

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 9 of 11**

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ROB BONTA  
*Attorney General of California*  
THOMAS S. PATTERSON  
*Senior Assistant Attorney General*  
R. MATTHEW WISE  
MARK R. BECKINGTON  
*Supervising Deputy Attorneys General*

ROBERT L. MEYERHOFF  
TODD GRABARSKY  
JANE REILLEY  
LISA PLANK  
CAROLYN DOWNS  
*Deputy Attorneys General*

CALIFORNIA DEPARTMENT OF JUSTICE  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013-1230  
(213) 269-6177  
Robert.Meyerhoff@doj.ca.gov  
*Attorneys for Rob Bonta as Attorney  
General of the State of California*

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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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  
 Deputy Attorneys General  
 6 State Bar No. 298196  
 300 South Spring Street, Suite 1702  
 7 Los Angeles, CA 90013-1230  
 Telephone: (213) 269-6177  
 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  
 State of California, and Does 1-10,**  
 18 Defendants.  
 19

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

**DECLARATION OF DR.  
 BRENNAN RIVAS 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

20  
 21 **MARCO ANTONIO CARRALERO, an  
 individual, et al.,**  
 22 Plaintiffs,  
 23 v.  
 24 **ROBERT BONTA, in his official  
 capacity as Attorney General of  
 California,**  
 25 Defendant.  
 26  
 27  
 28

**DECLARATION OF DR. BRENNAN GARDNER RIVAS**

1  
2 I, Dr. Brennan Gardner Rivas, declare under penalty of perjury that the  
3 following is true and correct:

4 1. I have been retained by the Office of the Attorney General of the  
5 California Department of Justice to provide expert opinions and testimony in this  
6 case. I submit this declaration on the basis of my training, professional expertise,  
7 and research. For this engagement, I was asked to provide expert opinions about  
8 historical gun regulations that pertained to public carry laws and sensitive places,  
9 with a particular focus on regulations related to travelers, transit companies, and  
10 transportation-related spaces.

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

**BACKGROUND AND QUALIFICATIONS**

14  
15 3. I am a historian and independent scholar. During the 2021-2022  
16 academic year, I was the Lloyd Lewis Fellow in American History at The Newberry  
17 Library. From 2020 to 2021, I was a Bill & Rita Clemens Fellow for the Study of  
18 Southwestern America within the Clemens Center for Southwest Studies at  
19 Southern Methodist University. From 2019 to 2020, I was a Lecturer in American  
20 History at Texas Christian University (TCU). I hold a Ph.D in in history from TCU,  
21 where my dissertation was on the development, evolution, and enforcement of gun  
22 and weapon policy in Texas form the era of Mexican independence to the 1930s.

23 4. My expertise includes historical weapon regulations in the United  
24 States. I have several publications on this topic, including peer-reviewed articles in  
25 the *Southwestern Historical Quarterly*, and a chapter in an edited collection  
26 forthcoming by Oxford University Press. Last year, my article, "Enforcement of  
27 Public Carry Restrictions: Texas as a Case Study" (June 2022), was published in the  
28 *UC Davis Law Review*. I am currently completing a book manuscript, based upon



1 my dissertation research, which traces the development and implementation of  
2 weapon and firearm policies in Texas across a century-long period. This manuscript  
3 has undergone the first round of peer-review and is currently under contract with an  
4 academic press.

5 5. A true and correct copy of my current curriculum vitae, which details  
6 my education, experience, and publications, is attached as **Exhibit 1** to this  
7 declaration. It contains all publications that I have authored within the last ten  
8 years, including a number of articles related to the regulation of guns, especially as  
9 to the history of nineteenth-century weapons policies and the socio-political context  
10 that made them possible.

11 6. I am being compensated for services performed in the above-entitled  
12 case at an hourly rate of \$200/hour for research, \$250/hour for document  
13 preparation, and \$350/hour for deposition and trial testimony. My compensation is  
14 not contingent on the results of my analysis or the substance of any testimony.

15 7. The opinions I provide in this declaration are based on my education,  
16 expertise, and research in the fields of transportation, the history of firearms and  
17 firearm regulation, and my review and analysis of a wide range of primary and  
18 secondary sources.

19 8. This declaration is a work of historical scholarship, informed by  
20 analysis of primary and secondary sources. Having studied the subject of historical  
21 gun regulations for several years now, I have drawn upon knowledge gained from  
22 reading numerous peer-reviewed books and articles, in addition to law review  
23 articles and media such as blogs and news articles. I have also drawn upon primary  
24 sources, such as historical laws and ordinances found in digital databases like Hein  
25 Online and Hathi Trust, and historical newspaper articles from databases like  
26 Chronicling America, ProQuest Databases, Newspapers.com, America's Historical  
27 Newspapers, and more. The writing and composition of scholarly works of history  
28 require the historian to evaluate both primary and secondary sources—using

1 secondary sources to contextualize and interpret primary sources in ways that  
2 illuminate the past rather than confuse or obscure it.

3 9. This declaration also involved new research, particularly in relation to  
4 the history of Philadelphia from the latter 1600s through the early 1800s. I  
5 consulted scholarly works of history about Philadelphia, particularly those  
6 addressing architecture, urban planning, and sites of social gathering. I also  
7 consulted relevant primary sources, from paintings of the city and its structures  
8 (often reprinted in architecture books) to maps and population statistics. A  
9 particularly important source for this study is a multivolume history called *Annals*  
10 *of Philadelphia*. Though it was written and published in the nineteenth century, the  
11 author, John F. Watson, related oral histories from longtime residents and reprinted  
12 some government records. I also visited some of Philadelphia’s historic sites and  
13 colonial-era gathering places during July 2023. As one of the United States’ oldest  
14 and most-studied urban centers, the case study of Philadelphia’s transportation and  
15 public gathering spaces could be carried much further—and such continued study  
16 would likely reinforce conclusions within this report rather than undermine them.

### 17 **SUMMARY OF OPINIONS**

18 10. First, this declaration sets forth my expert opinion that the search for  
19 and analysis of historical analogues for sensitive place laws and transit-specific gun  
20 regulations should be undertaken in light of historical transportation infrastructure  
21 as well as the types, locations, and sizes of historical public gathering places. A  
22 case study of Philadelphia shows that even one of the largest and most cultured  
23 cities in colonial and early America lacked indoor gathering spaces akin to modern  
24 venues of entertainment, art, and education, and it remained a “walking city” with  
25 relatively few intra-city transit options until the nineteenth century. Its outdoor  
26 places of public assembly, such as the city center, fairs, and marketplace, were  
27 exactly the types of gathering places encompassed within the text of the Statute of  
28 Northampton. Thus, to the extent there is any lack of direct analogues to the

1 contested statute, this lack stems from unlike circumstances rather than historical  
2 Americans' rejection of safety-focused gun regulation.

3 11. Additionally, this declaration presents evidence drawn from historical  
4 research showing that Americans have historically regulated the presence of  
5 weapons in sensitive places, including transportation-related spaces. Public carry  
6 laws were in force across much of the United States during the nineteenth century  
7 and prohibited the carrying of various weapons and particularly the concealed-  
8 carrying of them. By 1900, most American states and territories had enacted one,  
9 and hundreds of municipalities had enacted similar or overlapping ordinances to  
10 apply within their city limits. Public carry laws applied throughout an entire  
11 jurisdiction and did not cease to be operative aboard trains, trolleys, streetcars, and  
12 ferries. Private transportation companies also held the authority to establish rules  
13 about the carrying and shipping of firearms, and there is evidence showing that  
14 some rail companies required firearms to be transported unloaded and stowed away  
15 from passengers.

16 12. This declaration proceeds in four parts. First, it describes the nature of  
17 public transportation and gathering spaces in eighteenth-century America, using  
18 Philadelphia as a case study. Second, it provides an overview of the general history  
19 of public carry restrictions in the North American colonies and the United States.  
20 Third, it describes the specific application of public carry restrictions to travelers  
21 and transportation-related spaces. Fourth, this declaration briefly explains how the  
22 lack of relevant extant records hinders our ability to understand the full history of  
23 firearms regulation (particularly within transit spaces) in the United States.

## 24 **OPINIONS**

### 25 **I. Public Transportation and Gathering Spaces in Eighteenth-Century** 26 **America**

27 13. For this declaration, I explored the similarities and differences between  
28 the American urban experience today versus in the eighteenth century. This is an

1 undertaking which a historian could spend many years studying and developing—  
2 and indeed, some have written marvelous histories of the evolution of mass transit  
3 and the growth of urban centers. In order to work within the time constraints for a  
4 project of this kind (rather than a peer-reviewed monograph or article), I employed  
5 a case study method.

6 14. At the time of the Founding, Philadelphia, Pennsylvania was the  
7 second most populous city in the United States, with approximately 28,000  
8 residents.<sup>1</sup> More than that, Philadelphia had been one of the largest cities within the  
9 entire British Empire during the colonial period. As a result, Philadelphia led the  
10 nation in architecture, voluntary associations, and urban planning. Most Americans  
11 of the eighteenth century lived in small, rural areas very much *unlike* Philadelphia.  
12 That being said, the few large cities of the Founding Era provide a better analogue  
13 to modern life in the United States—where most Americans live in urban areas with  
14 access to transportation infrastructure, public safety agencies, and a population of  
15 5,000 or more<sup>2</sup>—than the small, rural areas where most Americans resided during  
16 the Founding Era. A look at transportation infrastructure in this sophisticated  
17 Founding-Era city, as well as its sites of public assembly, demonstrate that intra-  
18 city transportation and the scale of sensitive places in Philadelphia were quite  
19 different from what was common in the mid-to-late nineteenth century, and  
20 certainly from what we know today.

21  
22 <sup>1</sup> U. S. Bureau of the Census, “Population of the 24 Urban Places: 1790,” *Population of the*  
23 *100 Largest Cities and Other Urban Places In The United States: 1790 to 1990* (June 1998).  
<https://www2.census.gov/library/working-papers/1998/demographics/pop-twps0027/tab02.txt>

24 <sup>2</sup> Approximately 80.0% of Americans live in “urban areas” as defined by the U.S. Bureau  
25 of the Census. Following the 2020 census, that agency raised the minimum population threshold  
26 for “urban area” from 2,500 to 5,000. This caused a slight decline in the nation’s urban population  
27 (down from 80.7 to 80.0) even while “the nation’s urban population increased by 6.4% between  
28 2010 and 2020.” See “Nation’s Urban and Rural Populations Shift Following 2020 Census,”  
Press Release Number CB22-CN.25, United States Census Bureau (December 29, 2022),  
<https://www.census.gov/newsroom/press-releases/2022/urban-rural-populations.html>; and  
Michael Ratliffe, “Redefining Urban Areas Following the 2020 Census,” (December 22, 2022),  
<https://www.census.gov/newsroom/blogs/random-samplings/2022/12/redefining-urban-areas-following-2020-census.html>.

1           **A. Philadelphia: Transit Infrastructure**

2           15. The city of Philadelphia was established on the western bank of the  
3 Delaware River, across from West Jersey, in 1682. Inhabitants built makeshift  
4 caves and dwellings for themselves along the riverbank until land could be cleared  
5 and surveyed for the construction of homes on town lots. The town grew around a  
6 creek useful for docking boats, which came to be known as Dock Creek. In its  
7 earliest years, the city consisted of a cluster of buildings—particularly homes and  
8 taverns—near Dock Creek. The most notable was the Blue Anchor Inn, which was  
9 the site of a ferry connecting both sides of the creek. To the north grew what is now  
10 called the Old City, and to the south grew Society Hill. Near the turn of the  
11 eighteenth century, a drawbridge replaced the Dock Creek ferry, and by about a  
12 century after that, Dock Creek had been filled in and paved over.<sup>3</sup>

13           16. Wharves and docks were built along the riverfront allowing goods to  
14 be loaded and unloaded. The Society of Traders, a group of investors in  
15 Pennsylvania whose offices were in Society Hill, was made up primarily of  
16 merchants. The buying and selling, trading and transporting, of goods was the  
17 lifeblood of the city economy. Goods were transported across the wharves on carts  
18 and deposited at warehouses near the river.<sup>4</sup> Merchants showed and sold their  
19 warehoused products and shipped them by wagon or boat to their destinations. By  
20 1726, there were two privately owned wharves in Philadelphia, both being situated  
21 between High Street (now Market Street) and Dock Creek.<sup>5</sup> As the population and  
22  
23  
24

25           <sup>3</sup> John F. Watson, *Annals of Philadelphia and Pennsylvania in the Olden Time*, 2 vols.  
26 (1850), I: 35-38. See Also Martin P. Snyder, *City of Independence: Views of Philadelphia Before  
1800* (New York: Praeger, 1975), 26-27 (on cave structures and scarcity of public buildings).

27           <sup>4</sup> On Philadelphia as a center of eighteenth-century international and regional trade, see Carl  
28 Bridenbaugh and Jessica Bridenbaugh, *Rebels and Gentlemen: Philadelphia in the Age of Franklin*  
(New York: Oxford University Press, 1962), 5-12.

<sup>5</sup> Watson, *Annals of Philadelphia*, I: 51.

1 economic significance of the city grew, more were built along the riverbank of the  
2 Old City, Society Hill, and even outlying areas.<sup>6</sup>

3 17. Important public buildings were constructed near the Delaware River,  
4 and the city itself initially grew along the riverbank rather than westward toward the  
5 Schuylkill River as planned. As quickly as 1685, there were some 600 homes under  
6 construction in the Philadelphia area, all of them dotting the blocks nearest the  
7 riverbank to provide access to fresh water and infrastructure. To the west of the  
8 settled and developed town lots were the Governor's Woods, which extended to the  
9 Schuylkill River. By the Revolution, clearing of the forest had reached Broad  
10 Street, which is the current site of City Hall.<sup>7</sup> Construction for City Hall began in  
11 1871, and prior to that time the site had been set aside as a park and temporarily  
12 used for a water pumping station. Even though it is at the heart of the city as  
13 envisioned by Penn and early planners, it was at the fringe of settlement until the  
14 Founding Era. The first century of development in Philadelphia hugged the  
15 coastline rather than expand into the interior. Even though the space between the  
16 rivers was ultimately cleared and surveyed, settlement did not immediately follow.  
17 So much development had occurred outside of the planned grid by 1854 that a new  
18 charter was issued that brought these other settlements under the organization of the  
19 city and county of Philadelphia.

20 18. In the mid-to-late eighteenth century, the Old City remained the heart  
21 of Philadelphia—and High Street (now Market Street) was the very heart of the Old  
22 City. High Street was home to Philadelphia's main marketplace, which provided  
23 food, essentials, and other consumer products to residents near and far. The road  
24 itself was the primary east-west thoroughfare from the docks to the interior of the  
25

26 <sup>6</sup> Sketches, paintings, and lithographs of eighteenth-century Philadelphia sometimes  
27 presented a view of the city from the Delaware River, which would have been the arrival point for  
28 most immigrants and visitors. Docks covered the riverbank across the eastern edge of the whole  
city. See images in Snyder, *City of Independence*, 30-33, 46, 58, 63.

<sup>7</sup> Snyder, *City of Independence*, 35.



1 city, so it featured tremendous foot, horse, and wagon traffic. Vendors rented stalls  
2 and complied with strict regulations designed to protect the trade in essential goods  
3 from bad-faith actors. Market days were limited and specified by local ordinance,  
4 and Philadelphians built a watch tower to guard the marketplace.<sup>8</sup> During the  
5 colonial period, semiannual “fairs” brought all manner of goods to Philadelphia  
6 from outlying areas. The mayor of Philadelphia opened a fair by issuing a  
7 proclamation that reiterated the obligation of colonists to keep the King’s peace,  
8 which mandated “that no person...carry any unlawful weapon, or gallop or strain  
9 horses within the built part of the city.”<sup>9</sup> By the Revolutionary era, the center of  
10 High Street featured covered stalls, sometimes derisively labeled “shambles,”  
11 where vendors showed and sold their wares to passersby. The marketplace  
12 continued several blocks, passing Fourth Street in the late 1780s.<sup>10</sup> In the nineteenth  
13 century, Philadelphia removed the vendor sheds, established market corporations to  
14 build fully enclosed market houses, and renamed the roadway Market Street.<sup>11</sup>

15 19. With High Street being the center of the Old City, Philadelphians  
16 constructed important buildings in its vicinity. The intersection of Second and High  
17 Streets was particularly significant, being home to the first Quaker meetings house  
18 as well as sites of justice, like the first courthouse and jail.<sup>12</sup> A whipping post and

19 <sup>8</sup> Watson, *Annals of Philadelphia*, I: 59.

20 <sup>9</sup> Philadelphia City Ordinance, 1753, quoted in Watson, *Annals of Philadelphia*, 364. In his  
21 description of the city’s markets and the colonial-era fairs (that had ceased to be held by the time  
22 of his writing), Watson provided the 1753 mayoral proclamation as an example of how such fairs  
23 would be opened. The suggestion is that the process of opening with a proclamation along these  
24 lines was standard procedure. It is worth noting that the rules laid out in the proclamation align with  
25 the Statute of Northampton and the common law view of keeping the peace. “O yez! &c. Silence  
26 is commanded while the Fair is proclaiming, upon pain of punishment! A. B., Esq., Mayor of the  
27 city of Philadelphia, doth hereby, in the King’s name, strictly charge and command all persons  
28 trading and negotiating within the Fair to keep the King’s peace, and that no person presume to set  
up any booth or stall for the vending of strong liquors within this Fair—that none carry any unlawful  
weapon, or gallop or strain horses within the built part of the city. And if any person be hurt by  
another, let him repair to the Mayor here present. God save the King!”

