY OF SAID STATE, A.D. 1837 Div. VIII,  
Art. I, § 13, at 280 (1838); Ala. Code § 3274 (1852); Cal. Laws, ch. 485 at 748 (1863); slightly revised to  
27 exempt federal officials by Cal. Laws, ch. 128 at 115 (1864); Tex. Laws ch. 34 at 25 (1871). The Texas  
law banned both concealed and open carry.

28 <sup>61</sup> Cal. Laws ch. 63 at 67 (1870).

<sup>62</sup> HENNING'S GENERAL LAWS OF CALIFORNIA, Act 1182 at 532 (1917).

1 attempts to restrict. This law is too late for *Bruen* and SB 2 is not analogous to that  
2 Chicago ordinance.

3 103. Salzman attempts to climb out of that hole by observing that “Second,  
4 the language used in the Chicago law mirrors that used in laws enacted in other states  
5 and cities...” This statement is true but irrelevant; state laws and city ordinances  
6 regulating concealed carrying of deadly weapons were common and not specific to  
7 “intracity and intercity transportation...”

8 104. Salzman’s claim in ¶79 that “All of these facts indicate there are  
9 compelling reasons to find that there was a past practice of prohibiting the concealed  
10 carry of weapons in urban spaces-inclusive of, but not limited to, transportation  
11 infrastructure.” Salzman just keeps digging a deeper hole. *Bruen* found a right to  
12 carry a gun for self-defense. These broad bans on concealed carry would be a  
13 problem under *Bruen* and only included “transportation infrastructure” by default.  
14 They provide no support for the idea that “transportation infrastructure” was regarded  
15 as a “sensitive place.”

#### 16 Rebuttal to Zachary Schrag

#### 17 XX. Summary

18 105. While Dr. Schrag’s declaration seems to indicate that he is broadly  
19 examining “the difficult historical questions to which Justice Breyer alludes,” his  
20 declaration is primarily about transportation. He fails to identify any laws restricting  
21 firearms possession specific to transportation infrastructure. He presents anecdotal  
22 evidence of governmental officials disarming people with no apparent lawful  
23 authority.

#### 24 XXI. Irrelevant

25 106. Prof. Schrag spends 28 pages discussing the difficulties of doing  
26 historical research to which I can only say, “Amen!” I have spent roughly thirty years  
27 battling these difficulties in determining original meaning; going through dusty  
28 volumes in law libraries; reading microfilmed newspapers in the Historic New

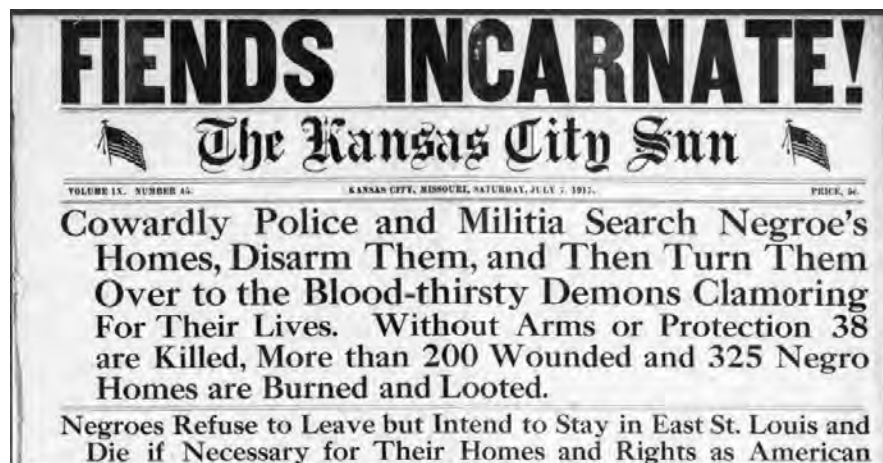
1 Orleans Collection and at UCLA; reading 18<sup>th</sup> century manuscripts at the  
 2 Massachusetts Historical Society; making use of digitized newspaper collections at  
 3 the Library of Congress Chronicling America collection; paying for and using  
 4 Accessible Archives and Newspapers.com.

5 107. The *only* evidence that Prof. Schrag presents relevant to this case is in  
 6 ¶15:

7 In my own work, I cite two examples of firearms regulation that took  
 8 place not in the statehouse, but on the street. On May 7, 1844, the day  
 9 after a lethal riot, the mayor of Philadelphia noticed a man at a rally  
 10 sitting on a double-barreled gun and ordered a police officer to  
 11 confiscate it, though it was later returned. Two months later, the sheriff  
 12 of Philadelphia County led a search of a Catholic church, during which  
 he confiscated a great many more arms of various types. These events  
 eventually featured in criminal cases that were reported in newspapers,  
 months after the confiscations, suggesting the need to look beyond the  
 statutes to understand how Americans understood state police power.

13 108. It is certainly true that governments have often taken actions that were  
 14 not authorized by statute and convey a deeper understanding of how gun regulation  
 15 was implemented. One of my favorite examples demonstrating this is:

16 Cowardly Police and Militia Search Negroe's Homes, Disarm Them,  
 17 and Then Turn Them Over to the Blood-thirsty Demons Clamoring For  
 18 Their Lives. Without Arms or Protection 38 are Killed, More than 200  
 Wounded and 325 Negro Homes are Burned and Looted.<sup>63</sup>



27 Rebuttal to Brennan G. Rivas

28 <sup>63</sup> Fiends Incarnate! KANSAS CITY SUN, Jul. 7, 1917, 1.

1 XXII. Summary

2 109. Rivas makes extensive use of laws that have been rejected as irrelevant  
3 by *Bruen*: the Statute of Northampton (1328), some early Republic analogs, and early  
4 Republic surety bonds. She makes extensive use of laws that banned not only  
5 concealed carry but also laws that also required intent to “unlawfully and maliciously,  
6 to do bodily harm to some other person.” She misreads *State v. Huntley* (N.C. 1843)  
7 and *State v. Smith* (La. 1857) as denying that the public carrying of arms was allowed.

8 110. Her sensitive places explanations rely too heavily on outlier post-1868  
9 Texas and a selective reading of other post-1868 decisions defining who was a  
10 “traveler” to read *open* carry as prohibited. Her use of *English* (1872) ignores  
11 antebellum Texas case law and the fiercely anti-Mexican sentiments of the *English*  
12 decision.

13 111. Her explanation of railroad firearms rules relies heavily on her  
14 assumptions of what was “reasonable” and a shortage of extant records. Worst of all,  
15 she is relying not on laws but the rules of private companies. If Greyhound chooses  
16 to prohibit possession of handguns by CCW holders, they are certainly free to do so.  
17 Government transit entities will need to provide evidence that *laws* existed before  
18 1868 limiting possession of arms on transportation systems.

19 XXIII. Colonial Restrictions

20 112. In ¶18, Rivas asserts “The mayor of Philadelphia opened a fair by  
21 issuing a proclamation that reiterated the obligation of colonists to keep the King’s  
22 peace, which mandated ‘that no person...carry any unlawful weapon, or gallop or  
23 strain horses within the built part of the city.’” True enough, but as Rivas admits in  
24 n. 9: “Watson provided the 1753 mayoral proclamation as an example of how such  
25 fairs would be opened. The suggestion is that the process of opening with a  
26 proclamation along these lines was standard procedure.” This might well be  
27 tradition.

28

1 113. Her n. 9 also claims: “It is worth noting that the rules laid out in the  
2 proclamation align with the Statute of Northampton and the common law view of  
3 keeping the peace.” *Bruen* has already considered and rejected the relevance of the  
4 Statute of Northampton to the Second Amendment. because of temporal distance to  
5 1791 and evidence that it was not a general prohibition on being armed in public:  
6 “Rather, it appears to have been centrally concerned with the wearing of armor.... If  
7 it did apply beyond armor, it applied to such weapons as the "launcegay," a 10- to 12-  
8 foot-long lightweight lance.”<sup>64</sup> Why Rivas is making a claim already rejected by  
9 *Bruen* eludes me.

10 114. ¶¶19-22 examine the development of roads and transportation systems  
11 with not a word about arms regulation. Ditto, for ¶¶23-24 on public gatherings; ¶¶25-  
12 29 public buildings; ¶30, private library; ¶31, hospitals; ¶32, theaters and ¶¶33,  
13 taverns. After all this expensive but irrelevant history, Rivas in ¶34 admits:  
14 “Although the city council and other government bodies with authority over  
15 Philadelphia did not enact weapon-specific regulations for these places of public  
16 assembly, city leaders were certainly aware of and sensitive to potentially unruly  
17 gatherings there.” Their solution was “to put a stop to the large gatherings of  
18 children, servants, and slaves that caused a nuisance to other residents by making  
19 noise, swearing, etc.” Rivas goes on to discuss ordinances “requiring the dispersal  
20 of people from the vicinity of the courthouse, marketplace, and public buildings  
21 (most of which were located near Second and High Streets at that time). Constables  
22 were charged with enforcing the rule and bringing violators before a magistrate.” She  
23 lists no firearms regulations for any of these areas.

24 115. She does mention, “Philadelphia militia laws prohibited militia  
25 members from meeting on muster days at taverns, ostensibly for fear that they would  
26 become inebriated and *fail to perform their duties.*” [emphasis added] There is no  
27 suggestion by her that public safety was a concern.

28 <sup>64</sup> New York State Rifle & Pistol Assn, Inc. v. Bruen, 142 S. Ct. 2111, 2139, 2140 (2022).

1 116. “There was also a consideration to close tavern barrooms on Sundays  
2 ‘as it would prevent youth from committing excesses to their own ruin, the injury of  
3 their masters, and the affliction of their parents and friends.’” If Rivas was writing a  
4 declaration in support of Prohibition this might be relevant.

5 117. At ¶35: “At times, armed men caused problems in Philadelphia’s public  
6 spaces. Watch houses and lamps were constructed to provide the necessary  
7 infrastructure for policing the public square and protecting the peace. The constables  
8 employed by the government, in addition to the residents drafted into night watch  
9 service, were the first line of defense against such disturbances.” She lists no laws  
10 that regulate carrying of arms and in fact recites a story that if anything suggests even  
11 the *use* of arms was not a major regulatory concern:

12 Penn, Jr. argued with members of the night watch about local politics  
13 and the formation of a militia, when the encounter turned into a brawl.  
14 At some point, he called on his friends to draw their pistols but was  
15 given a “severe beating” after the street light was put out. A grand jury  
16 heard evidence about the fracas, which ended Penn, Jr.’s career in  
17 Pennsylvania even though the case was dropped. In 1716, a man “armed  
18 with pistols” attacked the Speaker of the House of the colonial assembly  
19 and was indicted. The failure to prosecute and punish him caused “great  
20 dissatisfaction” to other members of the Assembly.