<sup>10</sup> On markets, see Helen Tangires, *Public Markets and Civic Culture in Nineteenth Century  
America* (Baltimore: Johns Hopkins University Press, 2003), 3-47. See esp. Figure 2.2.

<sup>11</sup> Helen Tangires, “Public Markets,” *Encyclopedia of Greater Philadelphia* (2016),  
<https://philadelphiaencyclopedia.org/essays/public-markets/#essay>.

<sup>12</sup> Watson, *Annals of Philadelphia*, I: 59.

1 pillory were also installed there, meaning that corporal punishments were  
2 administered in an area of civic significance as well as public gathering. The office  
3 of town whipper was a paying position, and “The whipping post and pillory display  
4 was always on a market day—when the price of eggs went up much.”<sup>13</sup> In the same  
5 area hung a bell whose ringing notified residents that a proclamation or other  
6 important notice was about to be read to the public.<sup>14</sup>

7         20.         Connecting these sites to one another were roads laid out in a  
8 purposefully designed grid pattern. Many roads remained unpaved, ostensibly  
9 because loamy soil reduced some of the inconveniences arising from water or wet  
10 conditions. Still, until the 1760s there was no plan or funding for paving the city’s  
11 roads. Prior to that, sections of roadway might be cobbled with flagstone for  
12 wagons and feature an elevated sidewalk for pedestrians. Carts and wagons  
13 crisscrossed the city, running ruts into the roads and struggling across uneven or  
14 muddy stretches. When the roads were being paved, the elevation of some of them  
15 had to be altered dramatically. High points were lowered, and low-lying roadways  
16 were raised up—all of which required considerable earthwork and construction.<sup>15</sup>  
17 Goods related to a booming regional and international trade moved along these  
18 roads in carts and wagons, including agricultural produce heading from the  
19 hinterland to many warehouses and docked ships.<sup>16</sup> Affluent residents traversed the  
20 city in carriages, but from the colonial period until well into the nineteenth century,  
21 most Philadelphians navigated their city on foot.<sup>17</sup>

22  
23 <sup>13</sup> Watson, *Annals of Philadelphia*, I: 103.

24 <sup>14</sup> Snyder, *City of Independence*, 26-29.

25 <sup>15</sup> Watson, *Annals of Philadelphia*, I: 233-235.

26 <sup>16</sup> Mary McKinney Schweitzer, “The Economy of Philadelphia and Its Hinterland,” in  
27 *Shaping a National Culture: The Philadelphia Experience 1750-1800*, ed. Catherine E. Hutchins  
28 (Winterthur: Henry Francis du Pont Winterthur Museum, 1994), 99-127.

<sup>17</sup> John K. Alexander, “Poverty, Fear, and Continuity: An Analysis of the Poor in Late  
Eighteenth-Century Philadelphia,” in *The Peoples of Philadelphia: A History of Ethnic Groups and  
Lower-Class Life, 1790-1940*, Allen F. Davis and Mark H. Haller, eds. (Philadelphia: Temple  
University Press, 1973), 17 (“Since Philadelphia was still a walking city, the least desirable housing  
areas were at a distance from the center of activity.”).



1           21.     Transportation in Philadelphia also embraced regional passenger  
2 travel. Within a few years of establishing Philadelphia, ferries connected the  
3 commercial center to West Jersey across the Delaware River. During the eighteenth  
4 century, stage lines connected the city to New York and Boston. Roadways also  
5 stretched into the surrounding countryside enabling farmers to travel into the city to  
6 sell or ship their crops. Turnpikes and improvements rescued these roadways from  
7 becoming “as claypits, by the continual increase of population and use.”<sup>18</sup> There  
8 were also packet ships that moved goods, passengers, and letters to port cities  
9 elsewhere in the British colonies and later United States.

10           22.     Ferryboats, packets, and turnpikes exhausted the public transportation  
11 options in Philadelphia until the 1830s, when horse-drawn omnibuses began  
12 offering alternatives. These vehicles were on wheels and carried paying passengers  
13 along fixed routes within the city and its surrounds. Within twenty or thirty years,  
14 they were replaced by horsecars, which were similarly drawn by horses, but rather  
15 than wagon wheels, they were pulled along tracks built into the road like later  
16 streetcars. Omnibuses and horsecars presented a fairly expensive way to travel and  
17 were used primarily by the middling and upper classes of Philadelphia rather than  
18 its urban poor and laboring class. The first rail lines were built in the Philadelphia  
19 area in the 1830s, and the city subsequently became an important rail hub in the  
20 Mid-Atlantic region. The most significant developments in intra-city travel  
21 occurred well after the Founding period, and much closer to the mid- and late-  
22 nineteenth century when technology and demographic growth made urban mass  
23 transit both possible and necessary to Philadelphia.<sup>19</sup>

24           <sup>18</sup> Watson, *Annals of Philadelphia*, I: 257 (“Had no turnpikes been made, roads would have  
25 become as claypits, by the continual increase of population and use.”).

26           <sup>19</sup> On transportation development in Philadelphia, see *Annals*, I: 37-39, 211-219; II: 465-  
27 470; Charles W. Cheape, *Moving the Masses: Urban Public Transit in New York, Boston, and*  
28 *Philadelphia, 1880-1912* (Cambridge: Harvard University Press, 1980), 157-159; John Hepp,  
“Public Transportation,” *Encyclopedia of Greater Philadelphia* (2013),  
<https://philadelphiaencyclopedia.org/essays/public-transportation/> ; John Hepp, “Omnibuses,”  
(continued...)

**B. Philadelphia: Public Gathering Places**

23. As the leading city of the Founding-Era United States, the scale of public gathering places in Philadelphia diverged sharply from the norm throughout most of the country. Most Americans lived in exceedingly small, rural enclaves oriented around agriculture. In these rural areas of the colonial North America and the early United States, public gatherings were almost always outdoors. Regular church services were held indoors if the congregation had constructed a building, but even then, revivals and visits from preachers might draw large crowds in outdoor areas. The county courthouse was the center of public life, where men transacted business, recorded official documents, and sought legal redress for civil and criminal wrongs. On the days when court was in session, men and women from the surrounding countryside descended upon the small and otherwise deserted county seats. Court day was a time of festivity, entertainment, and fellowship with neighbors. Spectators and witnesses crowded into courtrooms, with others overflowing onto lawns. Livestock and other goods might be displayed for sale at court day, and the small taverns or “ordinaries” of the county seat became full to overflowing. On court days in rural areas, and more frequently in the seaside commercial centers, other activities were likely to take place, such as brawling, cockfighting, horse racing, and all manner of gambling. Court days were primarily about the carrying out of government business, but the rituals of the event also reinforced shared values and social connections among neighbors.<sup>20</sup>

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*Encyclopedia of Greater Philadelphia* (2012), <https://philadelphiaencyclopedia.org/essays/omnibuses/>.

<sup>20</sup> On Court Day and other occasions in rural communities, see Rhys Isaac, *The Transformation of Virginia, 1740-1790* (Chapel Hill: University of North Carolina Press, 1982), 88-114; Robert M. Ireland, *Little Kingdoms: The Counties of Kentucky, 1850-1891* (Lexington: University Press of Kentucky, 1977), 90-100; A. G. Roeber, “Authority, Law, and Custom: The Rituals of Court Day in Tidewater, Virginia, 1720 to 1750,” *The William and Mary Quarterly* 37, no. 1 (January 1980), 29-52; E. Lee Shepherd, “‘This Being Court Day’: Courthouses and Community Life in Rural Virginia,” *The Virginia Magazine of History and Biography* 103, no. 4 (October 1995), 459-470; Carl Lounsbury, *The Courthouses of Early Virginia: An Architectural History* (Charlottesville: University of Virginia Press, 2005).

1           24. Large cities like Philadelphia diverged from this pattern. Philadelphia  
2 was constantly bustling, and its justice system was active in its policing of residents  
3 and visitors alike. Still, most of the public gathering places in early modern  
4 Philadelphia were open-air, outdoor spaces. As previously described, High Street  
5 near the banks of the Delaware was the beating heart of the city as home to  
6 government buildings and the main public market. Residents, visitors, immigrants,  
7 and all manner of other travelers walked up and down the nearby wharves and  
8 docks, along the intersecting streets, and through the numerous alleyways.  
9 Residents likely visited the marketplace several times per week, if not every day, in  
10 order to purchase fresh foodstuffs for their households. The commerce along the  
11 waterfront generated the wealth that made life in Philadelphia possible, and  
12 indirectly propped up other industries, like construction and other skilled trades.  
13 The original plan of the city called for five symmetrical squares to serve as parks  
14 and public gathering places, but Centre Square at the intersection of Broad and  
15 Market Streets was used for a water works facility during the very early 1800s and  
16 subsequently became the site of City Hall later in the nineteenth century.

17           25. Aside from the older courthouse at High and Second Streets,  
18 Philadelphia boasted additional public buildings. As the city expanded in the late  
19 1700s, a new county courthouse and city hall were constructed about six blocks  
20 west of the riverfront and just a block south of High Street. The structures straddled  
21 the Pennsylvania State House and were temporarily home to the United States  
22 Congress and Supreme Court during the early republic period. Continued growth  
23 forced Philadelphians to construct yet another city hall in the nineteenth century.  
24 That one still stands in Centre Square, several blocks west of the previous site.  
25 Philadelphia's iconic City Hall was constructed over a thirty-year period beginning  
26 in the 1870s.<sup>21</sup>

27           <sup>21</sup> On the Old Philadelphia County Courthouse (Congress Hall) and Old City Hall (Old  
28 Supreme Court), see James D. Kornwolf, *Architecture and Town Planning in Colonial North*  
(continued...)

1           26.     As the capital of Pennsylvania, Philadelphia of the eighteenth century  
2 became home to the public buildings of state government. The State House, now  
3 known as Independence Hall, held chambers and courtrooms for various courts and  
4 housed the Legislative Assembly. It was completed in 1735 and was the meeting  
5 place of the Second Continental Congress. The main building was flanked by  
6 others, creating a government campus unparalleled until the development of the  
7 nation's permanent capital in Washington, D.C. The State House complex  
8 temporarily housed the national government, including the United States Congress,  
9 during the period when Philadelphia served as a national capital.<sup>22</sup> The State House  
10 building itself was 40' x 100', with the ground-floor chambers measuring 40' x 40'  
11 and separated by a hallway 20' wide. Upstairs was designed for public gatherings,  
12 with a long hallway measuring 20' x 100' providing access to five separate  
13 rooms.<sup>23</sup> The square surrounding the buildings was an outdoor gathering place for  
14 residents and demonstrators, and the site was an important one for civic activities.  
15 Some of the rooms were rentable and usable for different functions—for instance,  
16 the Library Company and Philosophical Society rented space there prior to  
17 completing their own buildings.<sup>24</sup> A large building for its time, the interior of the  
18 State House was a space for civic engagement and government functions, and its  
19 exterior was a site for large gatherings.

20           27.     Some of the largest buildings in Founding-Era Philadelphia were the  
21 well-established churches near the Delaware River. Christ Church is one of the  
22 more famous, and was one of the largest churches and tallest structures in the early  
23 United States. The building measured 61' x 118' and its sanctuary may have

24 \_\_\_\_\_  
25 *America*, 3 vols. (Baltimore: Johns Hopkins University Press, 2002), II: 1172-1173 (map and  
26 legend), 1179-1182.

27 <sup>22</sup> On the history of the State House, see Edward M. Riley, "The Independence Hall Group,"  
28 *Historic Philadelphia from the Founding until the Early Nineteenth Century: Papers Dealing with  
its People and Buildings, with an Illustrative Map* (Philadelphia: American Philosophical Society,  
1953, repr. 1973), 7-42. See also Kornwolf, *Architecture*, III: 1420.

<sup>23</sup> Kornwolf, *Architecture*, II: 1181.

<sup>24</sup> Charlene Mires, "Independence Hall," *Encyclopedia of Greater Philadelphia* (2012),  
<https://philadelphiaencyclopedia.org/essays/independence-hall/>.

1 accommodated 1,000 worshippers.<sup>25</sup> Still, those dimensions would not be  
2 considered particularly large by today's standards, when megachurches can host  
3 upwards of 2,000 people per service in stadium seating. The structure of St.  
4 Patrick's Cathedral in New York City, constructed more than a century after Christ  
5 Church, measures 334' long and upwards of 100' wide at the transepts. Other  
6 churches, including the Quaker meeting house, peppered the city and provided  
7 opportunity for Philadelphians to worship in accordance with their own  
8 consciences. Still, the church-to-population ratio (1 : 2,200) indicates that a  
9 substantial portion of Philadelphia's residents did not attend regular church  
10 services.<sup>26</sup>

11 28. Another class of large buildings in eighteenth-century Philadelphia  
12 were private homes. These were certainly not public spaces, although it was not  
13 uncommon for the owners of large houses to allow them to be used for public  
14 functions at times. For example, the Maryland colonial assembly met in private  
15 residences during the seventeenth century, and even purchased one for permanent  
16 use as an assembly hall. When the assembly was not in session, the building was let  
17 out to innkeepers and functioned as an "ordinary."<sup>27</sup> Philadelphia's mansions  
18 undoubtedly hosted balls, parties, weddings, and feasts that brought together dozens  
19 or hundreds of guests.

20 29. By the mid and late eighteenth century, Philadelphia was home to  
21 several large buildings that served various social functions. One of the largest  
22 meeting halls in the city during the eighteenth century was Carpenter's Hall, the  
23 official headquarters of the carpenter's guild. Today, the first floor is one open  
24 room beyond a small entry hall and stairwell. The building's dimensions indicate

25 <sup>25</sup> For dimensions of the building, see Kornwolf, *Architecture*, II: 1193. The figure of 1,000  
26 worshippers is an estimate.

26 <sup>26</sup> Bridenbaugh and Bridenbaugh, *Rebels and Gentlemen*, 18.

27 <sup>27</sup> Wesley R. Willoughby, "Community, Identity, and Public Spaces: The Calvert House as  
28 the First State House of Maryland," in *Unearthing St. Mary's City: Fifty Years of Archaeology at Maryland's First Capital*, Henry M. Miller and Travis G. Parno, eds. (Tallahassee: University Press of Florida, 2021), 151.

1 approximately 2,400 square feet in this room, which can accommodate 125 guests  
2 standing and 82 guests seated at dinner tables.<sup>28</sup> But the space was originally  
3 divided into two identically sized rooms on either side of a central hallway,  
4 effectively cutting the usable square footage by half or more.<sup>29</sup> The first Continental  
5 Congress met in one of the first-floor rooms in 1774. The First Bank of the United  
6 States rented the space prior to the completion of its building (nearby) in 1797.<sup>30</sup>  
7 The upstairs rooms could also be let out, and the Library Company used some of  
8 that space prior to the completion of its building in 1791.

9       30. The Library Company began as an association of rationalist, scientific  
10 thinkers intent upon promoting scientific innovation and discovery in what was one  
11 of the largest and most significant cities within the British Empire. The members  
12 collected books that could be read and enjoyed by subscribers. They collected  
13 thousands of titles during the eighteenth century, and rented space in various  
14 buildings before raising the necessary funds to construct their own in 1791. The  
15 Library Company collection was open to its members—who were mostly men of  
16 education and status in Philadelphia. The Library Company building contained a  
17 lecture hall to provide educational opportunities to Philadelphians. The company  
18 itself was private, and the benefits of assembly and association within its walls were  
19 reserved to members of the middle and upper classes, if not members of the  
20 organization itself.<sup>31</sup>

21  
22  
23 <sup>28</sup> The dimensions of the structure are two wings of 30' x 20', plus a central area of 30' x  
40'. For its current rental capacity, see <https://www.carpentershall.org/hall-rental>.

24 <sup>29</sup> On Carpenter's Hall, see Kornwolf, *Architecture*, II: 1187-1188.

25 <sup>30</sup> A member of the Carpenter's Company guild was involved in a bank robbery during the  
time that the First BUS was renting the space. On the Bank of the United States building in  
Philadelphia, see Kornwolf, *Architecture*, III: 1423-1424.

26 <sup>31</sup> On the Library Company see George F. Frick, "The Library Company of Philadelphia:  
America's First Philosophical Society," in Catherine E. Hutchins, ed., *Shaping a National Culture:  
The Philadelphia Experience, 1750-1800* (Winterthur: Henry Francis du Pont Winterthur Museum,  
1994), 181-200. See also Kenneth Finkel, "Library Company of Philadelphia," *Encyclopedia of  
Greater Philadelphia* (2017), <https://philadelphiaencyclopedia.org/essays/library-company-of-philadelphia/> (estimates that 1/10 of city households were members).



1           31. Eighteenth-century Philadelphia also had a sizeable hospital and  
2 prison. These buildings certainly brought residents together, but under unfortunate  
3 circumstances. Almshouses provided some shelter to the poor and tended to be  
4 significant structures within the city. They can hardly be interpreted as sites of  
5 public gathering and assembly. The College of Philadelphia, also known as  
6 Franklin Academy and subsequently renamed the University of Pennsylvania, was  
7 established in the eighteenth century. Its initial building measured 70' x 100' and  
8 had been built as an assembly hall in the aftermath of the First Great Awakening. A  
9 dormitory was also constructed for the students.<sup>32</sup>

10           32. The strong Quaker presence in Philadelphia stymied the growth of the  
11 theater there during much of the colonial period. The earliest theaters were built  
12 outside the city limits to avoid laws prohibiting performances.<sup>33</sup> Even though plays  
13 were considered low-brow entertainment and a wasteful way to spend one's money,  
14 American audiences of the eighteenth century behaved better than their  
15 counterparts in the urban centers of the United Kingdom. London audiences were  
16 notorious for rioting, but only one such theater-driven riot occurred during the  
17 colonial era.<sup>34</sup> In 1791, Thomas Wignell opened the Chestnut Street Theater, which  
18 stood near the State House (Independence Hall) and became the preeminent venue  
19 for plays and performances until the structure burned down in 1820. The theater  
20 could seat about 1,100 people and fit approximately 2,000 when the pit was full.  
21 Elites rented the boxes on the two lower levels but avoided the top tier of boxes,  
22 which "was a notorious meeting place for prostitutes and ruffians."<sup>35</sup> Despite that,  
23

24           <sup>32</sup> Kornwolf, *Architecture*, II: 1183-1189.