21 XXIV. American Law

22 A. Public Carry Restrictions

23 118. I was still waiting for the regulation of firearms. Here it came in ¶36,  
24 but the punchline does not complete the joke. “As early as 1850, persons found  
25 carrying deadly weapons at any riotous gathering were ‘deemed guilty of an intention  
26 to riot, whether said fire-arms, or deadly weapon, shall be used or not . . . .’” The  
27 punishment for deadly weapons was based on one’s involvement in a “riotous  
28 gathering.” Carrying of deadly weapons was not a crime in itself.

119. State lawmakers subsequently punished the carrying of ‘any fire-arms,  
slung-shot, other deadly weapon concealed upon his person’ in Philadelphia, ‘with  
the intent therewith unlawfully and maliciously to do injury to any other person.’”



1 Carrying concealed arms was not enough; it also required criminal intent. It was not  
2 unlawful in itself.

3 120. Evidence for this comes from *Wright v. Commonwealth* (Pa. 1875). A  
4 Jonathan Wright was indicted in April, 1871, in Schuylkill County, charging that: “he  
5 ‘did unlawfully and maliciously carry on and about (his) person, a certain concealed  
6 deadly weapon, commonly called a pistol, with intent, with the pistol aforesaid,  
7 unlawfully and maliciously, to do bodily harm to some other person, to the inquest  
8 unknown, &c.’”

9 121. While the jury found Wright innocent, they did order him to pay court  
10 costs. The defendant appealed the order to pay court costs, arguing that the May 5,  
11 1864, county ordinance which prohibited the carrying of concealed weapons was a  
12 violation of the 21st section of Pennsylvania’s Bill of Rights. Since his indictment  
13 was for an action which was not a crime, Wright felt that he should not be obligated  
14 to pay court costs.

15 122. The Pennsylvania Supreme Court’s ruling is short, without citation of  
16 either precedent or authority for their decision about the constitutionality of the law  
17 in question: “Such an unlawful act and malicious intent as this has no protection  
18 under the 21st section of the Bill of Rights, saving the right of the citizens to bear  
19 arms in defence of themselves and the state.” The Court further held that the jury  
20 must have had a good reason for imposing court costs on the defendant, even if they  
21 found him innocent. The headnotes for this decision assert that “prohibiting the  
22 carrying of concealed weapons, is not obnoxious to the Bill of Rights, sect. 21,” the  
23 decision itself specifies both “an unlawful act and malicious intent,”<sup>65</sup> suggesting that  
24 the combination of the two elements was required to constitute a crime. But did the  
25 court consider the carrying of concealed weapons to be part of the malicious intent,  
26 or was some other evidence of criminal intent required?

27  
28 \_\_\_\_\_  
<sup>65</sup> *Wright v. Commonwealth*, 77 Pa. St. 470, 471 (1875).

1           123. An additional interesting question is what part, if any, the 1873  
2 Pennsylvania Constitutional Convention played. The 1790 Pennsylvania  
3 Constitution, Article IX, §21, contained the guarantee: “That the right of citizens to  
4 bear arms, in defence of themselves and the State, shall not be questioned.”<sup>66</sup> At the  
5 1873 constitutional convention, an attempt was made to add the word “openly” after  
6 the word “citizens”. Thomas Struthers, the proponent of the change, argued that  
7 persons charged with carrying arms secretly “fall back on the Constitution, which  
8 they say authorizes the bearing of arms, and therefore the act of Assembly is  
9 unconstitutional.”<sup>67</sup>

10           124. Delegate MacVeah argued that

11           I understand that among other things that cannot be taken from a man,  
12 is the privilege he has to defend his life and to protect himself. Of course  
13 he is answerable to the fullest extent for the use of it, and your law  
14 against carrying concealed weapons does not interfere with the habit  
15 among the dangerous classes. But there are periods in every community,  
16 periods of excitement, when it may be necessary for a man to say in his  
17 own behalf, *"Say what you please and do what you please, but you must  
18 not beat or maltreat me, " and with all the inequalities of physical  
19 condition that exist, it is the very worst thing in the world to say that if  
20 a man of my condition offends a man like Judge Woodward, he is to take  
21 a severe beating whenever his enemy chooses to inflict it . I do not  
22 believe in it. I believe in the right of self-defence of the weak against the  
23 strong, and I do not propose to allow any man to maltreat me at his  
24 pleasure, as long as there are any weapons of de fence to be had by  
25 which I can equalize my strength with his.*<sup>68</sup> [emphasis added]

19           125. Delegate Beere explained:

20           I trust the Convention will not go into committee of the whole for the  
21 purpose of putting in this amendment. For more than four years in the  
22 oil regions of Pennsylvania, during the excitement of speculation and  
23 during the war, *no man's life would have been safe had it not been well  
24 understood that every man carried concealed weapons.* No man had any  
25 business to be there without them. Highway robbery even was best  
26 prevented by the assailed getting frequently the advantage of the first  
27 shot. Thieves and murderers never would and never do regard any law  
28 of this kind, and the revolver under such circumstances is the best  
conservator of the public peace in the hands of law abiding men. No  
man desires to be in the position of being assailed by a lot of drunken

<sup>66</sup> Penn. Const. Article IX, §21 (1790).

<sup>67</sup> 7 DEBATES OF THE CONVENTION TO AMEND THE CONSTITUTION OF PENNSYLVANIA:  
CONVENED AT HARRISBURG, NOVEMBER 12, 1872 258 (1873).

<sup>68</sup> *Id.*, at 258-259.

1 bullies who are reckless of any thing they may do unless restrained by  
2 fear.<sup>69</sup> [emphasis added]

3 126. The proposed amendment lost, 54-23.<sup>70</sup> The state constitution's arms  
4 provision was *not* amended to protect only open carry. It is not clear if the  
5 Pennsylvania Supreme Court considered the actions of the constitutional convention  
6 two years before, or independently reflected the same sentiments held by the majority  
7 of the delegates.

8 127. Rivas in ¶36 tells us that, "In 1881, when a US president had been shot  
9 by an armed assassin and concealable revolvers were readily available at cheap  
10 prices, the mayor of Philadelphia issued a proclamation reiterating the city's public  
11 carry restrictions." Rivas cites only a secondary source by Patrick Charles. This is  
12 both an executive proclamation and by her own admission simply a restatement of  
13 an existing prohibition, which she does not describe. (The convention delegates  
14 acknowledged that this was not a statewide law but varied from county to county.)<sup>71</sup>

15 128. In ¶37, Rivas again talks of the wonders of Philadelphia and references  
16 the Statute of Northampton, "The scale of urban life in Philadelphia sheds light upon  
17 the longstanding Statute of Northampton, enforced in England, its overseas empire,  
18 and even in the United States. It broadly prohibited the carrying of arms in "Fairs,  
19 Markets, nor in the Presence of the Justices or Ministers nor in no Part elsewhere."  
20 Again, she provides no evidence that this antique statute was in effect.

### 21 1. Laws Already Rejected by *Bruen*

22 129. Again in ¶38 Rivas tells us that the Statute of Northampton (1328)  
23 prohibited the carrying of arms *contra Bruen's* rejection of its significance.<sup>72</sup> In ¶39  
24 she elaborates, claiming that "numerous colonies and states enacted similar  
25 measures..." Among those "numerous colonies and states," she includes "Francois  
26

27 <sup>69</sup> Id., at 259.

<sup>70</sup> Id., at 261.

<sup>71</sup> Id., at 259.

<sup>72</sup> New York State Rifle & Pistol Association, Inc. v. Bruen, 142 S.Ct. 2111, 2139 (2022).

1 Xavier Martin, *A Collection of Statutes of the Parliament of England in Force in the*  
2 *State of North Carolina, 60-61 (Newbern 1792)*” in n. 56. There is no such law; the  
3 legislature tasked Martin to sift through all existing British statutes that *might* have  
4 some applicability to North Carolina. “I began at Magna Charta. The old statutes,  
5 before that period are generally acknowledged to be rather a matter of mere curiosity,  
6 and scarcely an authentic record of any of them is extant.... I have inserted every  
7 statute unrepealed by subsequent acts, or which did not appear so glaringly repugnant  
8 to our system of government as to warrant its suppression.”<sup>73</sup>

9 130. Her list includes an 1835 Massachusetts surety bond law. This class of  
10 laws *Bruen* rejected as irrelevant to the right to carry for self-defense:

11 While New York presumes that individuals have no public carry right  
12 without a showing of heightened need, the surety statutes presumed that  
13 individuals had a right to public carry that could be burdened only if  
14 another could make out a specific showing of “reasonable cause to fear  
15 an injury, or breach of the peace.” Mass. Rev. Stat., ch. 134, § 16 (1836).  
Thus, unlike New York’s regime, a showing of special need was required  
only *after* an individual was reasonably accused of intending to injure  
another or breach the peace. And, even then, proving special need  
simply avoided a fee.<sup>74</sup>

## 16 2. Concealed Carry Bans

17 131. Rivas opens a discussion of concealed carry bans at ¶40 by moving  
18 seamlessly from an 1801 Tennessee variant of Statute of Northampton that at least  
19 uses some of that text “publicly ride or go armed to the terror of the people,” which  
20 implies that someone can see that you are armed, to a discussion of laws prohibiting  
21 concealed carry where no one can see that you are armed.

22 132. Rivas in ¶41 quotes out of context *State v. Huntley* (N.C. 1843): ““No  
23 man amongst us carries [a firearm] about with him, as one of his every day  
24 accoutrements—as a part of his dress—and never we trust will the day come when  
25 any deadly weapon will be worn or wielded in our peace loving and law-abiding  
26 State, as an appendage of manly equipment.”

27 <sup>73</sup> Martin, *A Collection of Statutes of the Parliament of England in Force in the State of North*  
28 *Carolina* iii (1792).

<sup>74</sup> *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S.Ct. 2111, 2139 (2022).

1 133. What she left out is the following sentence:

2 But although a gun is an "unusual weapon," it is to be remembered that  
3 the carrying of a gun, per se, constitutes no offense. For any lawful  
4 purpose — either of business or amusement — the citizen is at perfect  
5 liberty to carry his gun. It is the wicked purpose, and the mischievous  
6 result, which essentially constitute the crime. He shall not carry about  
7 this or any other weapon of death to terrify and alarm, and in such  
8 manner as naturally will terrify and alarm a peaceful people."<sup>75</sup>  
9 [emphasis added]

10 134. This utterly demolishes Rivas' claim: "Individuals generally did not  
11 view concealed carry laws as giving permission to openly carry in populated places  
12 during a person's ordinary activities."

13 135. The defendant Huntley had indeed ridden about armed making deaths  
14 threats and one of the targets of Huntley's wrath "showed himself once, but for too  
15 short a time to enable him to do so, and that he mistook another man for him, and  
16 was very near shooting him."<sup>76</sup> The decision also specifically rejected the relevance  
17 of the Statute of Northampton:

18 The argument is, that the offense of riding or going about armed with  
19 unusual and dangerous weapons, to the terror of the people, was *created*  
20 by the statute of Northampton, 2 Edward III, ch. 3, and that, whether  
21 this statute was or was not formerly in force in this State, it certainly has  
22 not been since the first of January, 1838, at which day it is declared in  
23 the Revised Statutes, ch. 1, sec. 2, that the statutes of England or Great  
24 Britain shall cease to be of force and effect here.<sup>77</sup> [emphasis in original]

25 136. Rivas in ¶41 misreads *State v. Smith* (La. 1856), which is an admittedly  
26 ugly piece of writing: "And a Louisiana case from 1856 held that a partially visible  
27 weapon was a violation of the concealed carry law because it was "the result of  
28 accident or want of capacity in the pocket to contain, or clothes fully to cover the  
29 weapon, and not the extremely unusual case of the carrying of such weapon in full  
30 open view, and partially covered by the pocket or clothes."<sup>78</sup> What was "extremely  
31 unusual" was a "weapon in full open view, and partially covered by the pocket or  
32 clothes." Earlier in the decision, "The offence created by this statute is the carrying

<sup>75</sup> *State v. Huntley*, 25 N.C. 418, 422, 423 (1843).

<sup>76</sup> *Id.*, at 285.

<sup>77</sup> *Id.*, at 285.

<sup>78</sup> *State v. Smith*, 11 La. Ann. 633, 634 (1856).

1 of the weapon, pistol, bowie knife or dirk, &c. , concealed on or about the person. By  
2 the first section of the Act of 1813, a weapon of the kind designated was defined as  
3 concealed when, being carried by a person, it did not appear in full open view."<sup>79</sup>  
4 Open carry was accepted; carrying fully or even partially concealed was illegal.

5 **B. Sensitive Places**

6 137. Starting at ¶42, Rivas starts citing post-1868 laws, which are irrelevant  
7 under *Bruen*.

8 138. At ¶¶47-49, Rivas points to the *English v. State* (Tex. 1872) as some sort  
9 of evidence that the Second Amendment does not protect a right to carry arms. *Bruen*  
10 post-dates *English* and is a superior court. *Bruen* also specifically rejects *English* as  
11 an outlier.<sup>80</sup> Rivas ignores that the Texas Supreme Court in *Cockrum v. State* (Tex.  
12 1859) had recognized a right to bear arms under the Second Amendment and the  
13 Texas Constitution's arms guarantee.

14 139. In *Cockrum v State*: "The object of the clause first cited, has reference  
15 to the perpetuation of free government, and is based on the idea, that the people  
16 cannot be effectually oppressed and enslaved, who are not first disarmed. The clause  
17 cited in our bill of rights, has the same broad object in relation to the government,  
18 and in addition thereto, secures a personal right to the citizen. The right of a citizen  
19 to bear arms, in the lawful defence of himself or the state, is absolute."<sup>81</sup> Rivas also  
20 ignores *English's* incorrect blaming the Texas arms provision's origin on Mexicans:

21 We will not say to what extent the early customs and habits of the people  
22 of this state should be respected and accommodated, where they may  
23 come in conflict with the ideas of intelligent and well-meaning  
24 legislators. A portion of our system of laws, as well as our public  
25 morality, is derived from a people to most peculiar perhaps of any other  
26 in the history and derivation of its own system. Spain, at different  
27 periods of the world, was dominated over by the Carthaginians, the  
28 Romans, the Vandals, the Senevi, the Allani, the Visigoths, and Arabs;  
and to this day there are found in the Spanish codes traces of the laws  
and customs of each of these nations blended together into a system by

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<sup>79</sup> *Id.*

<sup>80</sup> *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S.Ct. 2111, 2139 (2022).

<sup>81</sup> *Cockrum v. State*, 24 Tex. 394, 401 (1859).

1 no means to be compared with the sound philosophy and pure morality  
2 of the common law.<sup>82</sup>

3 140. Rivas in ¶53 claims, “The majority opinion in *NYSRPA v. Bruen* treated  
4 the 1871 Texas statute as an outlier, but its discussion was limited to Section 1 of that  
5 law banning open and concealed carry of arms in public altogether.” Examining  
6 *Bruen*’s discussion shows nothing of the kind:

7 The Court acknowledges two Texas cases— *English v. State*, 35 Tex.  
8 473 and *State v. Duke*, 42 Tex. 455—that approved a statutory  
9 “reasonable grounds” standard for public carry analogous to New York’s  
10 proper-cause requirement. But these decisions were outliers and  
11 therefore provide little insight into how postbellum courts viewed the  
12 right to carry protected arms in public. See *Heller*, 554 U.S. at 632, 128  
13 S.Ct. 2783. Pp. 2150 - 2154.<sup>83</sup>

14 141. Rivas in ¶¶53-55 continues citing post-1868 laws as though *Bruen* has  
15 not spoken on this matter of dates.

### 16 1. Travelers

17 142. Starting in ¶56, Rivas argues that the “traveler” exceptions in many state  
18 public carry laws implies a general ban on carry in populated areas. In ¶57:

19 The kind of “travel” which it described was not the everyday movement  
20 through public spaces like town squares and commercial districts, or the  
21 kind of travel associated with modern transportation. Instead, it  
22 encompassed a type of travel that separated a person, small group, or  
23 family from the protections of the law that went hand-in-hand with  
24 organized society and were a fundamental feature of community life—  
25 courts, magistrates, constables, and the security of being among one’s  
26 neighbors. To be a traveler was to venture outside one’s community  
27 sphere and become vulnerable to dangers such as robbers and predatory  
28 animals.

143. Her claim might have some merit in Texas law, which was unusually  
restrictive.

144. Rivas in ¶59 quotes at length from *Carr v. State* (Ark. 1879) but neglects  
to mention the last part of the decision which reversed the conviction and remanded  
the case:

<sup>82</sup> *English v. State*, 35 Tex. 473, 489 (1872).

<sup>83</sup> *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S.Ct. 2111, 2120 (2022).

1 In this case, the implements found on defendant were pistols, and worn  
2 concealed. But they were not, either of them, loaded; and one was  
3 wholly unfit for use, if it had been. These things, affirmatively shown,  
4 rebut the presumption that the pistols were worn to be used as weapons.  
5 They could not be so used. If the state, in a given case, should show that  
6 pistols were worn concealed, the jury might well presume that they were  
7 loaded, and worn as weapons. But the defendant might remove the  
8 presumption by proof. It would be one of fact, and not of law.<sup>84</sup>

9 145. Rivas also misreads *Eslava v. State* (Ala. 1873):

10 An Alabama appellate court affirmed the decision of a lower court judge  
11 who, even though he acquiesced that the defendant had a right to carry  
12 a concealed weapon while traveling on a dangerous stretch of road,  
13 instructed the jury that “if they further believed, from all the evidence in  
14 the case, that the defendant was in the daily habit of coming to the city,  
15 engaging in his business in the city from morning until evening,  
16 mingling with the inhabitants of the city in business and social  
17 intercourse, and carried a pistol concealed about his person during this  
18 time, not being justified or excused otherwise than for the reason of his  
19 having to travel” along the dangerous stretch of roadway, “then he  
20 would be guilty, as charged in the indictment.”

21 146. What Rivas conveniently leaves out is the Court’s acknowledgment that  
22 the defendant’s error was in not changing to open carry in town.

23 If the necessity existed only while he was travelling, then, if after he  
24 reached the city and had a reasonable opportunity of divesting himself  
25 of the weapon, or of changing the manner of carrying it so as not to  
26 offend the statute, he continued to bear it concealed about his person, he  
27 is guilty as charged.<sup>85</sup>

28 147. Again, this is post-1868. My point is that Rivas’ characterization of the  
defendant’s problem is that public carry was lawful, even if *concealed* carry was not.

148. In any case, her “traveler implies bans on carry in cities” would perhaps  
justify banning CCW holders from being armed in cities, where the hazards of being  
a victim of violent crime are highest, but SB 2 does not do that.

149. Rivas at ¶62 summarizes her claims as: “Public carry laws in force  
during the late eighteenth and nineteenth centuries, whether they employed language  
from English common law or took the shape of concealed-carry laws, applied to  
public spaces in American communities large and small. The exceptions which some  
concealed weapon laws carved out for travelers remained closely guarded by

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<sup>84</sup> Carr v. State, 34 Ark. 448 (Ark. 1879).

<sup>85</sup> Eslava v. State, 49 Ala. 355 (Ala. 1873).



1 appellate courts and did not apply to everyday travel.” What Rivas seems to have  
2 missed in *Bruen* is that *Bruen* no longer treats concealed carry as a broad prohibition  
3 with a few traveler exceptions.

## 4 2. Transportation

5 150. Rivas at ¶64 points to colonial laws requiring ferries to “transport armed  
6 men free of charge during times of emergency.” She then claims, “The adoption of  
7 this policy indicates that some ferry operators may have been charging fares to  
8 militiamen, posses, or messengers during times of emergency, not that customers  
9 carried weapons on their person in times of peace.” She has no evidence that ferries  
10 were prohibiting the carrying of armed men. I am not sure what the formal logic term  
11 for this error is, but if armed men were being charged so that an exemption was  
12 required, the logical assumption is that armed men used the ferries.

13 151. At ¶65, Rivas points to increasing violence in America as... making  
14 some point that I cannot fathom. From here, in ¶66, Rivas: claims “expansion of  
15 America’s rail system reasonably suggests that railroad companies might have had  
16 policies—written or unwritten, preserved or lost—that affected passengers’ access to  
17 firearms and deadly weapons while aboard.” This may be reasonable to her but what  
18 people of that period thought was “reasonable” often startles historians. Her  
19 reference to policies “written or unwritten, preserved or lost” suggests that she could  
20 not find them, or may not have existed.