25           <sup>33</sup> Odai Johnson and William J. Burling, *The Colonial American Stage, 1665-1774: A*  
26 *Documentary Calendar* (Madison: Fairleigh Dickinson University Press, 2001), 54, 73-78. See also  
27 Irvin R. Glazer, *Philadelphia Theatres, A-Z: A Comprehensive Descriptive Record of 813 Theatres*  
28 *Constructed since 1724* (New York: Greenwood Press, 1986), 3.

27           <sup>34</sup> That riot occurred in New York in 1776. See Johnson and Burling, *Colonial American*  
28 *Stage*, 87-88.

28           <sup>35</sup> Calvin Lee Printer, "William Warren's Management of the Chestnut Street Theatre  
Company," Ph.D. diss. (University of Illinois, 1964), 23-24.

1 the theater had become by the late eighteenth and early nineteenth century an  
2 important social space for Philadelphians to “see and be seen.”<sup>36</sup>

3 33. A critically important social space in Philadelphia was the tavern. The  
4 city was home to dozens of taverns or ordinaries—places where visitors could stay  
5 the night, and where residents could meet for a drink. As many as a few dozen men  
6 gathered in the barroom of a tavern (depending upon the size of the structure) to  
7 exchange ideas and hear the latest news. Tavern culture has been associated with  
8 the democratic spirit and the Revolution itself.<sup>37</sup> Downstairs at a tavern were rooms  
9 that clubs and societies could rent for parties and special occasions. One of  
10 Philadelphia’s largest taverns, the Indian King, was three stories tall and had five  
11 such rooms on the ground floor; two of them could be joined with adjacent rooms  
12 to form larger spaces that could host up to one hundred people.<sup>38</sup> The remaining  
13 two floors held eighteen guest rooms, at least some of which would have bunked  
14 two or more men together. The building itself measured 40’ x 21’, so the space  
15 must have been fairly crowded during the times when the larger event rooms were  
16 rented out.<sup>39</sup>

17 34. Although the city council and other government bodies with authority  
18 over Philadelphia did not enact weapon-specific regulations for these places of  
19 public assembly, city leaders were certainly aware of and sensitive to potentially  
20 unruly gatherings there. The city government considered enacting an ordinance in  
21 1732 to put a stop to the large gatherings of children, servants, and slaves that  
22 caused a nuisance to other residents by making noise, swearing, etc.<sup>40</sup> The problem

23 <sup>36</sup> Printer, “William Warren’s Management of the Chestnut Street Theatre Company,” 24-  
24 25, quotation at 25.

25 <sup>37</sup> Peter Thompson, *Rum Punch and Revolution: Taverngoing and Public Life in*  
26 *Eighteenth-Century Philadelphia* (Philadelphia: University of Pennsylvania Press, 1999); David  
27 W. Conroy, *In Public Houses: Drink and the Revolution of Authority in Colonial Massachusetts*  
(Chapel Hill: University of North Carolina Press, 2018).

28 <sup>38</sup> Thompson, *Rum Punch and Revolution*, 86-88, 59 (“Four of these rooms could be  
converted to form two even larger rooms capable of seating up to a hundred ‘gentlemen’.”).

<sup>39</sup> Thompson, *Rum Punch and Revolution*, 59.

<sup>40</sup> *Annals of Philadelphia*, I: 62. At this time, it remains unclear whether that ordinance was  
(continued...)



1 persisted, with numerous complaints “that many disorderly persons meet every  
2 [evening] about the Court house of this city, and great numbers of Negroes and  
3 others sit there with milk pails, and other things, late at night, and many disorders  
4 are there committed against the peace and good government of this City.” In 1741,  
5 the city government issued an ordinance requiring the dispersal of people from the  
6 vicinity of the courthouse, marketplace, and public buildings (most of which were  
7 located near Second and High Streets at that time). Constables were charged with  
8 enforcing the rule and bringing violators before a magistrate.<sup>41</sup> In 1743, the  
9 government enacted an ordinance providing for the construction and manning of  
10 chains blocking carriage and cart access to High Street on market days. The leaders  
11 considered “the great danger the Inhabitants of this city are in by means of Carts  
12 and Carriages driving thro’ the streets at the Market Place on Market Days,” and  
13 intended “to prevent the mischief that may Ensur.”<sup>42</sup> Philadelphia militia laws  
14 prohibited militia members from meeting on muster<sup>43</sup> days at taverns, ostensibly for  
15 fear that they would become inebriated and fail to perform their duties.<sup>44</sup> There was  
16 also a consideration to close tavern barrooms on Sundays “as it would prevent  
17 youth from committing excesses to their own ruin, the injury of their masters, and  
18 the affliction of their parents and friends.”<sup>45</sup> In response to an audience at the  
19  
20  
21

22 \_\_\_\_\_  
23 passed. Volume I of *Annals of Philadelphia* contains some selectively excerpted minutes from city  
24 council meetings, and an update on the status of this ordinance was not included.

25 <sup>41</sup> Watson, *Annals of Philadelphia*, I: 62-63.

26 <sup>42</sup> Watson, *Annals of Philadelphia*, I: 63.

27 <sup>43</sup> Militia muster was an important occasion when militia members gathered together for  
28 drill and presentation of their weapons. Militia laws generally prescribed when and where musters  
should take place.

29 <sup>44</sup> 1793 Pa. ch. 1696, “An Act for the regulation of the militia of the Commonwealth of  
30 Pennsylvania,” Sec. XXIV, § 17, 473 (“No company or regiment shall meet at tavern on any of the  
31 days of exercise, nor shall march to any tavern before they are discharged, and any person who  
32 shall bring any kind of spirituous liquors to such place of training, shall forfeit such liquors, so  
33 brought, for the use of the poor belonging to the ward, district or township where such offender  
34 lives.”) (**Exhibit 2**).

35 <sup>45</sup> Watson, *Annals of Philadelphia*, I: 101.

1 Chestnut Street Theater turning into a mob, theater management hired constables to  
2 “rigidly enforce decorum” in future.<sup>46</sup>

3 35. At times, armed men caused problems in Philadelphia’s public spaces.  
4 Watch houses and lamps were constructed to provide the necessary infrastructure  
5 for policing the public square and protecting the peace. The constables employed by  
6 the government, in addition to the residents drafted into night watch service, were  
7 the first line of defense against such disturbances. One of the colony’s early leaders,  
8 skeptical of the Quaker commitment to pacifism, woke residents of the city one  
9 morning in 1686 “with sword drawn” and sounding the alarm for an imminent  
10 attack. The Quaker residents stood fast to their principles, and John Evans’s  
11 political career came to a swift end over the ugly joke.<sup>47</sup> William Penn’s eldest son,  
12 John, became embroiled in conflict over an affray outside a tavern in 1704, and the  
13 debacle prompted his permanent departure from colonial leadership. Penn, Jr.  
14 argued with members of the night watch about local politics and the formation of a  
15 militia, when the encounter turned into a brawl. At some point, he called on his  
16 friends to draw their pistols but was given a “severe beating” after the street light  
17 was put out. A grand jury heard evidence about the fracas, which ended Penn, Jr.’s  
18 career in Pennsylvania even though the case was dropped.<sup>48</sup> In 1716, a man “armed  
19 with pistols” attacked the Speaker of the House of the colonial assembly and was  
20 indicted. The failure to prosecute and punish him caused “great dissatisfaction” to  
21 other members of the Assembly.<sup>49</sup>

22 36. By the Civil War Era, the carrying of concealed weapons was more  
23 common than it had been in the eighteenth century, and pocket-sized pistols were  
24 more readily available to consumers. This posed a special problem in Philadelphia,

25 <sup>46</sup> Printer, “William Warren’s Management of the Chestnut Street Theatre Company,” 27-  
26 28, quotation at 28. It is unclear which building the Chestnut Street Theater Company occupied at  
27 this time. The theater burned in 1820 and reopened in 1822. This riot may have occurred at a  
28 different, likely smaller theater.

<sup>47</sup> Watson, *Annals of Philadelphia*, I: 26.

<sup>48</sup> Watson, *Annals of Philadelphia*, I: 114-115.

<sup>49</sup> Watson, *Annals of Philadelphia*, I: 97.

1 where a sizeable population and the potential for riotous assemblies made weapon-  
2 carrying a serious concern. As early as 1850, persons found carrying deadly  
3 weapons at any riotous gathering were “deemed guilty of an intention to riot,  
4 whether said fire-arms, or deadly weapon, shall be used or not . . . .”<sup>50</sup> State  
5 lawmakers subsequently punished the carrying of “any fire-arms, slung-shot, other  
6 deadly weapon concealed upon his person” in Philadelphia, “with the intent  
7 therewith unlawfully and maliciously to do injury to any other person.”<sup>51</sup> In 1881,  
8 when a US president had been shot by an armed assassin and concealable revolvers  
9 were readily available at cheap prices, the mayor of Philadelphia issued a  
10 proclamation reiterating the city’s public carry restrictions.<sup>52</sup>

11 37. Even though Philadelphia was one of the largest cities in the early  
12 United States and featured some of the largest public buildings, its main gathering  
13 places were outdoors. The docks, streets, markets, and public squares were the  
14 arteries of transit and commerce for residents, and the lifeblood of the city. The  
15 scale of urban life in Philadelphia sheds light upon the longstanding Statute of  
16 Northampton, enforced in England, its overseas empire, and even in the United  
17 States. It broadly prohibited the carrying of arms in “Fairs, Markets, nor in the  
18 Presence of the Justices or Ministers nor in no Part elsewhere.”<sup>53</sup> The lawns, streets,  
19 and marketplaces of Philadelphia were the very spaces which that longstanding rule  
20 was designed to protect. These features of village, town, and urban life were  
21 notably missing from the demographic and architectural development of the  
22 plantation South and the rural backcountry, where farm families lived miles away  
23

24  
25 <sup>50</sup> John Purdon and Frederick C. Brightly, *Digest of the Laws of Pennsylvania*  
(Philadelphia: Kay & Brother, 1862), 181. The prohibition against carrying concealed weapons in  
26 Philadelphia was enacted in May 1850 (see 181 n. 1).

27 <sup>51</sup> *Idem.*

28 <sup>52</sup> Charles, *Armed in America*, 163-165.

<sup>53</sup> 2 Edw. 3, c. 3 (1328) (Eng.) (**Exhibit 3**); see also 25 Edw. 3, st. 5, c. 2, § 13 (1350) (Eng.)  
(if “any Man of this Realm ride armed covertly or secretly with Men of Arms against any other . .  
. shall be judged Treason.”). (**Exhibit 4**).

1 from one another and public buildings were generally empty outside of scheduled  
2 court days.

## 3 **II. Overview of the History of Public Carry Laws in America**

4 38. As detailed below, Americans of the late eighteenth and nineteenth  
5 centuries had laws that broadly prohibited the carrying of firearms and other deadly  
6 weapons in public. Early versions of these regulations, particularly those enacted in  
7 the eighteenth century by colonial and early American legislatures, tended to draw  
8 heavily from legal language with deep roots in the English common law tradition,  
9 reaching at least as far back as the Statute of Northampton from 1328.<sup>54</sup> The Statute  
10 of Northampton generally prohibited the carrying of arms in “Fairs, Markets, nor in  
11 the Presence of the Justices or Ministers nor in no Part elsewhere.”<sup>55</sup> The public  
12 spaces specifically named and protected under the Statute were the very public  
13 areas that people frequented in their daily lives—the town markets and gatherings,  
14 and the town itself under the direction of local officials, formed the very heart of  
15 community life.

16 39. This tradition was absorbed into American law, where numerous  
17 colonies and states enacted similar measures that forbade someone to “go or ride”  
18 armed in public spaces and called for a weapon-free public square.<sup>56</sup> Under this

19 <sup>54</sup> Patrick J. Charles, “The Faces of the Second Amendment Outside the Home: History  
20 versus Ahistorical Standards of Review,” *Cleveland State Law Review* 60, no. 1 (2012), 7-40;  
21 Saul Cornell, “The Long Arc of Arms Regulation in Public: From Surety to Permitting, 1328-  
1928,” *UC Davis Law Review* 55, no. 5 (June 2022), 2560-2566.

22 <sup>55</sup> 2 Edw. 3, c. 3 (1328) (Eng.) (**Exhibit 3**); see also 25 Edw. 3, st. 5, c. 2, § 13 (1350)  
(Eng.) (if “any Man of this Realm ride armed covertly or secretly with Men of Arms against any  
23 other... shall be judged Treason”). (**Exhibit 4**).

24 <sup>56</sup> A non-exhaustive list includes: 1835 Mass. Acts 750 (“If any person shall go armed  
25 with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable  
26 cause to fear an assault or other injury, or violence to his person, or to his family or property, he  
27 may on complaint of any person having reasonable cause to fear an injury, or breach of the peace,  
28 be required to find sureties for keeping the peace.”) (**Exhibit 5**); 1786 Va. Laws 33, ch. 21, An  
Act forbidding and punishing Affrays (... “nor go nor ride armed by night nor by day, in fair or  
markets, or in other places, in terror of the Country, upon pain of being arrested and committed to  
prison by any Justice on his own view, or proof of others, there to abide for so long a time as a  
Jury, to be sworn for that purpose by the said Justice shall direct, and in like manner to forfeit his  
armour to the commonwealth,”) (**Exhibit 6**); Francois Xavier Martin, A Collection of Statutes of  
the Parliament of England in Force in the State of North Carolina, 60-61 (Newbern 1792) (“...nor  
(continued...)”) (continued...)

1 regulatory system, no one was permitted to carry arms into public areas without  
2 having a justifiable reason. Anyone violating this rule would have been subject to  
3 questioning by local officials and “bound” to the peace through a peace bond or  
4 surety.<sup>57</sup>

5 40. Another type of public carry law that restricted the presence of  
6 weapons in public spaces, including those that related to transportation services,  
7 took the form of concealed carry laws. States and municipalities enacted regulations  
8 like these primarily during the nineteenth century, beginning around the turn of that  
9 century. An early example incorporated the policy alongside language drawn from  
10 the Statute of Northampton:

11  
12  
13 \_\_\_\_\_  
14 to go nor ride armed by night nor by day, in fairs, markets nor in the presence of the King’s  
15 Justices, or other ministers, nor it [sic, likely “in”] no part elsewhere, upon pain to forfeit their  
16 armour to the King, and their bodies to prison at the King’s pleasure,”) (**Exhibit 7**); See also 1821  
17 Me. Laws 285, ch. 76, § 1 (simplified to a requirement that officials “cause to be staid and  
18 arrested, all affrayers, rioters, disturbers or breakers of the peace, and such as shall ride or go  
19 armed offensively, to the fear or terror of the good citizens of this State,”) (**Exhibit 8**). This  
20 approach can also be found in numerous state penal codes of the nineteenth century. See 1838-  
21 1839, Wisconsin, *Statutes of Wisconsin*, “An Act to Prevent the Commission of Crimes,” 381 §  
22 16 (**Exhibit 9**); *Revised Statutes of the State of Maine, Passed October 22, 1840* (Augusta: W. R.  
23 Smith, 1841), ch. 169, “Of Proceedings for the Prevention of Crimes,” 709 § 16 (**Exhibit 10**);  
24 *Revised Statutes of the State of Michigan, Passed and Approved May 18, 1846* (Detroit: Bagg &  
25 Harmon, 1846), Title 31, ch. 162, “Of Proceedings to Prevent the Commission of Crime,” 692 §  
26 16 (**Exhibit 11**); 1847 Virginia, 1847-1848 Session, Title 3, ch. 14, “Of Proceeding to Prevent the  
27 Commission of Crimes,” 129, §16 (**Exhibit 12**); *Revised Statutes of the Territory of Minnesota,*  
28 *Passed at the Second Session of the Legislative Assembly, Commencing January 1, 1851* (St.  
Paul: J. M. Goodhue, 1851), ch. 12, “Of Proceedings to Prevent the Commission of Crimes,” 528  
§ 18 (**Exhibit 13**); 1853 Oregon, General Laws, 5th Regular Session, 220 § 17 (**Exhibit 14**).

<sup>57</sup> The peace bond was one of many processes inspired by America’s common law  
heritage. See Laura Edwards, *The People and Their Peace: Legal Culture and the Transformation  
of Inequality in the Post-Revolutionary South* (Chapel Hill: University of North Carolina Press,  
2009), 73-74, 96; Saul Cornell, “History, Text, Tradition, and the Future of Second Amendment  
Scholarship: Limits on Armed Travel under Anglo-American Law, 1688-1868,” *Law and  
Contemporary Problems* 83, no. 3 (Summer 2020), 73-95; Saul Cornell, “Right to Carry Firearms  
outside of the Home: Separating Historical Myths from Historical Realities,” *Fordham Urban  
Law Journal* 39, no. 5 (October 2012), 1719-1723. Edwards’s passage on peace bonds is worth  
quoting at length: “Peace bonds threw enforcement back on the community, summoning family,  
friends, and neighbors to police the troublemakers. Bonds required one or more other people to  
put up the amount, making them liable if the accused broke the peace again. That economic  
obligation represented the signers’ promise to keep the offender in line. Peace bonds put everyone  
else in the community on notice as well, investing them with the responsibility of policing the  
peace until the end of the probation period.”



1 “That if any person or persons shall publicly ride or go armed to the terror of  
2 the people<sup>58</sup>, or privately carry any dirk, large knife, pistol or any other  
3 dangerous weapon, to the fear or terror of any person, it shall be the duty of  
4 any judge or justice, on his own view, or upon the information of any other  
5 person on oath, to bind such person or persons to their good behavior, and if  
6 he or they fail to find securities, commit him or them to jail, and if such person  
7 or persons shall continue so to offend, he or they shall not only forfeit their  
8 recognizance, but be liable to an indictment, and be punished as for a breach  
9 of the peace, or riot at common law.”<sup>59</sup>

6 Another early example came from Louisiana, whose statute stated, “That from and  
7 after the passage of this act, any person who shall be found with any concealed  
8 weapon, such as a dirk, dagger, knife, pistol, or any other deadly weapon concealed  
9 in his bosom, coat, or in any other place about him that do not appear in full open  
10 view, any person so offending, shall on conviction thereof before any justice of the  
11

12  
13  
14 <sup>58</sup> Early language for these laws, such as this one quoted from Tennessee, often made use  
15 of the phrase “to the terror of the people,” which was itself an inheritance from the Statute of  
16 Northampton. Historical research by trained scholars has shown that, according to common law,  
17 the act of carrying deadly weapons in public spaces was inherently terrifying and therefore a breach  
18 of the peace. See Saul Cornell, “The Long Arc of Arms Regulation in Public: From Surety to  
19 Permitting, 1328-1928,” *U.C. Davis Law Review* 55 (June 2022), 2555-2556 (“There was no  
20 requirement that one establish an intent to terrify or that the armed travel terrorized any specific  
21 person, the injury was to the King’s Peace and sovereignty.”); Mark Anthony Frassetto, “To the  
22 Terror of the People: Public Disorder Crimes and the Original Public Understanding of the Second  
23 Amendment,” *Southern Illinois University Law Journal* 43 (2018), 65 (“Those who take a textual  
24 approach to interpreting the Statute of Northampton...argue that carrying weapons in populated  
25 public places was intrinsically terrifying and that the discussion of public terror in judicial opinions  
26 and legal treatises was an explanation for the prohibition, rather than a separate element of the  
27 crime.”); Patrick J. Charles, “The Faces of the Second Amendment Outside the Home, Take Two:  
28 How We Got Here and Why It Matters,” *Cleveland State Law Review* 64, no. 3 (June 2016), 381-  
382 (“But those that subscribe to the Standard Model view of the Second Amendment proclaim the  
Statute of Northampton can only be read as applying to the ‘carrying arms in ways that caused  
public terror.’ In making this claim, Standard Model writers have never provided sufficient  
evidence, at least in total historical context, to support it.”); see also Patrick J. Charles, “The Fugazi  
Second Amendment: Bruen’s Text, History, and Tradition Problem and How to Fix It,” *Cleveland  
State Law Review* 71, no. 3 (2023), 635 (“What [English jurists’] restatements inform is that by the  
early-to-mid-seventeenth century, England’s preeminent legal minds understood that the act of  
carrying dangerous weapons was sufficient to amount to an affray, ‘strike a feare’ or ‘strikerth a  
feare.’ ”).

<sup>59</sup> Judge Edward Scott, *Laws of the State of Tennessee: Including Those of North Carolina  
Now in Force in this State: From the Year 1715 to the Year 1820* (Vol. I, 1821), 710. Available at  
the Duke Center for Firearms Law, Repository of Historical Gun Laws:  
[https://firearmslaw.duke.edu/laws/judge-edward-scott-laws-of-the-state-of-tennessee-including-  
those-of-north-carolina-now-in-force-in-this-state-from-the-year-1715-to-the-year-1820-  
inclusive-page-710-image-714-vol-1-1821-the/](https://firearmslaw.duke.edu/laws/judge-edward-scott-laws-of-the-state-of-tennessee-including-those-of-north-carolina-now-in-force-in-this-state-from-the-year-1715-to-the-year-1820-inclusive-page-710-image-714-vol-1-1821-the/)

1 peace, be subject to pay a fine...”<sup>60</sup> The approach of prohibiting the carrying of  
2 concealed weapons spread rapidly.<sup>61</sup>

3 41. The language of concealed carry laws might at first suggest that open  
4 carry of firearms was accepted and commonplace, but that was not the case.  
5 Individuals generally did not view concealed carry laws as giving permission to  
6 openly carry in populated places during a person’s ordinary activities.<sup>62</sup> For  
7 example, in 1843, an appellate court in North Carolina stated, “No man amongst us  
8 carries [a firearm] about with him, as one of his every day accoutrements—as a part  
9 of his dress—and never we trust will the day come when any deadly weapon will be  
10 worn or wielded in our peace loving and law-abiding State, as an appendage of  
11 manly equipment.”<sup>63</sup> And a Louisiana case from 1856 held that a partially visible  
12 weapon was a violation of the concealed carry law because it was “the result of  
13 accident or want of capacity in the pocket to contain, or clothes fully to cover the  
14 weapon, and not the extremely unusual case of the carrying of such weapon in full  
15 open view, and partially covered by the pocket or clothes.”<sup>64</sup>

### 16 **III. Sensitive Places Laws**

17 42. In addition to public carry laws, nineteenth century Americans turned  
18 to regulations that prohibited firearms and weapons in certain specified locations.  
19 One that I have studied in detail is a law from Texas enacted in 1870. This

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21 <sup>60</sup> 1813 La. Acts 172, An Act Against Carrying Concealed Weapons, and Going Armed in  
22 Public Places in an Unnecessary Manner, § 1 (**Exhibit 15**).

23 <sup>61</sup> Examples include: Revised Statutes of the State of Arkansas, Adopted at the October  
24 Session of the General Assembly of Said State, A.D. 1837 (**Exhibit 16**); 1846 Fla., ch. 75,  
25 Available at the Duke Center for Firearms Law, Repository of Historical Gun Laws:  
26 <https://firearmslaw.duke.edu/laws/act-of-jan-5-1847-ch-75-%c2%a7-3-1846-fla-laws-20/>; 1838  
27 Vir., ch. 101 (**Exhibit 17**); 1840 Ala., ch. 7 (**Exhibit 18**); 1819 Ind., Acts 39,, Available at the  
28 Duke Center for Firearms Law, Repository of Historical Gun Laws:  
<https://firearmslaw.duke.edu/laws/1819-ind-acts-39-an-act-to-prohibit-the-wearing-of-concealed-weapons/>; 1821 Miss., ch. 49 (**Exhibit 19**); 1812 Ken., ch. 89 (**Exhibit 20**); 1813 La. Acts 172  
(**Exhibit 15**).

<sup>62</sup> Mark Anthony Frassetto, “The Myth of Open Carry,” *U.C. Davis Law Review* 55  
(June 2022).

<sup>63</sup> *State v. Huntley*, 25 N.C. 418 (1843).

<sup>64</sup> *State v. Smith*, 11 La. Ann. 633 (1856).

1 sweeping law prohibited weapons in a broad range of sensitive places.<sup>65</sup> The statute  
2 provided:

3 That if any person shall go into any church or religious assembly, any  
4 school room or other place where persons are assembled for  
5 educational, literary or scientific purposes, or into a ballroom, social  
6 party or other social gathering composed of ladies and gentlemen, or to  
7 any election precinct on the day or days of any election, where any  
8 portion of the people of this State are collected to vote at any election,  
9 or to any other place where people may be assembled to muster or to  
10 perform any other public duty, or any other public assembly, and shall  
11 have about his person a bowie-knife, dirk or butcher-knife, or fire-  
12 arms, whether known as a six shooter, gun or pistol of any kind, such  
13 person so offending shall be deemed guilty of a misdemeanor, and on  
14 conviction thereof shall be fined in a sum not less than fifty or more  
15 than five hundred dollars, at the discretion of the court or jury trying  
16 the same; provided, that nothing contained in this section shall apply to  
17 locations Subject to Indian depredations ; and provided further, that  
18 this act shall not apply to any person or persons whose duty it is to  
19 bear arms on such occasions in discharge of duties imposed by law.

20 It is important to note that this bill included the terms “firearms” and “gun,” which  
21 would have applied to rifles and shotguns as well as pistols.

22 43. At the time Texas enacted this law, revolvers were flooding American  
23 consumer markets. After Samuel Colt’s patent on his revolver design expired in  
24 1857, other manufacturers began producing similar models for the United States  
25 military during the Civil War. After the war, demobilization ended those contracts,  
26 and gunmakers turned to American consumers to buy their pistols. The net result  
27 was more and cheaper pistols throughout the country,<sup>66</sup> including in areas plagued  
28 by violence and social dislocation, such as postbellum Texas.

44. The primary exemption created by the 1870 sensitive spaces law was  
a proviso for “any person or persons whose duty it is to bear arms on such

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<sup>65</sup> 1870 Tex. Gen. Laws 63, ch. 46, § 1 (**Exhibit 21**).

<sup>66</sup> Colt’s Army revolvers cost about \$20 at the time of the Civil War, but subsequent entrants into the market sold small pocket pistols for as little as \$1.40. For example, *see* digitized Sears and Roebuck catalog (1898), pp. 365-367. Regardless of caliber, the pistols from Colt’s ran about \$12 to \$13 in the catalog but retailed elsewhere for something closer to \$18 (*see* p. 367). Meanwhile, the smaller caliber pocket pistols from other brands could be ordered for as little as \$1.40 (*see* p. 365). For the 1898 Sears & Roebuck catalog online, *see* <https://archive.org/details/consumersguideno00sear/page/365/mode/1up?q=pistol>.



1 occasions in discharge of duties imposed by law.”<sup>67</sup> This would have effectively  
2 limited the carrying of weapons to peace officers and active-duty soldiers or  
3 militiamen engaged in their duties. Armed soldiers or other officials frequently  
4 guarded polling stations in Texas during Reconstruction due to the high incidence  
5 of voter fraud. The drafters in 1870 likely also envisioned sheriffs, deputies,  
6 marshals, and constables who were loyal to the United States as well as the new  
7 State Police force and active-duty members of the militia.<sup>68</sup>

8 45. Subsequent iterations of the 1870 law incorporated the same  
9 exception, though they deviated slightly from the original language and structure. A  
10 later reenactment of the same law embedded the exception within one of the several  
11 clauses that made up the list of weapon-free spaces. It prohibited the carrying of  
12 weapons in various public spaces “or to any other place where people may be  
13 assembled to muster, or to perform any other public duty, (except as may be  
14 required or permitted by law,)... .”<sup>69</sup> The context surrounding the exception clearly  
15 indicates that the drafters intended it to cover the carrying of arms to militia musters  
16 or by duly authorized persons performing a public duty; in other words, the  
17 exception applied to peace officers as well as soldiers and militiamen in actual  
18 service. When state lawmakers issued a revised penal code in 1879, the exception  
19 was relocated to a subsequent article which read: “The preceding article shall not  
20 apply to peace officers or other persons authorized or permitted by law to carry  
21 arms at the places therein designated.”<sup>70</sup> Even though the format and phrasing of  
22 the exception changed, its substance did not—the exception was for peace officers  
23

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<sup>67</sup> 1870 Tex. Gen Laws 63, Ch. 46, § 1 (**Exhibit 21**).

25 <sup>68</sup> On the Texas State Police, an organization that existed during Republican rule in Texas,  
26 *see* John G. Johnson, “State Police,” *Handbook of Texas Online*,  
<https://www.tshaonline.org/handbook/entries/state-police>, published by the Texas State Historical  
27 Association.

28 <sup>69</sup> 1871 Tex. Gen. Laws 25, ch. 34 § 1 (**Exhibit 22**).

<sup>70</sup> Penal Code of the State of Texas, (1879), Title X, Offenses Against the Public Peace,  
Chapter 4, Unlawfully Carrying Arms, § 321 (**Exhibit 23**).

1 and active-duty militia. The exception would not have reached ordinary, civilian  
2 gunowners, as there was no general gun permitting scheme in Texas at the time.

3 46. Realizing that the sensitive places statute was not enough to  
4 sufficiently curb the violence in their communities, the Texas legislature in 1871  
5 enacted a public carry law designed to work in conjunction with it.<sup>71</sup> Section 1 of  
6 the 1871 law prohibited both concealed and open carry of deadly weapons in public  
7 altogether while Section 3 expanded the prohibition on carrying deadly weapons in  
8 sensitive places. Lawmakers added as sensitive places assemblies for “amusement,”  
9 like “any circus, show, or public exhibition of any kind,” as well as those  
10 assemblies “for educational or scientific purposes.”<sup>72</sup> In 1879, the statute and its  
11 several sections were reformatted in the penal code as a chapter concerning the  
12 unlawful carrying of arms.<sup>73</sup> The sensitive places law and its exception became  
13 Articles 320 and 321. Even though Texas lawmakers turned to public carry policy  
14 to further their goal of reducing bloodshed in their state, they did not abandon the  
15 sensitive places law—and neither did officers of the law.

16 47. In 1872, a series of convictions for unlawfully carrying arms made  
17 their way to the state supreme court. The Defendant William Daniels had been  
18 convicted under Section 3 of the 1871 deadly weapon law, which was the updated  
19 sensitive places provision. He had gone to a church service with the handle of a  
20 butcher knife visible in his waistband. Two other appellants, William English and  
21 G. W. Carter, had been convicted under Section 1, which prohibited carrying deadly  
22 weapons upon one’s person or in one’s saddlebags. The three cases were  
23 consolidated into one case, called *English v. State*<sup>74</sup>, which addressed certain

24 \_\_\_\_\_  
25 <sup>71</sup> 1871 Tex. Gen. Laws 25, ch. 34 § 1 (**Exhibit 22**). Brennan Gardner Rivas, “An  
26 Unequal Right to Bear Arms: State Weapons Laws and White Supremacy in Texas, 1836-1900,”  
*Southwestern Historical Quarterly* 121, no. 3 (January 2018), 295-297; Mark Anthony Frassetto,  
“The Law and Politics of Firearms Regulation in Reconstruction Texas,” *Texas A&M Law*  
*Review* 4, no. 1 (2016), 104-107.

27 <sup>72</sup> *Id.*

28 <sup>73</sup> Penal Code of the State of Texas, § 318-323 (**Exhibit 23**).

<sup>74</sup> *English v. State*, 35 Tex. 473 (1872).

1 questions about Texans’ constitutional and fundamental rights to carry weapons. A  
2 distinguished attorney who later joined the state supreme court argued that the 1871  
3 deadly weapon law violated the Second Amendment to the US Constitution, that it  
4 violated the Article I, Sec. 13 of the Texas Constitution of 1869<sup>75</sup>, and that it  
5 deprived Texans of their customary right to self-defense.<sup>76</sup> The court profoundly  
6 disagreed with these claims.

7 48. The Chief Justice stated emphatically that “No kind of travesty,  
8 however subtle or ingenious could so misconstrue this provision of the constitution  
9 of the United States, as to make it cover and protect that pernicious vice, from  
10 which so many murders, assassinations, and deadly assaults have sprung, and which  
11 it was doubtless the intention of the legislature to punish and prohibit.”<sup>77</sup> The court  
12 went on to say that: “[W]e do not intend to be understood as admitting for one  
13 moment, that the abuses prohibited are in any way protected either under the state  
14 or federal constitution. We confess it appears to us little short of ridiculous, that any  
15 one should claim the right to carry upon his person any of the mischievous devices  
16 inhibited by the statute, into a peaceable public assembly, as, for instance into a  
17 church, a lecture room, a ball room, or any other place where ladies and gentlemen  
18 are congregated together.”<sup>78</sup>

19 49. The decision in *English* ultimately rested upon state police power to  
20 affirm the constitutionality of the deadly weapon law. The court held that whatever  
21 conduct offends against public morals or public decency comes within the range of  
22 legislative authority.<sup>79</sup> The goal of a weapon-free public sphere, then, justified the  
23 enactments required to achieve it. Furthermore, the justices did not believe that the

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24  
25 <sup>75</sup> “Every person shall have the right to keep and bear arms, in the lawful defence of  
himself or the State, under such regulations as the Legislature may prescribe.”

26 <sup>76</sup> The opinion did not mention it, but Section 2 of the law provided that anyone convicted  
of publicly carrying a prohibited weapon could plead self-defense at trial; that exception did not  
27 technically apply to the sensitive places provision outlined in Section 3.

28 <sup>77</sup> *English*, 35 Tex. 473.

<sup>78</sup> *Id* at 478-79.

<sup>79</sup> *Id.* at 473.