21 152. Anecdotal evidence is worth little, but it is more powerful than evidence  
22 that an historian calls unwritten” or “lost.” Francis Law Olmsted’s description of a  
23 not completely concealed Colt revolver on a Kentucky railroad in 1853 suggested  
24 that concealed carrying, and *almost* concealed carrying, of handguns was at least  
25 common, if not widespread:

26 In the cars in Kentucky a modest young man was walking through with  
27 the hand[le] of a Colt out of his pocket-skirt behind. It made some laugh  
28 & a gentleman with us called out, “You’ll lose your Colt, Sir.” The man  
turned and after a moment joined the laugh and pushed the handle into  
the pocket.

1 John said, “There might be danger in laughing at him.” “Oh no,” replied  
2 our companion, evidently supposing him serious, “he would not mind a  
3 laugh.” “It’s the best place to carry your pistol, after all,” said he. “It’s  
4 less in your way than anywhere else. And as good a place for your knife  
5 as anywhere else is down your back, so you can draw over your  
6 shoulder.”

7 “Are pistols generally carried here?”

8 “Yes, very generally.”

9 Allison said *commonly*, but he thought not generally [emphasis in  
10 original].<sup>86</sup>

11 153. At ¶66 Rivas points to jury instructions describing how a railroad “a  
12 railroad company has a right to require of its passengers the observance of all  
13 reasonable rules, calculated to insure the comfort, convenience, good order and  
14 behavior of all persons on the train...” Her implication is that this would mean rules  
15 prohibiting the carrying of firearms. If you believe that firearms represent a hazard,  
16 this might be a reasonable rule. If you believe that they are not a hazard, that would  
17 not be a reasonable rule.

18 154. Rivas did find one institutional rule for the North Pennsylvania Railroad  
19 from 1875 that requires conductors to not allow passengers to bring guns into the  
20 passenger cars. She cites an unpublished article that lists several railroad rules that  
21 were specific to guns, some requiring them to be stored in cases, unloaded, although  
22 with the passenger. As Rivas admits, some treated guns as just more luggage for  
23 which the railroad “would be held liable for lost, damaged, or stolen firearms.” In  
24 other cases, they could be carried into the passenger car.<sup>87</sup> *Institutional rules* are not  
25 *laws*. If private businesses wish to limit possession of firearms on their premises,  
26 this is not a Second Amendment issue. Even were these rules backed up by the  
27 authority of the government the burden of proof is on the government to show such  
28 examples before 1868.

<sup>86</sup> Frederick Law Olmsted, 2 THE PAPERS OF FREDERICK LAW OLMSTED, 232-233 (1981).

<sup>87</sup> CENTRAL PACIFIC RAILROAD AND LEASED LINES RULES, REGULATIONS AND INSTRUCTIONS FOR THE USE OF AGENTS, CONDUCTORS, ETC. 204 (1882).

1           155. Rivas at ¶67: “In the event that it was legal and permissible by company  
2 policy for a passenger to transport a firearm or other deadly weapon, stowing it away  
3 in closed baggage was altogether different from carrying in one’s pocket or waistband  
4 (which was de facto a violation of the law in many American jurisdictions, as  
5 previously described).

6           156. Several states had “traveler” exemptions from concealed weapon bans  
7 as Rivas admits. At least some nineteenth century laws prohibiting concealed of arms  
8 had an exception for those travelling: “Sec. 1. BE it enacted by the general assembly  
9 of the commonwealth of Kentucky, That any person in this common-wealth, who  
10 shall hereafter wear a pocket pistol, dirk, large knife, or sword in a cane, concealed  
11 as a weapon, *unless when travelling on a journey*, shall be fined in any sum, not less  
12 than one hundred dollars;”<sup>88</sup> [emphasis added] Other concealed carry laws that  
13 exempted the never statutorily defined “travelers” include the 1820 and 1831 Indiana  
14 bans, the 1838 Arkansas ban, and the 1863 California ban.<sup>89</sup>

15           157. The California ban was short-lived; it was repealed in 1870.<sup>90</sup> While  
16 some cities and counties passed local bans in following years, there was no statewide  
17 ban until 1917.<sup>91</sup> Travelers in California might well have been unaware of local bans,  
18 especially if they were just passing through a restrictive county. At least for  
19 California and states that exempted travelers from the ban on concealed carry, Rivas’  
20 explanation does not work.

21  
22  
23 <sup>88</sup> ACTS PASSED AT THE FIRST SESSION OF THE TWENTY FIRST GENERAL ASSEMBLY FOR THE  
COMMONWEALTH OF KENTUCKY 100-101 (1813).

24 <sup>89</sup> LAWS OF THE STATE OF INDIANA, PASSED AT THE FOURTH SESSION OF THE GENERAL  
25 ASSEMBLY 39 (1820); REVISED LAWS OF INDIANA, IN WHICH ARE COMPRISED ALL SUCH ACTS OF A  
GENERAL NATURE AS ARE IN FORCE IN SAID STATE; ADOPTED AND ENACTED BY THE GENERAL  
26 ASSEMBLY AT THEIR FIFTEENTH SESSION 192 (1831); REVISED STATUTES OF THE STATE OF ARKANSAS,  
ADOPTED AT THE OCTOBER SESSION OF THE GENERAL ASSEMBLY OF SAID STATE, A.D. 1837 Div. VIII,  
27 Art. I, § 13, at 280 (1838); Ala. Code § 3274 (1852); Cal. Laws, ch. 485 at 748 (1863); slightly revised to  
exempt federal officials by Cal. Laws, ch. 128 at 115 (1864); Tex. Laws ch. 34 at 25 (1871). The Texas  
28 law banned both concealed and open carry.

<sup>90</sup> Cal. Laws ch. 63 at 67 (1870).

<sup>91</sup> HENNING'S GENERAL LAWS OF CALIFORNIA, Act 1182 at 532 (1917).

1           158. Rivas at ¶68: “Conductors were considered the authority figures on  
2 trains and streetcars, and some states vested them with the same powers as  
3 policemen.” “Still, there was not a hard-and-fast rule about it, and public sentiment  
4 did not necessarily support the carrying of firearms by conductors aboard their trains  
5 or cars.” Her evidence for this is a single newspaper account from 1902. “There is  
6 no evidence that unarmed conductors justified preemptive arming by passengers.”  
7 Nor is there any the other direction. The burden is on the state to prove such bans,  
8 and before 1868.

9           159. Rivas at ¶69 points to state authorization of private railroad police. This  
10 in no way limited the authority of passengers to be armed. Idaho has police who  
11 attempt (and pretty successfully, compared to California) to protect Idahoans from  
12 violent crime. As citizens of a *free* state, we are also allowed, with very few  
13 restrictions, to be armed for self-defense.

14           160. Rivas at ¶70 tells us concerning the Union Pacific Railroad: “Extant  
15 records from the early 1930s show that some of the firearms held in the company gun  
16 locker were classified as ‘confiscated guns,’ presumably confiscated from passengers  
17 carrying them illegally.” Illegally might include persons without a valid concealed  
18 weapon permit for that state, or who had come to the attention of railroad police for  
19 some other unlawful activity. Rivas makes an assumption convenient to her cause,  
20 but provides no evidence to support it.

21           161. Rivas also tells us without apparent source: “correspondence from the  
22 Federal Bureau of Investigation from 1950 shows the FBI requesting the assistance  
23 of all law enforcement agencies, including the UPRR special agents, in tracking down  
24 the carriers of certain guns that had been used in the commission of crimes.”  
25 Doubtless UPRR agents encountered persons carrying guns because of criminal  
26 activity or happenstance. To assume that no passenger could carry a gun on a train  
27 meets Rivas’ needs but needs some evidence, or at least a source for her claim.  
28

1 162. Rivas at ¶¶71-74, attempts to explain the absence of evidence in support  
2 of her claims by “the lack of extant sources documenting their internal ridership  
3 policies.... my brief exploration of their finding aids indicates that most of these  
4 records are from 1900 or later.” This may well be the reason that the evidence that  
5 she seeks is not there, but it may also be the evidence of absence; there may not be  
6 much evidence of firearms restrictions on nineteenth-century trains because there  
7 were none or little restriction.

#### 8 Winkler Rebuttal

#### 9 XXV. Summary

10 163. Winkler’s declaration makes use of statutes already considered and  
11 rejected by the Court in *Bruen*.

12 164. Winkler makes claims about American law for which he provides no  
13 evidence (“states increasingly enacted laws prohibiting firearms from places where  
14 the public gathered for social and commercial activity”)

15 165. His claims about regulation of alcohol and firearms are almost entirely  
16 post-1868. The two laws pre-1868 fit into *Bruen*’s outliers category and can be  
17 dismissed.

#### 18 XXVI. Ancient and Discredited History

19 166. Winkler at ¶11 starts his declaration with the Statute of Northampton  
20 (1328), which *Bruen* specifically rejected because of temporal distance to 1791 and  
21 evidence that it was not a general prohibition on being armed in public: “Rather, it  
22 appears to have been centrally concerned with the wearing of armor.... If it did apply  
23 beyond armor, it applied to such weapons as the "launcegay," a 10- to 12-foot-long  
24 lightweight lance.”<sup>92</sup> Why Winkler is making a claim already rejected by *Bruen*  
25 eludes me.

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<sup>92</sup> New York State Rifle & Pistol Assn, Inc. v. Bruen, 142 S. Ct. 2111, 2139, 2140 (2022).

1           167. Even for this claim, Winkler makes assertions of fact as to “What made  
2 fairs and markets sensitive” that are best described as conjecture. The Statute of  
3 Northampton’s text is remarkably short in explanation of purpose:

4           Item, it is enacted, that no man great nor small, of what condition  
5 soever he be, except the king's servants in his presence, and his  
6 ministers in executing of the king's precepts, or of their office, and  
7 such as be in their company assisting them, and also [upon a cry made  
8 for arms to keep the peace, and the same in such places where such  
9 acts happen,] be so hardy to come before the King's justices, or other  
10 of the King's ministers doing their office, with force and arms, nor  
11 bring no force in affray of the peace, nor to go nor ride armed by  
12 night nor by day, in fairs, markets, nor in the presence of the justices  
13 or other ministers, nor in no part elsewhere, upon pain to forfeit their  
14 armour to the King, and their bodies to prison at the King's pleasure.  
15 And that the King's justices in their presence, sheriffs, and other  
16 ministers in their bailiwicks, lords of franchises, and their bailiffs in  
17 the same, and mayors and bailiffs of cities and boroughs, within the  
18 same cities and boroughs, and borough-holders, constables, and  
19 wardens of the peace within their wards, shall have power to execute  
20 this act. And that the justices assigned, at their coming down into the  
21 country, shall have power to enquire how such officers and lords have  
22 exercised their offices in this case, and to punish them whom they  
23 find that have not done that which pertained to their office.