1 Texas law deviated from the national norm. “It is not our purpose to make an  
2 argument in justification of the law. The history of our whole country but too well  
3 justifies the enactment of such laws. This law is not peculiar to our own state, nor is  
4 the necessity which justified the enactment (whatever may be said of us to the  
5 contrary) peculiar to Texas. It is safe to say that almost, if not every one of the  
6 states of this Union have a similar law upon their statute books, and, indeed, so far  
7 as we have been able to examine them, they are more rigorous than the act under  
8 consideration.”<sup>80</sup> A subsequent court, this one staffed with Democrats rather than  
9 Republicans, reaffirmed the constitutionality of the deadly weapon law in a case  
10 decided in 1875.<sup>81</sup>

11 50. In the late 1870s and throughout the 1880s, Texas appellate judges  
12 consistently applied the sensitive places law without questioning its  
13 constitutionality. In 1878, they decided that a Justice of the Peace court qualified as  
14 a “public assembly” when it was in session hearing a cause.<sup>82</sup> The same year, the  
15 court determined that a man deputized to carry out a specific arrest did not qualify  
16 as a peace officer exempt from the weapon ban at polling places.<sup>83</sup> In 1889, a  
17 teacher feared that local residents would interfere with an entertainment event  
18 taking place at his school, so he took a pistol with him (and ended up brandishing  
19 it). Texas appellate judges forcefully condemned the idea that teachers were  
20 authorized to carry weapons in schoolhouses, saying that “such an effect could not  
21 be other than pernicious, and should not be tolerated.”<sup>84</sup>

22 \_\_\_\_\_  
<sup>80</sup> *Id.* at 479.

23 <sup>81</sup> *State v. Duke*, 42 Tex. 455 (1875).

24 <sup>82</sup> *Summerlin v. State*, 1878 3 Tex. Ct. App. 444 (1878).

25 <sup>83</sup> *Snell v. State*, 4 Tex. App. 171 (1878)

26 <sup>84</sup> *Alexander v. State*, 11 S.W. 628 (Tex. App. 1889). The passage is worth quoting in full:  
27 “We can not believe that it was the purpose and intent of the Legislature to permit school teachers  
28 to carry prohibited weapons upon their persons in their school rooms among their pupils, or on  
the occasion of public assemblies in such school rooms. The law does not in terms accord them  
such a privilege, and, without a clearly expressed exception in such case, this court will not  
sanction a defense, the effect of which would be to authorize every school teacher in the State to  
carry prohibited weapons upon his person in our school rooms. Such an effect could not be other  
than pernicious, and should not be tolerated.”

1           51. Texas judges also evaluated the sensitive-places cases that involved  
2 claims of self-defense and the carrying of weapons to assemblies on private  
3 property. In two separate cases (one in 1877 and another in 1878), Texas appellate  
4 judges determined that the exception to the deadly weapon law for self-defense  
5 applied exclusively to Section 1 of the 1871 statute relating to open and concealed  
6 carry, not to Section 3 relating to gatherings and assemblies.<sup>85</sup> A person fearing an  
7 imminent and deadly attack could carry a weapon in violation of Section 1 and  
8 argue self-defense at trial if or when he/she was arrested for such behavior; but a  
9 person carrying a weapon under such circumstances could not then venture into any  
10 of the gathering places enumerated in Section 3 because doing so posed too great a  
11 danger to the safety of the general public. The court stated, “Nor does it matter how  
12 much or with what good reason I may be in dread of an immediate and pressing  
13 attack upon my person from a deadly enemy; the imminence of such danger affords  
14 no excuse in my wearing deadly weapons to church, or in a ball-room, or other  
15 places mentioned where his attack may be made and the lives of innocent people  
16 there assembled placed in jeopardy or sacrificed.”<sup>86</sup>

17           52. In one of these cases, the defendant was tasked with being a “door-  
18 keeper and general manager, with authority to preserve peace and good order” at a  
19 ball, and toward that end, the owner of the establishment (a woman) had provided  
20 him a pistol to keep on his person throughout the evening. The court affirmed his  
21 conviction, saying that the exceptions for carrying weapons in one’s home or place  
22 of business did not apply when other people were gathered there in assemblages  
23 that fell under Section 3. The court reasoned that: “The fact that I am owner of the  
24 premises gives me no right to carry deadly weapons to the terror, annoyance, and  
25 danger of a social gathering which I may have invited to my own house, however  
26

27 <sup>85</sup> *Livingston v. State*, 3 Tex. Ct. App. 74 (1877); *Owens v. State*, 3 Tex. Ct. App. 404  
28 (1878).

<sup>86</sup> *Owens v. State*, 3 Tex. Ct. App. 404 (1878).

1 much I may be protected in carrying them when no one is there or likely to be  
2 endangered by them but my own family.”<sup>87</sup>

3 53. The majority opinion in *NYSRPA v. Bruen* treated the 1871 Texas  
4 statute as an outlier, but its discussion was limited to Section 1 of that law banning  
5 open and concealed carry of arms in public altogether.<sup>88</sup> Section 3 of the 1871 law  
6 prohibiting carry in sensitive places was not unique. *English* recognized as much  
7 when it concluded, “This law is not peculiar to our own state, nor is the necessity  
8 which justified the enactment (whatever may be said of us to the contrary) peculiar  
9 to Texas.”<sup>89</sup> That conclusion was not wrong as many states around that time  
10 enacted similarly broad sensitive places prohibitions. For example, in 1869,  
11 Tennessee lawmakers prohibited the carrying of deadly weapons “concealed or  
12 otherwise” at elections or “any fair, race course, or other public assembly of the  
13 people.”<sup>90</sup> Similarly in 1870, Georgia lawmakers prohibited the carrying of deadly  
14 weapons “to any court of justice, or any election ground or precinct, or any place of  
15 public worship, or any other public gathering in this State, except militia muster-  
16 grounds.”<sup>91</sup> Laws in effect in Missouri in 1879 and Oklahoma Territory in 1890  
17 were nearly identical to the sensitive places law from Texas,<sup>92</sup> with the Oklahoma  
18 Territory law further banning weapons in “any place where intoxicating liquors are

19  
20 <sup>87</sup> *Id.*

<sup>88</sup> 142 S. Ct. at 2153.

<sup>89</sup> *English*, 35 Tex. at 479.

21 <sup>90</sup> Ch. 22, 1869 Tenn. Pub. Acts 23[22] (36th Assembly, 1st Sess.), “An Act to Amend the  
22 Criminal Laws of the State,” §2 (**Exhibit 24**). The section read in full: “That it shall not be lawful  
23 for any qualified voter or other person attending any election in this State, or for any person  
24 attending any fair, race course, or other public assembly of the people, to carry about his person,  
25 concealed or otherwise, any pistol, dirk, Bowie-knife, Arkansas toothpick, or weapon in form,  
26 shape, or size resembling a Bowie knife or Arkansas tooth-pick, or other deadly or dangerous  
27 weapon.” The following section (§3) stated: “That all persons convicted under the second section  
28 of this act shall be punished by fine of not less than fifty dollars, and by imprisonment, or both, at  
the discretion of the court.”

<sup>91</sup> Act No. 285, 1870 Ga. Laws 421 (**Exhibit 25**). The list of prohibited weapons included  
“any dirk bowie-knife, pistol or revolver, or any kind of deadly weapon.” There was also no  
implicit or explicit exception for open carry. Violators convicted received a fine (\$20-50),  
imprisonment (10-20 days), or both.

<sup>92</sup> *Revised Statutes of the State of Missouri* (1879), ch.24, §1274 (**Exhibit 26**); 1890 Okla.  
Stat. 495-96 (**Exhibit 27**).



1 sold.”<sup>93</sup> Vermont and Mississippi both prohibited weapons inside schools, with the  
 2 Mississippi legislature prohibiting students at colleges from possessing deadly  
 3 weapons on campuses or within two miles of them (effectively disarming college  
 4 students within the limits of college towns).<sup>94</sup> Other laws prohibited the carrying of  
 5 weapons at or near polling places, churches, and parks.<sup>95</sup>

6 54. In addition to state legislatures, other jurisdictions had authority to  
 7 regulate the carry of firearms and other weapons in public spaces.<sup>96</sup> For instance,  
 8 the statewide 1870 sensitive places law from Texas was quite similar to a municipal  
 9 ordinance from that same year in the city of San Antonio, one of the leading  
 10 metropolitan and commercial centers in Texas. That ordinance prohibited the  
 11 carrying of “a bowie-knife, dirk, or butcher-knife or any fire arms or arms, whether  
 12 known as six-shooter, gun or pistol of any kind,” or any “brass-knuckles, slung  
 13 shot, club, loaded or sword cane, or any other weapon of offence or defence” into a

14 <sup>93</sup> 1890 Okla. Stat. 495-96, § 7 (**Exhibit 27**).

15 <sup>94</sup> *Annotated Code of the General Statute Laws of the State of Mississippi* (1892), “Crimes  
 16 and Misdemeanors,” §1030 (**Exhibit 28**) (“A student at any university, college, or school, who  
 17 shall carry, bring, receive, own, or have on the campus, college or school grounds, or within two  
 18 miles thereof, any weapon the carrying of which concealed is prohibited, or a teacher instructor,  
 19 or professor who shall knowingly suffer or permit any such weapon to be carried, or so brought,  
 20 received, owned, or had by a student or pupil, shall be guilty of a misdemeanor, and, on  
 conviction, be fined not exceeding three hundred dollars or imprisoned in the county jail not  
 21 exceeding three months, or both.”); *Laws of Vermont*, Special Session (1891), No. 85, §2  
 22 (**Exhibit 29**) (“A person who shall carry or have in his possession while a member of and in  
 23 attendance upon any school, any firearms, dirk knife, bowie knife, dagger or other dangerous or  
 24 deadly weapon shall, upon conviction thereof, be fined not exceeding twenty dollars.”).

25 <sup>95</sup> 1870 La. Acts 159–60, “An Act to Regulate the Conduct and to Maintain the Freedom  
 26 of Party Election,” § 73 (**Exhibit 30**) (no carry concealed or unconcealed within a half mile of  
 27 polling places on election day or registration places on days of voter registration); George  
 28 Washington Paschal, *A Digest of the Laws of Texas*, 3rd ed. (1873) II: 1317-1318 (**Exhibit 31**)  
 (no carry concealed or unconcealed within a half mile of polling places on election day or  
 registration places on days of voter registration); John Prentiss Poe, *The Maryland Code : Public  
 Local Laws, Adopted by the General Assembly of Maryland March 14, 1888* (Vol. 2, 1888), 1457  
 (**Exhibit 32**) (no carry by any person in Kent County on days of an election); 1886 Md. Laws  
 315, An Act to Prevent the Carrying of Guns, Pistols, Dirk-knives, Razors, Billies or Bludgeons  
 by any Person in Calvert County, on the Days of Election in said County, ch. 189 §1 (**Exhibit 33**)  
 (no carry by any person in Calvert County within 300 yards of polls on election day); 1877 Va.  
 Acts 305, Offenses Against The Peace, § 21 (**Exhibit 34**) (no weapons in church during services,  
 or anywhere beyond one’s on premises on Sundays); Oscar F. Greene, *Revised Ordinances of the  
 City of Boulder* (1899), 157 (**Exhibit 35**) (no one save city police officers shall carry weapons  
 into public parks).

<sup>96</sup> *See Id.*, especially examples from City of Boulder and Counties of Kent and Calvert,  
 Maryland.

1 series of public spaces within the city. The list included: “any church, or religious  
2 assembly, any school-room, or other place where persons are assembled, for  
3 educational, literary or scientific purposes, or into any ball room, social or wedding  
4 party, or other assembly or gathering, for amusement or instruction, composed of  
5 males and females, or to any election precinct in the city, on the day or days of an  
6 election, or into any Court room or court of Justice, or to any other place where  
7 people or individuals may be assembled, to perform any public duty, or shall go  
8 into any other public assembly, or shall enter any bar-room, drinking saloon or any  
9 other place where people resort for business or amusement or shall join or  
10 accompany any public procession . . . .”<sup>97</sup>

11 55. It is likely that yet more municipal governments (in Texas and  
12 throughout the country) enacted sensitive places ordinances. These local laws are  
13 much more challenging to identify in the historical record, though, because  
14 compilations of historical ordinances have often not been preserved or digitized.  
15 The best access to municipal ordinances is often local newspapers, many of which  
16 have not been digitized, are no longer extant, or are incomplete. A thorough search  
17 of newspaper databases may yield more examples of municipal sensitive places  
18 laws, and yet more may be contained in the pages of old newspapers housed in  
19 archival collections or on microfilm. Identifying additional examples of these  
20 regulations would be a time-consuming process that is not possible within the  
21 available time frame.

#### 22 **IV. Application of Concealed Carry Laws to Travelers and Transportation**

##### 23 A. Historical Meaning of Travel

24 56. Public carry laws tended to provide a number of exceptions. These  
25 exceptions ranged from people fearing an imminent and deadly attack to peace  
26 officers and travelers. The statutes themselves varied from one state to another, and

27 \_\_\_\_\_  
28 <sup>97</sup> “An Ordinance,” *San Antonio Express* (San Antonio, Texas), December 23, 1870  
(Exhibit 36).



1 many left the definition of terms like “travel,” “peace officer,” and “journey” quite  
2 ambiguous. In Texas, even exempted travelers were required to place their weapons  
3 in their baggage, which did not include saddlebags.<sup>98</sup>

4 57. Far from a blanket exception for people to go armed at all times  
5 outside their homes, the travel exception was narrowly defined by state appellate  
6 courts. The kind of “travel” which it described was not the everyday movement  
7 through public spaces like town squares and commercial districts, or the kind of  
8 travel associated with modern transportation. Instead, it encompassed a type of  
9 travel that separated a person, small group, or family from the protections of the  
10 law that went hand-in-hand with organized society and were a fundamental feature  
11 of community life—courts, magistrates, constables, and the security of being  
12 among one’s neighbors. To be a traveler was to venture outside one’s community  
13 sphere and become vulnerable to dangers such as robbers and predatory animals.

14 58. This notion of “travel” is important and worth reiterating. It was a  
15 designation that applied to people who were isolated from their communities, not  
16 people who were embedded safely within them. Americans’ representative leaders  
17 protected the peace and promoted public safety by pursuing regulatory policies that  
18 discouraged or prohibited the presence of weapons in places where people gathered  
19 together, interacted, and exchanged goods and services. The sensitive place laws  
20 clearly show that nineteenth-century lawmakers were concerned about firearms and  
21 other weapons in crowds, and the ways in which they rendered innocent people  
22 vulnerable to injury or death. The travel exception to public carry laws was not a  
23 contravention of that policy—instead, it was a corollary which allowed for weapon-

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26 <sup>98</sup> Brennan Gardner Rivas, “The Deadly Weapon Laws of Texas: Regulating Guns,  
27 Knives, and Knuckles in the Lone Star State, 1836-1930,” PhD diss. (Texas Christian University,  
28 2019), 108-110. John Thomas Shepherd, “Who Is the Arkansas Traveler: Analyzing Arkansas’s  
Journey Exception to the Offense of Carrying a Weapon,” *Arkansas Law Review* 66, no. 2  
(2013): 463-484.

1 carrying in isolated and potentially dangerous places in contradistinction to those  
2 enjoying the protections of community.

3 59. An appellate case from 1879 (involving a travel exception) held that:  
4 “The court decided the case on the ground that defendant, whilst stopping over at  
5 Marianna, could not be said to be on a journey, and should, to avoid a breach of the  
6 law, have deposited his pistols with his baggage, and not carried them on his  
7 person. This is correct, if the appellant was really wearing them, or either of them,  
8 as a weapon. The exception in the statute is to enable travelers to protect themselves  
9 on the highways, or in transit through populous places—not to allow them the  
10 privilege of mixing with the people in ordinary intercourse, about the streets, armed  
11 in a manner which, upon a sudden fit of passion, might endanger the lives of others.  
12 Travelers do not need weapons, whilst stopping in towns, any more than citizens  
13 do. They should lay them aside, unless the delay be slight, and the journey soon  
14 resumed.”<sup>99</sup> An Alabama appellate court affirmed the decision of a lower court  
15 judge who, even though he acquiesced that the defendant had a right to carry a  
16 concealed weapon while traveling on a dangerous stretch of road, instructed the  
17 jury that “if they further believed, from all the evidence in the case, that the  
18 defendant was in the daily habit of coming to the city, engaging in his business in  
19 the city from morning until evening, mingling with the inhabitants of the city in  
20 business and social intercourse, and carried a pistol concealed about his person  
21 during this time, not being justified or excused otherwise than for the reason of his  
22 having to travel” along the dangerous stretch of roadway, “then he would be guilty,  
23 as charged in the indictment.”<sup>100</sup> A Tennessee decision rejected the idea that a  
24 “journey” meeting the standards of a travel exception “should embrace a mere  
25 ramble in one’s own neighborhood across the lines of contiguous counties.”<sup>101</sup> The  
26 court’s final word was that “The evil intended to be corrected is the carrying of

27 <sup>99</sup> *Carr v. State*, 34 Ark. 448 (1879).

28 <sup>100</sup> *Eslava v. State*, 49 Ala. 355 (1873).

<sup>101</sup> *Smith v. State*, 50 Tenn. 511 (1872).

1 deadly weapons on the streets, in society, in the community, or among the people  
2 with whom we are in the habit of associating—a habit which will ultimately  
3 convert a good man into an assassin, and a brave man into a coward.”<sup>102</sup> These are  
4 only a small sample of the travel-related cases that formed the corpus of traveler-  
5 exception jurisprudence associated with nineteenth century concealed weapon  
6 laws.<sup>103</sup>

7         60. Judges recognized that terms like “travel” and “journey” needed to be  
8 interpreted, and that hard-and-fast rules must remain elusive. According to an  
9 Arkansas court, “The jury, or court sitting as such, can best judge of all the  
10 circumstances, and determine whether the spirit of the law has been violated. No  
11 rule with regard to this can be formulated. The intent governs, and the question of  
12 fact is, was the defendant really prosecuting his journey, only stopping for a  
13 temporary purpose; or had he stopped to stay awhile, mingling generally with the  
14 citizens, either for business or pleasure.”<sup>104</sup> A contemporary Tennessee court  
15 emphasized legislative intent by saying “It is true, the Legislature has not  
16 undertaken to define a journey, or to say whether it shall be a long or short one, but  
17 has left the courts to interpret it in the light of good sense, and with regard to the  
18 spirit and intent of the statute itself, with the positive injunction in the fourth  
19 section of the Act that the courts shall give it a liberal construction so as to carry out  
20 its true intent and meaning”—which was to reduce the needless carrying of  
21 weapons in public.<sup>105</sup>

22  
23 \_\_\_\_\_  
<sup>102</sup> *Smith v. State*, 50 Tenn. 511 (1872).