15           168. Winkler may be surmising an intent from some evidence not available  
16 to the *Bruen* Court which gave as an explanation:

17           The Statute of Northampton was, in part, “a product of . . . the acute  
18 disorder that still plagued England.” A. Verduyn, *The Politics of Law  
19 and Order During the Early Years of Edward III*, 108 *Eng. Hist. Rev.*  
20 842, 850 (1993).<sup>93</sup>

20           169. Winkler appears unfamiliar with the literature for this period. In  
21 particular “Armed” seems to have been mistranslated in the official STATUTES OF THE  
22 REALM.<sup>94</sup> The phrase translated to “arms” in the original Norman French is *a force  
23 & arms*.<sup>95</sup> “A Statute Forbidding Bearing of Armour” of 1313 would seem to be of  
24 the same purpose. While unclearly written (or perhaps translated), it decrees that  
25 “every man shall come without all force and armour, well and peaceably, to the  
26

27 <sup>93</sup> *New York State Rifle & Pistol Assn., Inc. v. Bruen*, 142 S.Ct. 2111, 2139 (2022).

28 <sup>94</sup> 1 *Statutes: Revised Edition* (1870).

<sup>95</sup> 2 *Edw. III, Stat. Northampt.*, § 3 (1328).

1 honour of us, and to the peace of us and our realm.”<sup>96</sup> The Norman French phrase  
2 *force & sannz armes* is translated in the official STATUTES OF THE REALM as “without  
3 force and (5)armor.” Note 5 explains that this means “without armour.” This statute  
4 is not exactly a prohibition, almost like a suggestion that this is how you should  
5 approach the King and Parliament. Why was this mistranslated in the 1870 official  
6 version? I suspect because native speakers of Norman French were by this point  
7 “ashes to ashes, dust to dust.”

8 170. Sir John Knight was charged in the 17<sup>th</sup> century under the Statute of  
9 Northampton with carrying arms, but the charges were dismissed. One summary of  
10 the case includes the following notes: it did not apply of course to royal officials or  
11 “persons executing his precepts, or themselves endeavouring to keep the peace” (thus  
12 excluding otherwise law-abiding persons intent on self-defense or the defense of  
13 other innocent parties) and the punishment includes “forfeiting their armour”<sup>97</sup> (again  
14 evidence the Statute was aimed at wearing armor in a manner likely to engender fear).

15 171. Subsequent legal writing recognized that the Statute prohibited wearing  
16 armor not carrying arms. Even in the nineteenth century, a manual for justices of the  
17 peace in Ireland discussing the Statute explains that “A man cannot excuse the  
18 wearing of such armour in public.”<sup>98</sup> Even as to wearing arms in the modern sense,  
19 this volume is clear that “no wearing of arms is within the meaning of this statute,  
20 unless it be accompanied with such circumstances as are apt to terrify the people...”<sup>99</sup>  
21 Concerning those wearing armor under their clothes: “And persons armed with privy  
22 coats of mail, to the intent to defend themselves, against their adversaries, are not  
23 within the meaning of this statute, because they do nothing in terror of the people.”<sup>100</sup>  
24 The reference to coats of mail seems to include only armor in the modern sense. As

25 \_\_\_\_\_  
26 <sup>96</sup> 7 Edw. II (1313).

<sup>97</sup> Humphry William Woolrych, A PRACTICAL TREATISE ON MISDEMEANOR 221-2 (1842).

27 <sup>98</sup> Leonard MacNally, 1 THE JUSTICE OF THE PEACE FOR IRELAND: CONTAINING THE  
28 AUTHORITIES AND DUTIES OF THAT OFFICER 32 (1808).

<sup>99</sup> MacNally, *op cit.*

<sup>100</sup> *Id.*

1 a prohibition on carrying arms, it seems to only prohibit open carry of weapons. At  
2 most, the original intent appears to have been to prohibit the wearing of armor by  
3 knights and nobles other than royal officials, out of concern that wearing armor would  
4 terrify common people, by suggesting that combat was imminent.

5 172. Blackstone’s discussion of the Statute of Northampton compares it to  
6 “by the laws of Solon, every Athenian was finable who walked about the city in  
7 armour.”<sup>101</sup> While “armour” might refer to weapons, the use of the word “in”  
8 suggests something one wears; it would be difficult indeed to be inside a sword or a  
9 mace.

10 XXVII. American Law

11 173. Winkler in ¶12 attempts to establish this legal understanding as applying  
12 to America, *contra Bruen*:

13 The principle that weapons can be prohibited from places of public  
14 gathering found expression in early America in a manual for justices of  
15 the peace, which stated that peace officers had the authority to arrest  
16 those who “go or ride armed with unusual and offensive weapons . . .  
among any great Concourse of the People.” James Davis, *The Office  
and Authority of a Justice of the Peace* 13 (Newbern, James Davis 1774)

17 174. Those who read his Exhibit 3 will notice that p. 13’s header is “Armour.”  
18 This is consistent with *Bruen*’s understanding of the Statute of Northampton as a  
19 limitation on the wearing of armor not the carrying of arms.

20 175. In ¶13, Winkler claims, “In the nineteenth century, as the nation’s size  
21 and population grew, states increasingly enacted laws prohibiting firearms from  
22 places where the public gathered for social and commercial activity.” Winkler  
23 attributes this in part to “the patenting of Samuel Colt’s design for the revolver in  
24 1857.” This is a surprising mistake, as Colt’s revolver patent was issued Feb. 25,  
25 1836.<sup>102</sup>

26 \_\_\_\_\_  
27 <sup>101</sup> William Blackstone, 2 Commentaries on the Laws of England 110 (1838).

28 <sup>102</sup> U.S. Patent Office, *Improvement In Fire-Arms*,  
<https://patentimages.storage.googleapis.com/bb/74/4b/f767ebf3be82e3/USX9430.pdf>, last accessed  
November 13, 2023.



1 176. In ¶14: “By adopting new laws restricting guns in these and other places,  
2 lawmakers were not innovating. They were maintaining a tradition of regulating  
3 weapons in new places of public gathering that had gained popularity.” And in ¶15  
4 he elaborates “The laws of numerous states prohibited guns in “any public gathering,”  
5 “social gathering,” “ballroom,” and any “other public assembly of the people,” yet  
6 he lists no laws from before the Civil War that support this claim.

7 177. In ¶¶16-25, Winkler lists a number of such laws, all of them post-1868  
8 and thus irrelevant under *Bruen*.

9 XXVIII. Arms and Alcohol

10 178. In ¶¶26-31, Winkler lists laws prohibiting being armed while intoxicated  
11 or armed in a place serving alcohol. With two exceptions all of these laws are post-  
12 1868. The two that predate the 1868 date that *Bruen* requires are examined here. One  
13 is an 1852 (actually 1853 if Winkler had read carefully) New Mexico Territory law  
14 that prohibits carrying weapons to balls or Fandangos where alcohol is served. The  
15 other is an 1867 Kansas law that prohibits “any person under the influence of  
16 intoxicating drink” from carrying deadly weapons.

17 179. These two laws fall into the category that *Bruen* dismissed as outliers:

18 The exceptional nature of these western restrictions is all the more  
19 apparent when one considers the miniscule territorial populations who  
20 would have lived under them. To put that point into perspective, one  
21 need not look further than the 1890 census. Roughly 62 million people  
22 lived in the United States at that time. Arizona, Idaho, New Mexico,  
23 Oklahoma, and Wyoming combined to account for only 420,000 of  
24 those inhabitants—about two-thirds of 1% of the population. See Dept.  
25 of Interior, Compendium of the Eleventh Census: 1890, Part I.-  
26 Population 2 (1892). Put simply, these western restrictions were  
27 irrelevant to more than 99% of the American population. We have  
28 already explained that we will not stake our interpretation of the Second  
Amendment upon a law in effect in a single State, or a single city, “that  
contradicts the overwhelming weight of other evidence regarding the  
right to keep and bear arms” in public for self-defense. *Heller*, 554 U.S.  
at 632, 128 S.Ct. 2783; see *supra*, at 2153. Similarly, we will not stake  
our interpretation on a handful of temporary territorial laws that were  
enacted nearly a century after the Second Amendment's adoption,  
governed less than 1% of the American population, and also  
“contradic[t] the overwhelming weight” of other, more


1 contemporaneous historical evidence. *Heller*, 554 U.S. at 632, 128 S.Ct. 2783.<sup>103</sup>

2 180. The population of New Mexico Territory at the 1860 census was 93,516;  
3 the State of Kansas at the 1870 census, 364,399.<sup>104</sup> New Mexico Territory at the  
4 1860 census was thus 0.2% of the U.S. population. At the 1870 census, New Mexico  
5 Territory was 91,874. The total of New Mexico Territory and Kansas was 456,273,  
6 or 1.2% of the U.S. population. The combination of New Mexico being a territory  
7 which *Bruen* treated as a special case<sup>105</sup> and the tiny percentage of the U.S. population  
8 make these two laws outliers.

9 181. Additionally, these two laws differ in one substantial manner. The  
10 Kansas law prohibited carrying arms while intoxicated; the New Mexico law  
11 prohibited being armed where alcohol was available. The former at least has some  
12 obvious connection to public safety; drunks make horrible decisions. A person who  
13 is not drinking is not a public safety hazard; a case could be made that in a facility  
14 where some persons are impaired by alcohol, having one person armed might well  
15 provide the opportunity to turn a knife fight from a murder into an assault with a  
16 deadly weapon.

17 XXIX. Sensitive Places Restrictions

18 182. In ¶¶32-35 Winkler argues “no court in the nineteenth century held  
19 sensitive places legislation to be unconstitutional under the Second Amendment or  
20 similar state constitutional guarantees”. He only cites post-1868 Texas law, making  
21 this section of his declaration irrelevant.

22   
23 Clayton Cramer  
24 Declarant

25 <sup>103</sup> *New York State Rifle & Pistol Assn, Inc. v. Bruen*, 142 S. Ct. 2111, 2139, 2154, 2155 (2022).