24 <sup>103</sup> See also *Darby v. State*, 23 Tex. Ct. App. 407 (1880), “He was not a traveler. He  
25 resided in Williamson county, and was merely going from his residence to the county site of said  
26 county, a distance of about eighteen miles, intending to return the next day. These facts certainly  
27 did not constitute him a traveler, within the common meaning of that word, and within the spirit  
28 of the statute.” See also Shepherd, “Who Is the Arkansas Traveler,” 466-482.

<sup>104</sup> *Carr v. State*, 34 Ark. 448 (1879).

<sup>105</sup> *Smith v. State*, 50 Tenn. 511 (1872), “The evil intended to be corrected is the carrying  
of deadly weapons on the streets, in society, in the community, or among the people with whom  
we are in the habit of associating—a habit which will ultimately convert a good man into an  
assassin, and a brave man into a coward.”

1           61. An illustrative travel-related case arose in Texas in 1889. A man was  
2 convicted of violating the state’s public carry law (which prohibited openly borne  
3 as well as concealed deadly weapons) by carrying a pistol on his travels to a distant  
4 town and keeping it on his person while he visited various establishments there.  
5 When he appealed his conviction on the ground that he was a traveler in an  
6 unfamiliar city, the appellate court disagreed. He had the right to carry the pistol on  
7 the road, in the wagon yard upon his arrival in town, and within the town “for a  
8 legitimate purpose, such as to procure a conveyance, or provisions, or to transact  
9 other business connected with the prosecution of his journey.” But that protection  
10 ceased when his purpose changed from business to leisure—it did not confer upon  
11 him a right to “idly stroll through its streets and visit its gambling dens and saloons  
12 and public places, armed with a pistol.” To do otherwise would “cause our cities  
13 and towns to be infested with armed men, while the citizens of such places would  
14 be prohibited from carrying arms to protect themselves from these privileged  
15 characters.” The judge’s statement clearly shows that townspeople and locals going  
16 about their everyday lives were not understood to fall within the statute’s traveler  
17 exemption.

18           62. Public carry laws in force during the late eighteenth and nineteenth  
19 centuries, whether they employed language from English common law or took the  
20 shape of concealed-carry laws, applied to public spaces in American communities  
21 large and small. The exceptions which some concealed weapon laws carved out for  
22 travelers remained closely guarded by appellate courts and did not apply to  
23 everyday travel.

24           B. Regulation by Transportation Providers

25           63. Until the twentieth century, transportation services were typically  
26 operated by private companies vested with the authority to fashion their own rules  
27 and regulations for customers. Thus, even if a person deemed a “traveler” upon a  
28 “journey” according to law chose to make use of the travel exception by carrying a

1 weapon aboard a train, such carriage would have been subject to any rules laid out  
2 by the private transportation company in question. Private companies would have  
3 had the authority to decide where and how legally transported weapons could be  
4 stowed and carried by customers aboard their vehicles and within their stations.

5 64. In their motion, the *Carralero* Plaintiffs identify a South Carolina  
6 regulation mandating that ferry operators transport armed men free of charge during  
7 times of emergency: “That all persons under arms in times of alarms and expresses,  
8 shall have their ferriage free, themselves, servants, and horses.” *Carralero* MPA at  
9 17. I found this phrasing in four statutes establishing or relocating ferries in 1725,  
10 1726, and 1731.<sup>106</sup> The acts themselves set aside public monies to establish ferries,  
11 vested the operation in commissioners, set standard ferriage rates, and provided  
12 additional requirements for the maintenance and operation of the ferry. The  
13 adoption of this policy indicates that some ferry operators may have been charging  
14 fares to militiamen, posses, or messengers during times of emergency, not that  
15 customers carried weapons on their person in times of peace. These laws applied to  
16 particular ferries in areas of South Carolina<sup>107</sup> that were coming under plantation  
17 agriculture, and they were enacted during the critical period following the Yamasee  
18 War (1715-1717) when colonial leaders had to craft a new way of interacting with  
19 the Indigenous groups of the region. Prior to the Yamasee War, Carolina relied  
20 upon Indian allies, especially the Yamasee, to protect them from non-allied Indians  
21 as well as attack from French or Spanish enemies. When the Yamasee rejected the  
22 military and trade alliance, Carolinians succeeded in driving the Yamasee into  
23 Spanish Florida, but the whole affair exposed the shortcomings of their alliance  
24 system. Moving forward, Carolinians maintained a tense but generally amicable  
25 relationship with the powerful Lower Creek—but attacks upon outlying plantations

26 <sup>106</sup> These colonial-era regulations were reprinted in the *Statutes at Large* of South Carolina  
27 published in 1841. See Thomas Cooper, et al, eds., *Statutes at Large of South Carolina, Volume*  
28 *the Ninth, Containing the Acts Relating to Roads, Bridges, and Ferries, with an Appendix*  
*Containing the Militia Acts prior to 1794* (Columbia: A. S. Johnston, 1841), 61, 65, 69, 71.

<sup>107</sup> Prior to 1734, North and South Carolina formed one colony called Carolina.

1 and settlements was the quintessential indicator of Creek dissatisfaction with  
2 Carolinian trade policies. British colonists living in remote or newly established  
3 areas (such as those served by new ferries) understood their vulnerability and lived  
4 with the realization that an Indian attack could occur at any time.<sup>108</sup> The 1725  
5 statute cited by Plaintiffs also provides for the formation of a scouting company “to  
6 scout on the out settlements of Ponpon, for the better security of the inhabitants,  
7 and to prevent their being surprised by Indians.”<sup>109</sup> In sum, this policy was limited  
8 in scope to a handful of ferries in Carolina colony that were established during a  
9 period of tense diplomatic relations with nearby Indigenous groups.

10 65. Until well into the nineteenth century, local and regional passenger  
11 transportation remained relegated to smaller-scale operations like stagecoaches,  
12 riverboats, or ferries. Steam power changed all of that, and as the nineteenth  
13 century progressed steamboats and railroads transformed passenger transportation  
14 in the United States and across the globe. During that very same time, though,  
15 Americans entered into a new era of violence and weapon-carrying. The nineteenth  
16 century marked the divergence of the United States from the rest of the western  
17 world in terms of homicide rates. When the nations of Western Europe were  
18 becoming less violent and homicidal, Americans were becoming more so. Where  
19 Americans failed to unite together based upon common interests and principles, and  
20 where they viewed governing institutions with skepticism, violence tended to rise.  
21 The southern society predicated upon racial slavery made slaveholding states more  
22 violent places than northern counterparts. Areas that were isolated from governing  
23 officials or on the fringe of Anglo-American settlement also experienced more  
24 violence than the well-established parts of the country closer to the Atlantic

25 <sup>108</sup> On the Yamasee War and the relationship between the Lower Creek and Carolina colony  
26 after that conflict, see Alan Galloway, *The Indian Slave Trade: The Rise of the English Empire in the*  
27 *American South, 1670-1717* (New Haven: Yale University Press, 2002), 345-357. For a shorter  
28 synthesis, see Chester B. DePratter, “The Yamasee Indians,” in *The Yamasee War: 1715-1717*  
(October 2015), available at:  
[https://scholarcommons.sc.edu/cgi/viewcontent.cgi?article=1023&context=archmonth\\_poster](https://scholarcommons.sc.edu/cgi/viewcontent.cgi?article=1023&context=archmonth_poster).

<sup>109</sup> Cooper, ed., *Statutes at Large*, 61.



1 seaboard.<sup>110</sup> After the Civil War, pervasive racism, rural poverty, and  
2 unrepresentative state and local governments meant that violence remained a staple  
3 of southern life. Northern cities and states were not immune from high levels of  
4 homicide and crime, either. They saw a sharp uptick in violence and homicide from  
5 about 1840 through the end of the Civil War, and then again in the closing decades  
6 of the century. Ethnic tension, political conflict, and the effects of industrialization  
7 (urbanization, poverty, lack of resources, etc.)—all of which eroded the cohesion of  
8 communities and citizens—fueled this trend.<sup>111</sup>

9         66. The expansion of America’s rail system reasonably suggests that  
10 railroad companies might have had policies—written or unwritten, preserved or  
11 lost—that affected passengers’ access to firearms and deadly weapons while  
12 aboard. A nineteenth century jury instruction manual contained a section for “Rules  
13 and Regulations of Carrier,” which specifically stated that “a railroad company has  
14 a right to require of its passengers the observance of all reasonable rules, calculated  
15 to insure the comfort, convenience, good order and behavior of all persons on the  
16 train, and to secure the proper conduct of its business; and if a passenger wantonly  
17 disregards any such reasonable rule, the obligation to carry him farther ceases, and  
18 the company may expel him from the train at any regular station, using no more  
19 force than may be necessary for that purpose.”<sup>112</sup> The North Pennsylvania  
20 Railroad’s “rules and regulations” document for conductors specifically charged  
21

22  
23 <sup>110</sup> Historian Randolph Roth has shown that four correlates contribute to rates of homicide:  
24 stability of government; confidence in government and officials; a sense of patriotism or kinship;  
25 and a legitimate social hierarchy. See Randolph Roth, *American Homicide* (Cambridge: Belknap  
26 Press of Harvard University Press, 2009), 17-26.

27 <sup>111</sup> On homicide in American history, particularly as broken down into northern and  
28 southern regions, see Roth, *American Homicide*, 297-326, 386-388 (for trends in northern areas);  
185 (for data-supported charts showing trends in homicide for large cities across the entire  
nineteenth century); 184 (complicating data from pp. 185 by showing that some rural northern areas  
experienced sharp rise in crime after 1865 and therefore emulated what took place in the American  
South during that time).

<sup>112</sup> Albert W. Brickwood, *Brickwood’s Sackett on Instructions to Juries*, 3 vols., 3d. ed.  
(Chicago: Callaghan & Company, 1908), II: 1174-1175 (Sec 1819, “Right to Prescribe Rules”).

1 passenger conductors with the responsibility of preventing passengers from taking  
2 “into the cars guns, dogs, valises, large bundles or baskets.”<sup>113</sup>

3 67. Extant records for rail companies indicate that regulating the carriage  
4 of guns on board was not uncommon. Several companies, including Union Pacific  
5 and Central Pacific, North Pennsylvania Railroad, South Carolina Canal and Rail  
6 Road Company, International and Great Northern Railroad Company, and Albany  
7 Railway had specific gun-carriage policies during the nineteenth century.<sup>114</sup> Some  
8 rail companies shipped firearms for hunters but treated them like any other  
9 baggage—by separating them from the passengers and placing them in a designated  
10 baggage space.<sup>115</sup> But another company prohibited the practice ostensibly out of  
11 concern that they would be held liable for lost, damaged, or stolen firearms. In the  
12 relevant caselaw, “Courts generally deemed guns baggage when they determined  
13 that the weapons were ‘necessary’ to the object of a trip or ‘usual’ among similarly  
14 situated travelers.”<sup>116</sup> Depending upon the size and traffic of the line, some rail cars  
15 also had space for passengers to carry their own bags and stow them under their  
16 seats or by their feet, particularly if those bags were relatively small. In the event  
17 that it was legal and permissible by company policy for a passenger to transport a  
18 firearm or other deadly weapon, stowing it away in closed baggage was altogether  
19 different from carrying in one’s pocket or waistband (which was de facto a  
20 violation of the law in many American jurisdictions, as previously described).

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23 <sup>113</sup> “Rules and Regulations for Running the Trains on the North Pennsylvania Railroad,  
adopted June 1, 1875, and approved by the president” (Philadelphia, 1875), 13.

24 <sup>114</sup> Josh Hochman, “The Second Amendment on Board: Public and Private Historical  
Traditions of Firearm Regulation,” *Yale Law Journal* 133, forthcoming (Draft Copy, July 27, 2023),  
25 11-18, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4522818](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4522818).

26 <sup>115</sup> In his detailed description of American rail baggage service, Marshall Monroe Kirkman  
wrote: “Who has not felt a tremor of apprehension as he saw his baggage melt away into the  
27 indiscriminate mass of trunks, band boxes, gripsacks, gunbags, umbrellas, burial cases, canaries  
and bundles that fill the station?” Kirkman, *The Science of Railways, Revised and Enlarged Edition*  
(New York: The World Railway Publishing Co., 1898), 389.

28 <sup>116</sup> Hochman, “Second Amendment on Board,” 19-20.

1           68. As American rail infrastructure grew, the new challenges posed by rail  
2 travel—particularly the prospect of criminal activity taking place in transit—  
3 became more apparent. Conductors were considered the authority figures on trains  
4 and streetcars, and some states vested them with the same powers as policemen. In  
5 the 1880s, the Georgia legislature declared that “The conductors of a train carrying  
6 passengers are invested with all the powers duties, and responsibilities of police  
7 officers while on duty on their trains,”<sup>117</sup> and decided a decade later that “the  
8 conductors, motormen, and drivers of street railroad cars are invested with all the  
9 powers, duties, and responsibilities of police officers while on duty on their trains  
10 or cars, and while on duty at the termini of their lines.”<sup>118</sup> Included within this  
11 power of conductors to police aboard their trains was a responsibility to enforce  
12 weapon regulations in effect at the time. As a result of this status, which was in  
13 some ways analogous to that of peace officers exempted from certain weapon  
14 regulations, conductors were sometimes armed on the job and expected to prevent  
15 disorderly behavior aboard trains.<sup>119</sup> Still, there was not a hard-and-fast rule about  
16 it, and public sentiment did not necessarily support the carrying of firearms by  
17 conductors aboard their trains or cars.<sup>120</sup> There is no evidence that unarmed  
18 conductors justified preemptive arming by passengers.

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<sup>117</sup> John L. Hopkins, Clifford Anderson, and Joseph R. Lamar, *Code of the State of Georgia*  
(Atlanta: Foote & Davies Co., 1895), 230 (sec. 902).

21 <sup>118</sup> “Conferring Police Powers on Conductors, etc., of Street Railroads,” Georgia - General  
22 Assembly, Acts and Resolutions (1890-1891), 230-231.

23 <sup>119</sup> For example, a Los Angeles trolley conductor carried a pistol in 1908; see “Attempts to  
24 Rob Car and Is Killed,” *San Francisco Chronicle* (San Francisco, CA), January 12, 1908, 33.

25 <sup>120</sup> For example, in 1902, an Atlanta trolley car conductor was arrested for drawing a loaded  
26 pistol on a passenger whom he had antagonized; news coverage of the incident stated: “The feature  
27 of the investigation was that the conductor was on a trolley car crowded with women as well as  
28 men, and was armed with a loaded revolver...It was a revelation to many that among the other  
paraphernalia of a street car conductor a loaded revolver was carried. They had seen bell punches,  
transfers, etc. but never before a pistol. It is said that McKinney [the conductor who had been  
arrested] is not the only street car conductor who is in the habit of going thus armed, and within the  
past six months pistols have been used more than once by street car men.” See “Conductor Is Bound  
Over,” *The Atlanta Constitution* (Atlanta, GA), May 17, 1902, 7. It is also worth noting that public  
sentiment as expressed in newspapers did not support passengers’ carrying of weapons aboard  
transit services—be the conductor armed or not.

1           69. Another approach to policing railways was to authorize rail companies  
2 to employ their own police forces. Statutes in Ohio and Pennsylvania from the  
3 1860s show the legislatures of those states setting out parameters in which  
4 designated rail police could “possess and exercise all the powers, and be subject to  
5 all the liabilities of policemen of cities... .”<sup>121</sup> This approach was not at all unusual  
6 at the time, which was one in which powerful corporations engaged in industries as  
7 disparate as manufacturing and cattle ranching turned to private detectives and  
8 private police for assistance in defending company interests against labor  
9 organizers and marketplace competitors. That legislatures made special  
10 arrangements for authorizing railway police and holding them accountable only  
11 underscores the significance of protecting the peace and safety of passengers in  
12 transit.

13           70. By the early twentieth century, large railway companies had sizeable  
14 departments overseeing their railway special agents. The Union Pacific Railroad  
15 (UPRR) maintained records pertaining to the firearms owned by the company, most  
16 of which were pistols assigned for use to specified employees. At periodic intervals,  
17 the supervisors of the special agents’ division undertook inventories of company-  
18 owned firearms. Extant records from the early 1930s show that some of the  
19 firearms held in the company gun locker were classified as “confiscated guns,”  
20 presumably confiscated from passengers carrying them illegally. The UPRR  
21 special agents and rail watchmen were expected to be on the lookout for passengers  
22 carrying guns; correspondence from the Federal Bureau of Investigation from 1950  
23 shows the FBI requesting the assistance of all law enforcement agencies, including  
24

25           <sup>121</sup> Joseph R. Swan and Milton Saylor, “Policemen for Railroads, An act to authorize the  
26 employment of a police force by railroad companies,” *Supplement to the Revised Statutes of the*  
27 *State of Ohio, Embracing All Laws of a General Nature, Passed since the Publication of Swan and*  
28 *Critchfield's Revised Statutes, 1860* (Cincinnati, R. Clarke & Co., 1868), 121-122. See also “No.  
228, An Act Empowering railroad companies to employ police forces,” *Laws of the General*  
*Assembly of the State of Pennsylvania, passed at the session of 1865* (Harrisburg: Singerly &  
Myers, State Printers, 1865), 225-226.