26 <sup>104</sup> U.S. Census Bureau, *New Mexico*,  
<https://www2.census.gov/library/publications/decennial/1940/population-volume-1/33973538v1ch07.pdf>,  
last accessed November 9, 2023.

27 <sup>105</sup> *New York State Rifle & Pistol Assn, Inc. v. Bruen*, 142 S. Ct. 2111, 2139, 2121 (2022).  
28 (“Finally, these territorial restrictions deserve little weight because they were, consistent with the  
transitory nature of territorial government, short lived. Some were held unconstitutional shortly after  
passage, and others did not survive a Territory's admission to the Union as a State.”)

**CERTIFICATE OF SERVICE**

IN THE UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Case Name: *May, et al. v. Bonta*  
Case No.: 8:23-cv-01696 CJC (ADSx)

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

**REBUTTAL DECLARATION OF CLAYTON CRAMER**

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Robert L. Meyerhoff, Deputy Attorney General  
California Department of Justice  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013  
Email: [Robert.Meyerhoff@doj.ca.gov](mailto:Robert.Meyerhoff@doj.ca.gov)  
*Attorney for Defendant*

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

Executed November 20, 2023.

  
Christina Castron

---

CERTIFICATE OF SERVICE

*Reno May et al v. Robert Bonta et al*, 8:23-cv-01696-CJC-ADS**Appendix: Disagreements with Defendant’s Characterization of Historical Laws and Treatises Cited in Opposition to Plaintiff’s Motion for Preliminary Injunction**

No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
1	1402	England	4 Hen 4, c. 29	“no Man be armed nor bear defensible armor to Merchant Towns Churches nor Congregations in the same.” Opp. At 12.	Left out important context; this applied only to Welshmen, not all the king’s subjects. Left out the phrase “in Affray of the Peace or the King’s Liege People” in context to violate the law elsewhere than Towns, Churches, or Congregations. Compendium p. 19 (vol. 1 at 20).
2	1721	Pennsylvania	Pa. Laws 254-57	1721 Pennsylvania law making it a criminal offense 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.” Opp. At 43.	Leaves out the context that this law was passed for the purpose of “persons carrying guns [AND] presuming to hunt on other people’s lands.” The law was not passed for the purpose of those carrying for self-defense, but for the purpose of hunting. Compendium p. 43 (vol. 1 at 44).
3	1722	New Jersey	<i>N.J. Laws 100-01</i>	1722 New Jersey law providing for criminal penalties “if any Person or Persons shall presume . . . to carry any Gun, or hunt on the improved or inclosed Lands in any Plantation, other than his own, unless he have License of Permission from the Owner of such Lands or Plantation” Opp. At 43.	Leaves out the context that this law was passed for the purpose of “persons carrying guns [AND] presuming to hunt on other people’s lands” Compendium p. 50 (vol. 1 at 51).
4	1746	New Jersey	N.J. Laws 146	“Thus, many colonies prohibited the sale of alcohol to militiamen while on duty.” Opp. At 21.	Left out the context that sales with “Leave from the Captain or Commanding Officer for the Time being” were exempt. Compendium p. 60 (vol. 1 at 61).
5	1756	Delaware	Del. Laws 13	“Thus, many colonies prohibited the sale of alcohol to militiamen while on duty.” Opp. At 21.	Out of context, prohibited the militia from appointing any place of meeting within a half mile of any “Inn or Tavern.” However, did bar the presumption to “keep a Booth or tent or expose to sale at or Bring on any Pretence whatsoever any strong Liquor to such a place of Meeting.” Compendium p. 66 (vol. 1 at 67).

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No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
6	1776	Delaware	Del. Const. art. 28	<p>“To prevent any violence or force being used at the said elections, no person shall come armed to any of them.” Opp. At 10</p> <hr/> <p>(outlawing “any ‘battalion or company’ from coming within a mile of a polling place for twenty-four hours before or after the election”) Opp. At 36</p>	<p>Left out context which may imply this or other portions of the amendment are dependent on the peace of the election site. “<i>Provided always</i>, That every elector may, in a peaceable and orderly manner, give in his vote on the said day of election.” Compendium p. 92 (vol. 1 at 93).</p> <hr/> <p>Takes the amendment out of context. Prevented muster of the militia, not the militia members themselves. Only prohibited battalions or companies from giving their votes immediately succeeding each other if any other voter objected. Battalions and companies were also only prohibited from remaining within a mile and 24 hours of elections if it was in a manner that would impede the freely and conveniently carrying on of the election. <i>Id.</i></p>
7	1780	Pennsylvania	Pa. Laws 368	Thus, many colonies prohibited the sale of alcohol to militiamen while on duty. Opp. at 21.	Takes the statute out of context. The statute prohibited militia meeting at a tavern. The statute also prohibited transporting liquor to places of exercise for the militia. “12th. No company or battalion fhall meet at a tavern on any of the days of exercife, nor fhall march to any tavern before they are difchargd; and any perfon who fhall bring any kind of fpiritous liquor to fuch place of training fhall forfeit fuch liquors fo brought for the ufe of the poor belonging to the township where fuch offender lives.” Compendium p. 101 (vol. 1 at 102).
8	1786	Virginia	1786 Va. Laws 35	In fact, around the time of the Founding, two jurisdictions— Virginia and North Carolina— expressly enacted or retained their own versions of the Statute of Northampton that were understood to impose restrictions on carrying weapons at public gatherings. Opp.	<p>The statute limits carrying weapons at public gatherings The VA statute also limits imprisonment to one month. Compendium p. 104 (vol. 1 at 105).</p> <hr/> <p>The statute does limit in fairs or markets, but does so to the terror of the county. <i>Id.</i></p>

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No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
				at 18. Using this approach, the rich historical tradition of prohibiting the carry of firearms where people gather for social and entertainment purposes is the most relevant source of analogues. Laws during both the Founding era and the Reconstruction era prohibited firearms in these locations. 1786 Va. Laws 35, Comp. Ex. 31 (restricting firearms “in fair or markets”) Opp. At 26.	
9	1787	New York	N.Y. Laws 345	This category has historical roots in laws prohibiting firearms in places of election and legislative assembly. Opp. At 10.	Takes the statute out of context. Only prohibits the force of arms in the context of intimidation. “That all elections shall be free and that no person by force of arms nor by malice or menacing or otherwise presume to disturb or to hinder any citizen of this State to make free election upon pain of fine and imprisonment and treble damages to the party grieved.” Compendium p. 107 (vol. 1 at 108).
10	1793	Pennsylvania	Pa. Laws 473	Thus, many colonies prohibited the sale of alcohol to militiamen while on duty . . . [t]hese militia- and military-focused liquor laws extended into and after the Founding period with numerous States enacting similar laws. Opp. At 21.	Takes the statute out of context, prohibited militias to meet at taverns, marching to taverns before discharge, and transporting liquors to the place of militia exercise. This is a reenactment of similar language from a 1780 PA law. CA’s language implies this is a new law. Compendium p. 113 (vol. 1 at 114).
11	1799	New Jersey	N.J. Laws 436-37	Thus, many colonies prohibited the sale of alcohol to militiamen while on duty . . . [t]hese militia- and military-focused liquor laws	Takes the statute out of context, prohibited transporting liquors to the place of a militia exercise. “ARTICLE 16. Any person, who shall bring any kind of spiritous liquors to the place of exercise, shall forfeit such

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No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
				extended into and after the Founding period with numerous States enacting similar laws. Opp. at 21.	liquors, for the use of the poor, belonging to the city or township, where such exercise is had ; and the commanding officer of the regiment, battalion or company, is charged with the execution of this article.” Compendium p. 116 (vol. 1 at 117).
12	1817	Maryland	1817 Md. Laws 15	Thus, many colonies prohibited the sale of alcohol to militiamen while on duty . . . [t]hese militia- and military-focused liquor laws extended into and after the Founding period with numerous States enacting similar laws. Opp. at 21.	The cited page appears to not regulate liquor sales or similar liquor laws at all. The only reference liquor or drunkenness is a prohibition on non-commissioned officers from appearing drunk. Compendium p. 130 (vol. 1 at 131).
13	1820	New Hampshire	N.H. Laws 322	In early America, it was uncommon for civilians to carry arms in certain crowded gatherings, such as while “attending [public] meetings,” . . . or in “a place where persons were assembled for amusement.” . . . Other early American laws reflecting these concerns involved prohibitions on firearms near parades and on trains. Opp. at 17.	Law is taken entirely out of context. The cited law makes no mention of trains, and only applied to non-commissioned officers or privates on any day of muster. The law also only prohibited loaded arms at parade by militia members on duty. Compendium p. 136 (vol. 1 at 137).
14	1851	Illinois—City of Chicago	Chicago, Ill., Regulating the Keeping and Conveying Gun Powder and Gun Cotton	And still other laws prohibited “retailer[s] of intoxicating liquors” from being issued a permit to keep or sell gunpowder. Opp. at 22.	The law in question makes no mention of intoxicating liquors at all. Compendium p. 180 (vol. 1 at 181).
15	1852	New Mexico [Territory]	N.M. Laws 69	When jurisdictions in the United States began enacting more location-specific restrictions in the 19th century, it was common for these laws to prohibit weapons at	Takes the law out of context. Only prohibited carrying arms into balls or fandangos, but the law does not designate these balls or fandangos as being open to the public. Compendium p. 184 (vol. 1 at 185).

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No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
				large gatherings that were open to the public. Opp. at 18.	
16	1858	New York	New York, N.Y., Ordinances of the Central Park (Mar. 16, 1858)	Plaintiffs are unlikely to succeed on their challenge to Section 26230(a)(11)’s restriction on firearms at playgrounds and youth centers. These types of spaces did not exist in their modern form at either the Founding or Reconstruction (see Brewer Decl., ¶¶ 16, 23; Glaser Decl., ¶ 69), and the challenged modern regulations are “reasonably proportionate” to relevant historical analogues. See Antonyuk, 639 F. Supp. 3d at 324. Opp. at 31.	The law prohibited the carry of fire-arms in Central Park. The law makes no reference to spaces primarily occupied by children, as central park is primarily occupied by adults. Compendium p. 192 (vol. 1 at 193).
17	1858	Minnesota -- City of St. Paul	St. Paul, Minn. 689	Plaintiffs are unlikely to succeed on their challenge to Section 26230(a)(11)’s restriction on firearms at playgrounds and youth centers. These types of spaces did not exist in their modern form at either the Founding or Reconstruction (see Brewer Decl., ¶¶ 16, 23; Glaser Decl., ¶ 69), and the challenged modern regulations are “reasonably proportionate” to relevant historical analogues. See Antonyuk, 639 F. Supp. 3d at 324. Opp. at 22.	The compendium lists this as an 1858 ordinance while the opposition to MPI document lists this as an 1888 ordinance. The document linked on the compendium only shows a gunpowder law, but is shown to be pages 123-124 of the 1886 St. Paul ordinances, and not page 689 of the 1858 or 1888 ordinances. The state of CA seems to be citing to three possible sources for a vaguely referenced ordinance.
18	1859	Connecticut	Conn. Acts 61-63	And a Connecticut statute from 1859 prohibited the sale of alcohol to anyone within one mile of a military ground or encampment	§ 5 of the act considered liquor sales near military parade-grounds to be a nuisance in the same way gambling is. The act makes no mention of firearms as the primary reason liquor and gambling are prohibited.