1 the UPRR special agents, in tracking down the carriers of certain guns that had been  
2 used in the commission of crimes.

3 C. Localism and Lack of Extant Sources

4 71. The fact that transportation companies had the authority to establish  
5 and enforce safety regulations aboard their vehicles highlights the lack of extant  
6 sources documenting their internal ridership policies. As mentioned in the  
7 preceding section, some researchers have undertaken an exploration of the  
8 employee handbooks and other available materials pertaining to railway companies.  
9 These efforts have borne some fruit, but such records are no longer extant for most  
10 historical transportation service providers.

11 72. Although there are numerous archives, libraries, and research centers  
12 across the United States that hold collections pertaining to transportation history  
13 and the corporate records of transit companies, my brief exploration of their finding  
14 aids indicates that most of these records are from 1900 or later. The availability of  
15 records from the twentieth century rather than the nineteenth aligns with the  
16 development of more modern business practices and the stabilization of the rail  
17 industry after the tumultuous decades of the Gilded Age. The stock manipulations,  
18 corruption, and overbuilding that characterized the rail industry from the 1860s  
19 through the end of the century led to companies selling out to competitors and  
20 going into receivership; when these events took place, records related to assets and  
21 finances would have been more likely to be retained than others. As time wore on,  
22 companies did not necessarily choose to keep their older records, and those that did  
23 sought out archival institutions to take on the responsibility of organizing and  
24 maintaining them. In other words, nineteenth-century rail records are much more  
25 rare than twentieth century ones, and they are not particularly likely to contain  
26 company ridership policies.

27 73. The UPRR records previously cited illustrate some of the difficulties in  
28 relying upon extant corporate records to ascertain company gun policies. Even

1 though it is one of the oldest, largest, and most influential rail companies in  
2 American history, the UPRR special services records for firearms only date back to  
3 1931; the models of guns which the company owned demonstrates that company  
4 officials purchased much of the corporate arsenal prior to that time, yet no  
5 information pertaining to it has been retained in the “Firearms Records” segment of  
6 the collection. More than that, correspondence held within the “Firearms Records”  
7 makes reference to a company “Rules” document for employees who carried  
8 firearms on the job, yet the rules themselves have not been preserved within the  
9 collection. We know that one of those rules was that employees could not carry  
10 chambered rounds in their firearms, but the only reason we know of it is because an  
11 employee carried a chambered round and accidentally shot himself—prompting a  
12 reiteration of that particular requirement from the senior management over the  
13 special agents. The other rules for armed employees remain a matter of speculation  
14 because the company archives housed at the California State Railroad Museum  
15 contain no reference to them. Instead, the extant records remain heavily focused  
16 upon tracking company assets and implementing policies that might limit the  
17 company’s liability for having an armed segment of its workforce.

18 74. Local legal records from the nineteenth century present similar  
19 challenges for the researcher. It is well-known that historical municipal ordinances  
20 and codes have not been digitized systematically as have state-level statutes and  
21 codes. But in addition to the significant barrier to online, digital research is the fact  
22 that many such records have not been preserved at all. America’s larger cities may  
23 have archival materials related to codes and ordinances, but those are not  
24 necessarily complete (there may be gaps in the record). For the market towns and  
25 county seats that thrived in the nineteenth century but have since been relegated to  
26 the status of “small towns,” ordinances may not have been officially preserved at  
27 all; instead, local newspapers published ordinances—but the papers themselves  
28 may not be digitized or the preserved copies may not constitute a complete



1 collection. Our ability to know with certainty how municipalities regulated weapon-  
2 carrying, including aboard transportation services, is limited by the lack of  
3 systematic, comprehensive records.

4 75. As one moves back in time to the Founding Era and Early Republic  
5 period, the available legal sources become even more patchy. Statewide and colony-  
6 wide codes have been preserved, digitized, and searched. But local courts preserved  
7 the peace through the application of common law and local custom—and what little  
8 documentation they left is housed at courthouses and archives across the country.

9 Local magistrates carried significant responsibility within early American  
10 communities in that they preserved the peace by adjudicating civil and criminal  
11 matters, in addition to carrying out administrative responsibilities related to  
12 infrastructure, taxation, and property conveyances. Their proximity to the people  
13 they judged and governed made them sensitive to local sentiment and encouraged  
14 them to abide by local, customary visions of what justice entailed rather than  
15 enforcing an abstract, monolithic law upon their communities. In these small  
16 communities, connected as they were by blood, kinship, and patronage, people  
17 knew one another as well as the justices of the peace. Lay justices, often lacking  
18 formal legal training, relied heavily upon magistrates' guidebooks and their  
19 acquired knowledge of common law as well as colonial/state law. The justice  
20 system which they oversaw enforced laws, including those pertaining to carrying  
21 weapons, affray, riot, and other disturbances of the peace, in light of a person's  
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28

1 reputation, connections, and established behaviors.<sup>122</sup> This “localized law” is as  
2 much a part of the American legal inheritance as statewide statute books, and was  
3 indeed more salient to the lives of Founding-Era Americans.<sup>123</sup> It cannot be  
4 accessed through digital databases of laws and cases, and much of its documentary  
5 record has been permanently lost.<sup>124</sup>

## 6 CONCLUSION

7 76. This declaration has assembled evidence showing that:

8 1) One of the largest and most influential cities in eighteenth-century  
9 America, Philadelphia, lacked intracity public transportation services comparable to  
10 those currently in use in major cities today. In fact, Philadelphia was a “walking  
11 city” in which residents moved about primarily on foot.

12 2) Eighteenth-century Philadelphia also lacked indoor public  
13 gathering spaces analogous to the kinds of shopping, entertainment, and cultural  
14 spaces that pervade American cities today. Most of the city’s large structures were  
15 churches, government buildings, and private homes. The largest and most  
16 significant gathering places, like the public market and green spaces, were  
17 outdoors.

18  
19  
20 <sup>122</sup> On the actions and responsibilities of colonial and early American justices of the peace,  
21 see Hendrik Hartog, “The Public Law of a County Court: Judicial Government in Eighteenth  
22 Century Massachusetts,” *American Journal of Legal History* 20, no. 4 (October 1976), 282-329;  
23 David Thomas Konig, “Country Justice: The Rural Roots of Constitutionalism in Colonial  
24 Virginia,” in *An Uncertain Tradition: Constitutionalism and the History of the South*, ed. by Kermit  
25 L. Hall and James W. Ely, Jr. (Athens: University of Georgia Press, 1989), 63-82; George L.  
26 Haskins, “Lay Judges: Magistrates and Justices in Early Massachusetts,” in *Law in Colonial  
27 Massachusetts, 1630-1800*, ed. by Daniel R. Coquillette (Boston: The Colonial Society of  
28 Massachusetts; distributed by the University of Virginia Press, 1984), 39-56; Sung Yup Kim, “‘In  
a Summary Way, with Expedition and at a Small Expence’: Justices of the Peace and Small Debt  
Litigation in Late Colonial New York,” *American Journal of Legal History* 57, no. 1 (March 2017),  
83-117.

<sup>123</sup> On “localized law,” see Edwards, *The People and Their Peace*, 57-202, see esp. 57-63.

<sup>124</sup> On the dearth of day-to-day magistrates’ records, see Konig, “Country Justice,” 69-70  
(Explaining that the extant colonial records from Virginia’s lowest courts are order books which  
do not include denied motions and other information irrelevant to the final disposition of the case  
at hand. In other words, most records are lost forever and those that remain fail to capture substantial  
portions of the courts’ day-to-day work.).

1           3) Many American jurisdictions had public carry laws that generally  
2 prohibited people from carrying deadly weapons within the confines of towns and  
3 cities. Even though a sizeable number of these laws specifically prohibited  
4 *concealed* carry, the open carrying of pistols, bowie knives and other such weapons  
5 was not commonplace.

6           4) American jurisdictions also enacted special ordinances and statutes  
7 designed to protect public gathering places beyond simply courthouses and polling  
8 places. Some protected schools and college campuses, others applied to entire  
9 commercial districts and city centers during electoral proceedings, and yet more  
10 provided for the disarming of all public gatherings. Taking regulatory action to  
11 protect people assembled for entertainment, recreation, education, and civic  
12 purposes from potential violence is not unusual or ahistorical.

13           5) Public carry laws applied to travelers and transportation spaces,  
14 unless one fell within a traveler's exemption. The traveler's exemption specifically  
15 applied to long-distance travel as opposed to the moving about within one's home  
16 community, town, and country. The limited nature of the travel exception was well  
17 established by appellate case law from the nineteenth century, and it did not  
18 encompass routine travel in areas where a person had recourse to legal protection.

19           6) Companies providing intercity and intracity transportation services  
20 during the eighteenth and nineteenth centuries were private corporations endowed  
21 with robust property rights. This included the right to refuse service and the right to  
22 establish safety policies. Though the lack of extant records prevents the drawing of  
23 a full and complete picture, the research that has been done to date shows that rail  
24 companies had the authority to regulate (and indeed some regulated) the presence  
25 and disposition of guns aboard train cars.

26           7) Our ability to understand the full history of firearm regulation in the  
27 United States is hindered by a lack of relevant extant records. Transportation  
28 companies, including intracity transit services from the nineteenth century, often

1 left no records, or left exclusively financial records that do not address employee  
2 responsibilities or ridership policies related to firearms. In this environment, the  
3 employee handbooks that remain take on a greater significance for shedding light  
4 upon practices across the nineteenth-century transportation industry. The lack of  
5 preserved documentation and consequent unknowability of the historical record  
6 presents a wider problem for researchers of historical gun and weapon regulation.  
7 Transit company ridership rules are not the only sources lost to the record; so are  
8 outcomes of criminal misdemeanor trials, issuances of surety bonds, and other  
9 proceedings from local justices of the peace who left no documentation of their  
10 critically important activities.

11 82. In sum, the historical record supports the assertions made within this  
12 report. Even the largest and most sophisticated eighteenth-century American cities  
13 lacked comparable gathering places and transportation services to those present in  
14 today's urban areas, including those located in California. Americans of the  
15 nineteenth century had a go-to policy for deadly weapons in public spaces, and it  
16 took the form of the public carry law. These laws restricted the carrying of small,  
17 concealable deadly weapons in public spaces, and they applied throughout an entire  
18 jurisdiction—whether that be a city or a state. The traveler's exemptions outlined  
19 by some public carry laws applied specifically to long-distance travel, not the kind  
20 of travel within a city or metro area represented by California's public  
21 transportation services. While public carry laws generally applied within  
22 transportation spaces, the private transportation companies themselves used their  
23 robust rights to enact ridership policies and employee requirements that regulated  
24 the carrying of firearms on board. Though the full, comprehensive historical record  
25 cannot be known due to a lack of preserved historical sources, the documents which  
26 do survive show that passengers' lawful access to firearms and weapons aboard  
27 transportation vehicles was often regulated.

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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 October 31, 2023, at Fort Worth, Texas.

*Brennan Gardner Rivas*  
Dr. Brennan Gardner Rivas

# Exhibit 1



Brennan Gardner Rivas  
Curriculum Vitae · Oct 2023

**Employment**

Lloyd Lewis Fellow in American History, The Newberry Library, 2021-2022  
Bill & Rita Clements Fellow for the Study of Southwestern America, Southern Methodist University, Clements Center for Southwest Studies, 2020-2021  
Lecturer in American History (full-time), Texas Christian University, Department of History, 2019-2020

**Education**

Ph.D., History, Texas Christian University, 2019  
Thesis: “The Deadly Weapon Laws of Texas: Regulating Guns, Knives, & Knuckles in the Lone Star State, 1836-1930”  
Advisor: Gregg Cantrell  
M.A., History, Texas Christian University, 2013  
Thesis: “Texas Antitrust Law: Formulation and Enforcement, 1889-1903”  
B.A. with Honors, History, Oklahoma State University, 2010

**Publications**

*Refereed Journal Articles*

“An Unequal Right to Bear Arms: State Weapons Laws and White Supremacy in Texas, 1836-1900,” *Southwestern Historical Quarterly* 121 (Jan 2018): 284-303.

*Law Articles*

“Strange Bedfellows: Racism and Gun Rights in American History and Current Scholarship” in Joseph Blocher and Jake Charles, eds., *New Histories of Gun Rights and Regulation: Essays on the Place of Guns in American Law and Society* (New York: Oxford University Press, 2023)

“Enforcement of Public Carry Restrictions: Texas as a Case Study,” *U.C. Davis Law Review* (May 2022)

“The Problem with Assumptions: Reassessing the Historical Gun Policies of Arkansas and Tennessee,” *Second Thoughts*, Duke Center for Firearms Law (Jan 2022)

*Short Pieces*

“Reflections on the American Gun Control Culture,” *The Panorama: Expansive Views from the Journal of the Early Republic*, October 17, 2023.

“Charles F. Cooley,” in *Wanted in America: Posters Collected by the Fort Worth Police Department, 1898-1903*, edited by LeAnna Schooley and Tom Kellam. Fort Worth: TCU Press, 2019.

Review of David R. Berman, *George Hunt: Arizona’s Crusading Seven-Term Governor*, in *Southwestern Historical Quarterly* 114, no. 3 (January 2016): 327-329.

## Public History

“In the Past, Americans Confronted Gun Violence by Taking Action,” *Washington Post: Made by History Blog* (Jun 2022)

~ Op-ed showcasing open-mindedness of 19<sup>th</sup> century Americans about experimenting with new gun control measures

“The Origin of Public Carry Laws in Texas,” *Texas Gun Sense Blog* (Feb 2021)

“Texas Gun Laws,” Online Primary Source Collection, hosted by Omeka

~ Online collection featuring primary sources from my research; feature exhibit titled “Crafting a Public Carry Law”

“The Deadly Weapon Laws of Texas,” Preserving Our Past: Community History Workshop, Center for Texas Studies at TCU (Nov 2020)

~ Public lecture featuring special insights for genealogical researchers

“The Deadly Weapon Laws of Texas,” Graduate/Undergraduate Public History Seminar, Tarleton State University (Sept 2020)

~ Research presentation focusing on interpretation of county court records

“When Texas Was the National Leader in Gun Control: How the Land of Gunslinger Mythology Regulated Weapons to Reduce Violence,” *Washington Post: Made by History Blog* (Sept 2019)

~ Op-ed highlighting long history of weapon regulation in Texas

## Fellowships and Awards

Firearm Issues Research Grant, 2023-2024

~ Awarded by the Harvard Injury Control Research Center, from grant funding from the Robert Wood Johnson Foundation, for research related to firearm issues

Lloyd Lewis Fellowship in American History, 2021-2022

~ Awarded by the Newberry Library to scholars using its collection to research topics in American history

Bill & Rita Clements Fellowship for the Study of Southwestern America, 2020-2021

~ Awarded by the SMU Clements Center for Southwest Studies to two scholars of Texas, the Southwest, or the U.S.-Mexico borderlands who are developing first books

The Benjamin W. Schmidt Memorial Scholarship, 2018-2019

~ Awarded by the TCU Department of History to a PhD candidate who shows exceptional professional promise; highest departmental prize for graduate students

Texas Christian University Department of History, Shinko and Thomas McDonald Research Prize in Texas History, 2019, 2017

~ Awarded by the TCU Department of History to a graduate student with the best research on antebellum Texas history

## Works in Progress

*The Revolver Must Go: The Rise and Fall of a Gun Control Movement in Texas*

Aim: Scholarly monograph exploring the rise of a gun control movement in nineteenth-century Texas and the regulatory strategies which it embraced. Widespread acceptance of strict, ambitious gun control laws in the “Wild West” belies current assumptions about Texas and challenges the reigning interpretation of the Second Amendment as a guarantor of expansive gun rights.