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No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
				because such areas contained a large concentration of persons carrying firearms. Opp. at 22.	This act more relates to military cohesion than firearms safety. Compendium p. 199 (vol. 1 at 200).
19	1868	Pennsylvania -- City of Philadelphia	FIRST ANNUAL REPORT OF THE COMMISSIONERS OF FAIRMONT PARK, Philadelphia, Pa., (Apr. 14, 1868)	Plaintiffs are unlikely to succeed on their challenge to Section 26230(a)(11)’s restriction on firearms at playgrounds and youth centers. These types of spaces did not exist in their modern form at either the Founding or Reconstruction (see Brewer Decl., ¶¶ 16, 23; Glaser Decl., ¶ 69), and the challenged modern regulations are “reasonably proportionate” to relevant historical analogues. See Antonyuk, 639 F. Supp. 3d at 324. Opp. at 31.	The law prohibited the carry of fire-arms in Fairmont Park. The law makes no reference to spaces primarily occupied by children, as public parks are primarily occupied by adults. Compendium p. 227 (vol. 2. at 25).
20	1870	Texas -- City of San Antonio	San Antonio, Tx., An Ordinance, Concerning the carrying of Arms or Deadly Weapons (Dec. 14, 1870)	Applying a “more nuanced approach,” Section 26230(a)(7)’s restriction on carrying firearms in modern-day healthcare facilities falls squarely within the Nation’s historical tradition of prohibiting the carry of firearms in sensitive places. First, health facilities inarguably serve the “scientific purpose” of administering medical treatment, and states and municipalities have traditionally prohibited firearms in places where persons assembled for “scientific purposes.” Opp. at 30.	While the law does say educational purpose locations are prohibited, hospitals do not appear in the ordinance’s exhaustive list. There is no evidence hospitals were understood to fall under the ordinance. Compendium p. 252 (vol. 2 at 50).
21	1870	Texas	1870 Tex. Gen. Laws 63	Other early American laws reflecting these concerns involved	While the act does state that ball rooms and the like are prohibited, the act does not label public parades or

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No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
				<p>prohibitions on firearms near parades and on trains . . . (banning guns in any “ball room, social party or other social gathering composed of ladies and gentlemen”). Opp. at 17.</p> <hr/> <p>Third, a place may be sensitive because of the people who congregate there, including particularly vulnerable groups such as children, the elderly, and those suffering from illness . . . The sensitivity of such places finds considerable support in Reconstruction-era laws prohibiting guns in “any school room or other place where persons are assembled for educational, literary or scientific purposes.” Opp. at 28</p> <hr/> <p>Applying a “more nuanced approach,” Section 26230(a)(7)’s restriction on carrying firearms in modern-day healthcare facilities falls squarely within the Nation’s historical tradition of prohibiting the carry of firearms in sensitive places. First, health facilities inarguably serve the “scientific purpose” of administering medical treatment, and states and municipalities have traditionally prohibited firearms in places where persons assembled for</p>	<p>trains as prohibited places. Nor were trains considered public places as you needed a ticket to enter them. Nor are trains considered social gatherings. Compendium p. 255 (vol. 2. at 53).</p> <hr/> <p>The act makes no reference to children or any of these other groups. If these specific groups were the target of such regulation the state left out significantly more locations where children, the sick, and the elderly congregate. Why not specifically list out hospitals if the sick are a protected group? Why not specifically list out all places where children congregate? This portion of the opposition takes the act wildly out of context. <i>Id.</i></p> <hr/> <p>Takes the term “scientific purposes” out of context. Hospitals unquestionably existed in 1870, but they are missing from this exhaustive list. There is no evidence that hospitals were understood to be places of “scientific purposes” in this act. <i>Id.</i></p>

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No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
				“scientific purposes.” Opp. at 30.	
22	1871	Texas	Tex. Gen. Laws 25	Applying a “more nuanced approach,” Section 26230(a)(7)’s restriction on carrying firearms in modern-day healthcare facilities falls squarely within the Nation’s historical tradition of prohibiting the carry of firearms in sensitive places. First, health facilities inarguably serve the “scientific purpose” of administering medical treatment, and states and municipalities have traditionally prohibited firearms in places where persons assembled for “scientific purposes.” Opp. at 30.	Takes the term “scientific purposes” out of context. Hospitals unquestionably existed in 1871, but they are missing from this exhaustive list. There is no evidence that hospitals were understood to be places of “scientific purposes” in this act. Compendium p. 263 (vol. 2 at 61).
23	1872	North Carolina – Rock Spring Campground	Act of the General Assembly (July 20, 1872), reprinted in THE CHARLOTTE DEMOCRAT (N.C.), July 30, 1872	After the Founding, as explained in greater detail below, see infra, Section I(C)(2)(a), many of the general regulations prohibiting firearms at public gatherings and assemblies specifically mentioned places of worship as examples of prohibited, sensitive locations . . . And the territories of Arizona in 1889 and Oklahoma in 1890 and 1893 prohibited the carry of firearms into “any church or religious assembly.” . . . Localities enacted similar restrictions in places of worship. Opp. at 13.	Takes the statute out of context. “That any person or persons refusing by force or threats, or by drawing of deadly weapons, such as pistols or knives, or any other dangerous weapon, to be arrested. . .” Also, this appears to be a regulation incorporated by the Trustees of the Rock Spring Camp Ground, so this is not even an ordinance of the entire city of Charlotte, North Carolina. Compendium p. 270 (vol. 2 at 68).
24	1874	Missouri	Mo. Laws 43	(“any church or place [of worship], any school room or place where people are assembled for	Takes the statute out of context. Only concealed carry is prohibited in these “sensitive places.” “[H]aving concealed about his person any kind of fire-arms,

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No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
				<p>educational, literary or social purposes, . . . or into any other public assemblage of persons met for any lawful purpose [other than militia mustering]); Opp. at 19.</p> <p>And third, California’s 107 teaching hospitals<sup>17</sup>—where physicians complete their medical training and which “follow a tripartite mission of clinical care, education and research”<sup>18</sup>—share many of the same characteristics as schools; thus, prohibiting firearms in these hospitals falls within the historical tradition of designating places that serve “educational purposes” as sensitive places. Opp. at 31.</p>	<p>bowi-knife, dirk, dagger, slung-shot, or other deadly weapon...” Compendium p. 293 (vol. 2 at 91).</p> <p>While the law does say educational purpose locations are prohibited, hospitals do not appear in the act’s exhaustive list. The first teaching hospital in the United States did not appear in 1874 Missouri, it appeared in 1874 Pennsylvania. There is no evidence hospitals were understood to be prohibited under this act. Hospitals should therefor not be considered under the educational and research purposes for this act. <i>Id.</i></p>
25	1875	Missouri	Mo. Laws 50	<p>And third, California’s 107 teaching hospitals—where physicians complete their medical training and which “follow a tripartite mission of clinical care, education and research”—share many of the same characteristics as schools; thus, prohibiting firearms in these hospitals falls within the historical tradition of designating places that serve “educational purposes” as sensitive places. Opp. at 31.</p>	<p>While the law does say educational purpose locations are prohibited, hospitals do not appear in the act’s exhaustive list. Teaching hospitals were already in existence. Hospitals should therefor not be considered under the educational and research purposes for this act. Compendium p. 295 (vol. 2 at 93).</p>
26	1877	Virginia	Va. Acts 305	<p>First, places that are “sensitive” by virtue of the activities taking place there include many forms of</p>	<p>This law does not prohibit carry at places of election or legislative assembly. It only prohibits in places of worship while services are being held or on Sundays.</p>

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No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
				government property, locations where people are free to exercise their constitutional rights, or locations particularly attractive to terrorism or organized crime . . . This category has historical roots in laws prohibiting firearms in places of election and legislative assembly. Opp. at 10.	Compendium p. 312 (vol. 2 at 110). [slightly ambiguous: “or without good and sufficient cause thereof, shall carry any such weapon on Sunday at any place other than his own premises” i.e. If you have good cause you can carry outside your home on Sundays.]
27	1878	Mississippi	Miss. Laws 175-76	<p>States and localities also have historically prohibited the carrying of firearms by intoxicated individuals. Opp. at 22.</p> <p>Third, a place may be sensitive because of the people who congregate there, including particularly vulnerable groups such as children, the elderly, and those suffering from illness . . . The frequent presence of children in a particular location strongly indicates that the area should be deemed sensitive for Second Amendment purposes . . . The sensitivity of such places finds considerable support in Reconstruction-era laws prohibiting guns in “any school room or other place where persons are assembled for educational, literary or scientific purposes.” Opp. at 28.</p> <hr/> <p>And third, California’s 107 teaching hospitals<sup>17</sup>—where</p>	<p>§ 2 does not prohibit carry specifically to intoxicated people, but does bar sales of any weapons mentioned in § 1. § 1, however, bars carry to “any person, not being threatened with, or having good and sufficient reason to apprehend an attack, or traveling (not being a tramp) or setting out on a jounrye, or peace officers, or deputies in discharge of their duties.” Compendium p. 322 (vol. 2 at 120).</p> <p>§ 4 of the law only prohibited students and pupils. The act did not bar adults from carrying. <i>Id.</i></p> <hr/> <p>While the law does say educational purpose locations are prohibited, hospitals do not appear in the act’s exhaustive list. Teaching hospitals were already in existence, yet neither teaching hospitals or hospitals were not included among this list. There is no evidence hospitals were intended to be included among the state’s exhaustive list. Hospitals should therefor not be considered under the educational and research purposes for this act. <i>Id.</i></p>

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No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
				physicians complete their medical training and which “follow a tripartite mission of clinical care, education and research” <sup>18</sup> —share many of the same characteristics as schools; thus, prohibiting firearms in these hospitals falls within the historical tradition of designating places that serve “educational purposes” as sensitive places. Opp. at 31.	
28	1878	Missouri	State v. Reando, reprinted in THE STATE JOURNAL (Jefferson City, Mo.), Apr. 12, 1878	Courts of the era not only upheld the constitutionality of firearm prohibitions in places of worship, but also evinced the general sentiment that religious gatherings are no place for dangerous weapons. See State v. Reando (Mo. 1878), Comp. Ex. 101 (upholding the constitutionality of Missouri’s law prohibiting carry of firearms in, among other locations, churches). Opp. at 13.	Takes the court out of context. The court upheld Sess. Acts, 1874, 43, on the basis it does not outright prohibit the right to keep and bear arms. The court ruled that it still allows open carry in the so-called sensitive places. Compendium p. 326 (vol. 2 at 124). [“If the statute in question had the effect of denying this right, and absolutely prohibiting citizens from keeping and bearing arms, we would not hesitate to pronounce it void, as being violative of a constitutional right secured to every man by the constitution of the State. It, however, has no such scope. It simply denies to the citizen the right to enter certain places therein designated, having concealed about his person any kind of fire arms, bowie knife, etc.... Under this statute the right to enter, even such places, by any person bearing arms openly and exposed to public view is not prohibited...”]
29	1879	Missouri	Mo. Laws 224	First, places that are “sensitive” by virtue of the activities taking place there include many forms of government property, locations where people are free to exercise their constitutional rights, or	Statute does not specifically list legislative assembly as part of its exhaustive list but does bar concealed carry into, among others, “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...” (prohibiting “concealed” carry of

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No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
				<p>locations particularly attractive to terrorism or organized crime . . . This category has historical roots in laws prohibiting firearms in places of election and legislative assembly. Opp. at 10.</p> <p>Other early American laws reflecting these concerns involved prohibitions on firearms near parades and on trains . . . (prohibiting “concealed” carry of “firearms” in “any other public assemblage of persons met for any lawful purpose other than for militia drill”)</p> <hr/> <p>(prohibiting “concealed” carry of “firearms” in “any other public assemblage of persons met for any lawful purpose other than for militia drill”). Opp. at 17 n.11.</p> <hr/> <p>Third, a place may be sensitive because of the people who congregate there, including particularly vulnerable groups such as children, the elderly, and those suffering from illness . . .The sensitivity of such places finds considerable support in Reconstruction-era laws prohibiting guns in “any school room or other place where persons are assembled for educational, literary or scientific purposes.”</p>	<p>“firearms” in “any other public assemblage of persons met for any lawful purpose other than for militia drill”). Compendium p. 331 (vol. 2 at 129).</p> <hr/> <p>Trains would not be considered public places as they require a ticket to enter and ride. <i>Id.</i></p> <hr/> <p>The law does not include hospitals or other places where these groups may be found. Playgrounds were first built in 1859, yet this law does not include playgrounds among the exhaustive list. The sick are frequently found at hospitals, but these locations are not included among the exhaustive list. <i>Id.</i></p> <hr/> <p>While the law does prohibit in places of education, the law does not include hospitals among the exhaustive list of prohibited places. Teaching hospitals were already in existence. There is no evidence hospitals were understood to be included among the act’s exhaustive list. <i>Id.</i></p>

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No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
				Opp. at 28  And third, California’s 107 teaching hospitals <sup>17</sup> —where physicians complete their medical training and which “follow a tripartite mission of clinical care, education and research” <sup>18</sup> —share many of the same characteristics as schools; thus, prohibiting firearms in these hospitals falls within the historical tradition of designating places that serve “educational purposes” as sensitive places. Opp. at 30.	
30	1881	Illinois – City of Chicago	Chicago, Ill. 391-92	Plaintiffs are unlikely to succeed on their challenge to Section 26230(a)(11)’s restriction on firearms at playgrounds and youth centers. These types of spaces did not exist in their modern form at either the Founding or Reconstruction (see Brewer Decl., ¶¶ 16, 23; Glaser Decl., ¶ 69), and the challenged modern regulations are “reasonably proportionate” to relevant historical analogues. See Antonyuk, 639 F. Supp. 3d at 324. Opp. at 31.	Chicago banned carry of firearms in any of the public parks. California is using this in context of playgrounds and Youth Centers. The ordinance was written for the purpose of protecting the trees, plants, turf, etc. from damage. The ordinance was not written for the protection of children. Compendium p. 341 (vol. 2 at 139).
31	1883	Missouri	1883 Mo. Laws 76	And third, California’s 107 teaching hospitals—where physicians complete their medical training and which “follow a tripartite mission of clinical care, education and research”—share	While the law does prohibit in places for educational purposes, hospitals are not present among the states exhaustive list. Teaching hospitals first appeared in 1765 in Pennsylvania. Compendium p. 379 (vol. 2 at 177).



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No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
				many of the same characteristics as schools; thus, prohibiting firearms in these hospitals falls within the historical tradition of designating places that serve “educational purposes” as sensitive places. Opp. At 31.	
32	1883	Missouri – Tower Grove Park	Tower Grove Park, Mo. 117	Plaintiffs are unlikely to succeed on their challenge to Section 26230(a)(11)’s restriction on firearms at playgrounds and youth centers. These types of spaces did not exist in their modern form at either the Founding or Reconstruction (see Brewer Decl., ¶¶ 16, 23; Glaser Decl., ¶ 69), and the challenged modern regulations are “reasonably proportionate” to relevant historical analogues. See Antonyuk, 639 F. Supp. 3d at 324. Opp at 31.	The rules and regulations adopted by the Board of Commissioners prohibit the carry of firearms within the park itself. Playgrounds were first built in 1859, so playgrounds might technically be included, but they are not singled out by this rule. Compendium p. 383 (vol. 2 at 181).
33	1883	Wisconsin	Wis. Sess. Laws 290	States and localities also have historically prohibited the carrying of firearms by intoxicated individuals. Opp. At 22.	Did not prohibit the carry of all firearms, only pistols and revolvers. Compendium p. 387 (vol. 2 at 185).
34	1887	Kansas -- City of Stockton	Ordinance No. 76: An Ordinance Prohibiting Deadly Weapons, July 1, 1887, reprinted in STOCKTON REVIEW AND ROOKS COUNTY RECORD (Kan.) July 1, 1887	And third, California’s 107 teaching hospitals <sup>17</sup> —where physicians complete their medical training and which “follow a tripartite mission of clinical care, education and research” <sup>18</sup> —share many of the same characteristics as schools; thus, prohibiting firearms in these hospitals falls within the	Teaching hospitals were already in existence at the time of the passage of this act. Hospitals, even teaching hospitals, do not appear among the city’s exhaustive list of prohibited places. There is no evidence hospitals were understood to be included among the ordinance’s exhaustive list. Compendium p. 427 (vol. 3 at 40).

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No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
				historical tradition of designating places that serve “educational purposes” as sensitive places. Opp. at 30.	
35	1888	Minnesota, City of St. Paul	8 St. Paul, Minn. 689	Plaintiffs are unlikely to succeed on their challenge to Section 26230(a)(11)’s restriction on firearms at playgrounds and youth centers. These types of spaces did not exist in their modern form at either the Founding or Reconstruction (see Brewer Decl., ¶¶ 16, 23; Glaser Decl., ¶ 69), and the challenged modern regulations are “reasonably proportionate” to relevant historical analogues. See Antonyuk, 639 F. Supp. 3d at 324. Opp. at 31.	Prohibition on the carry of firearms in public parks. The purpose of the ordinance was to prevent hunting, as it specifically states that shooting of birds in parks is prohibited. Compendium p. 438 (vol. 3 at 51).
36	1890	Missouri -- City of Columbia	Columbia, Mo.	third, California’s 107 teaching hospitals <sup>17</sup> —where physicians complete their medical training and which “follow a tripartite mission of clinical care, education and research” <sup>18</sup> —share many of the same characteristics as schools; thus, prohibiting firearms in these hospitals falls within the historical tradition of designating places that serve “educational purposes” as sensitive places. Opp. at 31.	Hospitals are not included in the ordinance’s exhaustive list of prohibited places. Teaching hospitals were already in existence, but are also not included among the listed prohibited places. There is no evidence teaching hospitals or even hospitals were understood to be covered by this ordinance. Compendium p. 452 (Vol. 3 at 65). Only prohibits concealed carry, brandishing, and armed while intoxicated.
37	1894	Missouri -- City of Huntsville	Huntsville, Mo., An Ordinance In Relation to	And third, California’s 107 teaching hospitals <sup>17</sup> —where physicians complete their medical training and which “follow a	In the state’s exhaustive list, educational purposes does appear but hospitals are absent. Teaching hospitals were already in existence, but are not mentioned among this list. There is no evidence either hospitals or

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No.	Year	Jurisdiction	Citation	State’s Description of Regulation	Why Description Is Misleading
			Carrying Deadly Weapons (July 17, 1894)	tripartite mission of clinical care, education and research”18—share many of the same characteristics as schools; thus, prohibiting firearms in these hospitals falls within the historical tradition of designating places that serve “educational purposes” as sensitive places. Opp. at 31.	teaching hospitals were understood to be a part of the ordinance’s exhaustive list. Compendium p. 533 (vol. 3 at 146). Again, only a ban on <i>concealed</i> carry.
38	1897	Federal	Yellowstone National Park, Regulations of June 1, 1897	By 1900, the carrying of firearms was prohibited in more than two dozen parks across at least ten different states. See Young Decl., ¶¶ 34–35, 37. Once the park movement took hold on the national level, Yellowstone National Park banned firearms in 1897. Opp. at 33.	Yellowstone still allowed firearms in the park upon written permission from the superintendent. Compendium p. 581 (vol. 4 at 18).
39	1936	Federal	1. Fed. Reg. 791 (June 27, 1936)	By 1900, the carrying of firearms was prohibited in more than two dozen parks across at least ten different states. See Young Decl., ¶¶ 34–35, 37. Once the park movement took hold on the national level, Yellowstone National Park banned firearms in 1897. Comp. Ex. 186; see also Glaser Decl., ¶ 32 (explaining influence of park movement on national level). And after a national rule-making commission was established, firearms were banned from all national parks in 1936. Opp. at 33.	Carry of firearms allowed in parks with written permission of the superintendent or custodian. Compendium p. 638 (vol. 4 at 75).

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