Status: Editing manuscript

“Going Armed: The Law and Culture of Carrying Deadly Weapons in the Nineteenth Century”  
 Aim: Scholarly article uncovering the ways in which nineteenth-century gun-toters carried their deadly weapons, and why they generally did so concealed.  
 Status: Writing in progress

## University Teaching Experience

### *Instructor of Record*

Lecturer in American History, Texas Christian University 2019-2020  
 “American History to 1877: Social Movements & the Politics of Slavery” (HIST 10603)  
 “American History since 1877: The Quest for Equality” (HIST 10613)  
 “History of Texas: A Transnational Look at the American Southwest” (HIST 40743)

### *Graduate Student Instructor*

Teaching Assistant, Texas Christian University 2017-2018  
 American History to 1877 (HIST 10603)  
 American History since 1877 (HIST 10613)

### *Teaching Interests*

American History, Legal History, Southwestern Borderlands, Civil War Era, American West, Gilded Age & Progressive Era, Women’s History

## Conference Presentations & Invited Talks

Panelist, “Use and Abuse of History in Second Amendment Litigation,” and “Going Armed: Nineteenth Century Views on Open Carry,” Current Perspectives on the History of Guns and Society, Wesleyan University, Middletown, Connecticut, October 2023  
 “Masculinity, Honor-Violence, and Gun Reform in the Early U.S.,” Race, Gender, and Firearms in the Early Republic, Society for Historians of the Early American Republic Annual Meeting, Philadelphia, Pennsylvania, July 2023  
 “Second Amendment Panel—Issues in Cases Post-*Bruen*,” Strategic Litigation Convening: Anti-Democracy Efforts and Political Violence Post-*Bruen*, Institute for Constitutional Advocacy and Protection, Georgetown Law, Washington, D. C., June 2023  
 “A Case for More Case Studies,” Originalism, the Supreme Court, Gun Laws, and History, Late-Breaking Roundtable, American Historical Association Annual Meeting, Philadelphia, Pennsylvania, January 2023  
 “Military Disarmament Orders and the Role of Reconstruction Historiography after *Bruen*,” Current Perspectives on the History of Guns and Society Symposium, Wesleyan University, Middletown, Connecticut, October 2022  
 “Reassessing Assumptions about Historical Arkansas and Tennessee Handgun Regulations,” Race and Guns Roundtable, Duke Center for Firearms Law, Durham, North Carolina, November 2021  
 “Enforcement of Public Carry Restrictions: Texas as a Case Study,” The Second Amendment at the Supreme Court: 700 Years of History and the Modern Effects of Guns in Public, Davis, California, October 2021  
 “Race & Guns,” Newberry Library Colloquium, Chicago, Illinois, October 2021  
 “Unlawful Carrying: Enforcing the Pistol Law in Texas, 1870-1920,” Texas State Historical Association Annual Meeting, Corpus Christi, Texas, February 2019

“Regulating Deadly Weapons in Nineteenth-Century Texas,” Invited Lecturer, Los Bexareños Hispanic Genealogical and Historical Conference, San Antonio, Texas, September 2018  
“Impregnable Citadels of Capital: American Monopolies in the British Radical Press,” Southern Conference on British Studies Annual Meeting, St. Pete Beach, Florida, November 2016  
“Dating Violence in Texas: Why the State Family Code Obstructs Accurate Reporting about Sexual Assault,” TCU Women & Gender Studies Research Symposium, 2015

### **Service**

Invited Guest, “How to Make the Most of Your Time in Graduate School,” Dept. of History Orientation Day, 2020

- ~ Advise incoming graduate students on strategies for success in the PhD program, emphasizing importance of intellectual development

Panelist, “Everything You Wanted to Know about TCU but Were Too Afraid to Ask,” Dept. of History Orientation Day, 2016

- ~ Provide honest and confidential information to prospective graduate students

Graduate Student Mentor, 2015

- ~ Informal departmental program designed to ease the transition for incoming graduate students

### **Second Amendment Subject Matter Expert**

*Duncan et al v. Bonta*, California, Case No. 17-1017-BEN-JLB, S.D. Cal.

*Miller et al v. Bonta*, California, Case No. 3:19-cv-01537-BEN-JLB, S.D. Cal.

*Angelo et al v. District of Columbia et al*, Washington, D.C., Civ. Act. No. 1:22-cv-01878-RDM, D. D.C.

*Hanson et al v. District of Columbia et al*, Washington, D.C., Civ. Act. No. 1:22-cv-02256-RC, D. D.C.

*Christian et al v. Nigrelli et al*, New York, No. 22-cv-00695 (JLS), W.D. N.Y.

*Frey et al v. Nigrelli et al*, New York, Case No. 21 Civ. 5334 (NSR), S.D. N.Y.

*Brumback et al v. Ferguson et al*, Washington, No. 1:22-cv-03093-MKD, E.D. Wash.

*Sullivan et al v. Ferguson et al*, Washington, Case No. 3:22-cv-5403, W.D. Wash.

*Siegel v. Platkin*, New Jersey, No. 22-CV-7463 (RMB) (AMD), D. N.J.

*NAGR v. Campbell*, Massachusetts, No. 1:22-cv-11431-FDS, D. Mass.

*Oregon Firearms Federation, Inc. v. Kotek*, Oregon, No. 2:22-cv-01815-IM, D. Ore.

*NSSF v. Jennings*, Delaware, No. 22-cv-01499-RGA, D. Del.

*Chavez v. Bonta*, California, No. 3:19-cv-01226-L-AHG, S.D. Cal. (f/k/a *Jones v. Bonta*)

*Nguyen v. Bonta*, California, No. 3:20-cv-02470-WQH-BGS, S.D. Cal.

*Baird v. Bonta*, California, No. 2:19-cv-00617-KJM-AC, E.D. Cal.

*Nichols v. Bonta*, California, No. 3:11-cv-09916-SJO-SS, C.D. Cal.

*Wiese v. Bonta*, California, No. 2:17-cv-00903-WBS-KJN, E.D. Cal.

*Rocky Mountain Gun Owners v. Polis*, Colorado, No. 23-cv-01077-JLK, D. Col.

*Wolford v. Lopez*, Hawaii, No. 1:23-cv-00265-LEK-WRP, D. Haw.

*Novotny v. Moore*, Maryland, No. 1:23-cv-01295-GRL, D. Mary.

*Kipke v. Moore*, Maryland, No. 1:23-cv-01293-GRL, D. Mary.

*Ohio v. Columbus*, Ohio, No. 2022-cv-00657, Ct. Com. Pleas, Fairfield Cty, Ohio

**Professional Memberships**

Society for Historians of the Gilded Age and Progressive Era

Texas State Historical Association

Southern Historical Association

American Historical Association

# Exhibit 2



1793] *The Statutes at Large of Pennsylvania.*

473

Article 12. If any inferior officer or private man shall think himself injured by his captain or other superior in the regiment, troop or company to which he belongs, he may complain to the commanding officer of the regiment, who shall summon a regimental court martial, for doing justice, according to the nature of the case.

Article 13. No penalty shall be inflicted at the discretion of court martial other than degrading, cashiering or fining.

Article 15.\* The commanding officer of the militia, for the time being, shall have full power of pardoning or mitigating any censures or penalties ordered to be inflicted on any private or non-commissioned officer, for the breach of any of these articles, by a general court martial; and every offender convicted, as aforesaid, by any regimental court martial, may be pardoned, or have the penalty mitigated by the lieutenant colonel or commanding officer of the regiment, excepting only where such censures or penalties are directed as satisfaction for injuries received by one officer or private man from another; but in case of officers, such sentence to be approved by the commander-in-chief, or the nearest general officer of the militia, who are respectively empowered to pardon or mitigate such sentence, or disapprove of the same.

Article 16. The militia, on the days of exercise, may be detained under arms on duty in the field, any time not exceeding six hours, provided they are not kept above three hours under arms at any one time, without allowing them a proper time to refresh themselves.

Article 17. No company or regiment shall meet at a tavern on any of the days of exercise, nor shall march to any tavern before they are discharged, and any person who shall bring any kind of spirituous liquors to such place of training, shall forfeit such liquors, so brought, for the use of the poor belonging to the ward, district or township where such offender lives.

Article 18. All fines that shall be incurred by any breach of these rules, shall be paid into the hands of the inspectors of the brigades to which the offenders belong, or to such person

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\*This mistake in numbering occurs in the original.

# Exhibit 3

4

**THE STATUTES:  
REVISED EDITION.**

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**VOL. I.**

**HENRY III. TO JAMES II.**  
**A.D. 1235-1685.**

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**By Authority.**

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**LONDON:**

**PRINTED BY GEORGE EDWARD EYRE AND WILLIAM SPOTTISWOODE,  
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.**

**1870.**

**216970-C.**

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**ER\_1680**

A.D. 1326-7

1 EDWARD III. *Stat. 2.*

143

Item le Roi comaunde q̄ les viscontes & Baillifs des franchises, & toutz autrs q̄ p̄nent enditementz a lor tourns, ou aillours ou enditementz s̄rout faitz, preignent tieux enditementz p̄ roule endente dount Lune ptie demeorge vs les enditours, & lautre ptie de vs cely qi prendra Lenqueste, issint q̄ les enditementz ne soient beseelez come avant ces heures ount este, & issint q̄ un de lenqueste peut monstrier lune ptie de lendenture a la Justice q̄ant il vendra p̄ la deliv̄aunce faire.

Item, the King commandeth, that the sheriffs and bailiffs of franchises, and all other that do take indictments in their turns, or elsewhere, where indictments ought to be made, shall take such indictment by roll indented, whereof the one part shall remain with the indictors, and the other part with him that taketh the inquest; so that the indictments shall not be imbezilled as they have been in times past; and so that one of the inquest may shew the one part of the indenture to the justices, when they come to make deliverance.

XVII.  
Indictments  
shall be taken  
by indenture.

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2 EDWARD III. A.D. 1328.

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**Statutū editū apud North', anno r. R. E. t̄cii post  
conquestū sc̄do.**

STATUTE made at NORTHAMPTON;

In the SECOND Year of the Reign of K. EDWARD the THIRD  
after the Conquest.

*Ex magno Rot. Stat. in Turr. Lond.*  
*m. 28.*

N̄re seign̄r le Roi Edward, le tierz ap̄s le conqueste, a son plement tenuz a North' as trois semeins de Pasch, Lan de son regne secund, desiraunt q̄ la pees de sa t̄re, & les leis & estatuz avant ces heures ordenez & usez, soient gardez & meintenuz en touz poyntz, Al hon̄r de dieu & de seinte eglise, & a cōe p̄fit du poeple, p̄ assent des Prelatz, Countes & Barons & autres ḡantz, & tote la cōe du roialme, au dit plement somons, ordena & establil en meisme le plement les choses sonthescrites en la forme q̄ sensuit.

OUR lord King Edward, the third after the conquest, at his Parliament holden at Northampton, at the three weeks of Easter, in the second year of his reign, desiring that the peace of his land, and his laws and statutes, ordained and used before this time, may be kept and maintained in all points; to the honour of God and of Holy Church, and to the common profit of the people, by assent of the prelates, earls, barons, and other great men, and all the commonalty summoned to the same Parliament, hath ordained and established in the said Parliament these things underwritten, in form following.



II.  
Pardons for  
felony.

27 *Ed. I. c. 3.*

Justices of  
assise and  
gaol delivery.

Oyers and  
terminers.

III.  
Riding or  
going armed  
in affray of the  
peace.

\* \* \* \* \*

Item, whereas offenders have been greatly encouraged, because [the <sup>1</sup>] charters of pardon have been so easily granted in times past, of manslaughters, robberies, felonies, and other trespasses against the peace; it is ordained and enacted, that such charter shall not be granted, but only where the King may do it by his oath, that is to say, where a man slayeth another in his own defence, or by misfortune: [Rep., Stat. Law Rev. Act, 1863.] And also they have been encouraged, because that [<sup>2</sup> the justices of gaol-delivery, and of oyer and terminer, have been procured by great men <sup>2</sup>] against the form of the statute made in the xxvij year of the reign of King Edward, grandfather to our lord the King that now is, wherein is contained, that justices assigned to take assises, if they be laymen, shall make deliverance; and if the one be a clerk, and the other a layman, that the lay judge, with another of the country associate to him, shall deliver the gaols: Wherefore it is enacted, that such [justices <sup>3</sup>] shall not be made against the form of the said statute; and that the assises, attaints, and certifications be taken before the justices commonly assigned, which should be good men and lawful, having knowledge of the law, and none other, after the form of another statute made in the time of the said [King Edward the First; <sup>4</sup>] and that the oyers and terminers shall not be granted but before justices of the one bench or the other, or the justices errants, and that for great [hurt,] or horrible trespasses, and of the King's special grace, after the form of the statute thereof ordained in time of the said grandfather, and none otherwise.

Item, it is enacted, that no man great nor small, of what condition

<sup>1</sup> that  
<sup>2</sup> commissions of gaol delivery and of oier and terminer have been granted to persons procured  
<sup>3</sup> commissions  
<sup>4</sup> grandfather

\* \* \* \* \*

Ensement p<sup>r</sup> ceo q̄ meffesours ont este esbauditz de ce q̄ chartres de pdoun ont este si leg<sup>1</sup>ment g<sup>antees</sup> avant ces heures, des homicides, robies, felonies & autres trespas countre la pees; acorde est & establi q̄ tiels chartres ne soient mes g<sup>antees</sup> fors qen cas ou le Roi le poet faire p son s<sup>1</sup>ment, cest assavoir en cas ou home tue autre soi defendant, ou p infortune: [Rep., Stat. Law Rev. Act, 1863.] Et auxint ont este esbauditz de ceo q̄ Justiceries as deli<sup>v</sup>ances des gaols, & a oier & v<sup>1</sup>miner, ont estez g<sup>antees</sup> as gentz pcurez countre forme de lestatut fait en temps le Roi Edward, ael n<sup>r</sup>e Seign<sup>r</sup> le Roi qore est, en quele est contenuz q̄ les Justices as assises p<sup>1</sup>ndre assignez sils soient lais, facent les deli<sup>v</sup>ances; et si lun soit cleric, & lautre lais, q̄ le dit lais, associe a lui un autre du pais, facent la deli<sup>v</sup>ance des gaols; p qoi acorde est & establi, q̄ tiels Justiceries ne soient mes g<sup>antees</sup> countre la forme du dit estatut, & q̄ les assises, atteintes, & c<sup>1</sup>tifications soient p<sup>1</sup>ses devant les Justices cōmunement assignez, q̄ soient bones gentz & loialx & conissantz de la lei, & nemie autres; solonc la forme dun autre statut fait en temps meisme le ael; et q̄ les oiers & v<sup>1</sup>miners ne soient grantees fors, - - - devant les Justices de lun Baunk & de lautre, ou les Justices errantz; & ce p<sup>r</sup> led & orrible trespas, & de lespeciale g<sup>1</sup>ce le Roi, solonc forme de statut de ce ordene en temps meisme le ael; & nemie autrement.

Ensement acorde est & establi, q̄ nul, g<sup>1</sup>ant ne petit de quele condicion

A.D. 1326.

2 EDWARD III. *Stat. Northumpt.*

145

qil soit, sauve les s̄jantz le Roi en la p̄sence le Roi, & les Ministres le Roi, enfesantz execucion des mandementz le Roi, ou de leur office, & ceux qi sont en leur compaignies, eidantz as ditz ministres, & auxint au cri de fait darmes de pees, & ce en lieux ou tielx faitz se ferront, soit si hardi de venir devant les Justices le Roi, ou autres Ministres le Roi enfesant leur office, a force & armes; ne force mesner en affrai de la pees, ne de chivaucher ne daler arme, ne de nuit ne de jour, en faires, marchees, nen p̄sence des Justices, ne dautres Ministres, ne nule part aillours, sur peine de p̄dre leur armures au Roi & de leur corps a la prisone a la volente le Roi. Et q̄ Justices le Roi en leur p̄sences, viscountes & autres Ministres le Roi en leur baillies, seign̄s des franchises & leur baillifs en yceles, & Meire & Baillifs des Citees & Burghs deinz meismes les Citees & Burghs, Burghaldres, conestables, & gardeins de la pees deinz leur gardes, eient poair affaire execucion de cest acord. Et s̄ les Justices assignez, a leur venu en pais, eient poair denquere coment tielx Ministres & seign̄s ont use leur office en ce, & de punir ceux qils trovont, qi nount mie fait ce q̄ a leur office appent.

Et p̄ce q̄ la pees ne poet mie estre bien garde sauntz bons ministres, come

soever he be, except the King's servants in his presence, and his ministers in executing of the King's precepts, or of their office, and such as be in their company assisting them, and also [upon a cry made for arms to keep the peace, and the same in such places where such acts happen,'] be so hardy to come before the King's justices, or other of the King's ministers doing their office, with force and arms, nor bring no force in affray of the peace, nor to go nor ride armed by night nor by day, in fairs, markets, nor in the presence of the justices or other ministers, nor in no part elsewhere, upon pain to forfeit their armour to the King, and their bodies to prison at the King's pleasure. And that the King's justices in their presence, sheriffs, and other ministers (\*) in their bailiwicks, lords of franchises, and their bailiffs in the same, and mayors and bailiffs of cities and boroughs, within the same cities and boroughs, and borough-holders, constables, and wardens of the peace within their wards, shall have power to execute this act. And that the justices assigned, at their coming down into the country, shall have power to enquire how such officers and lords have exercised their offices in this case, and to punish them whom they find that have not done that which pertained to their office.

Item, because the peace cannot be well kept without good ministers, as

<sup>1</sup> upon a proclamation of deeds of arms in time of peace, and that in places where such deeds are to be done, —See Lib. Rub. Scac. Westm. fo. 122 b. a writ reciting a grant of K. Richard I. "q̄ Torneaūta sint in Angl in v. placias: Inl Sar̄ & Wiltoñ: Inl Warrewich & Kenelingworth: Inl Stanford & Warneford: Inl Brakele & Mixeb̄: Inl Blie & Tykehilt. Ita q̄ pax v̄re n̄re nō infringet̄, n̄ potestas Justiciaria minorabit̄. Nec de forestis n̄ris dāpnū inferet̄."

<sup>2</sup> of the King

IV.  
The Statute of  
Lincoln,  
9 Edw. II.  
concerning  
sheriffs, &c.  
confirmed.

K



# Exhibit 4

A.D.1351-2.

25<sup>o</sup> EDW. III. Stat. 5. c.1, 2.

319

Statutu apud Westm̄ in p̄liamento in festo S̄cti Hillarii anno regni Regis E. t̄c̄i vicesimo q̄nto tento, f̄cm.

In Margine Rotuli.

A STATUTE made at WESTMINSTER; In the Parliament holden in the Feast of Saint Hilary; In the TWENTY-FIFTH Year of the Reign of K. EDWARD the THIRD.

Ex magno Rot. Stat. in Turr. Lond. n. 16.

STATUTE THE FIFTH.

U plement somonz a Westm̄, en la feste de Seint Hiller lan du regne n̄re Seign' le Roi Edward Dengleŕre vintisme quint, & de France douzisme, n̄re f̄' le Roi del assent des Prelatz, Ducs, Countes, Barons, & de tout la comunalte de son Roialme Dengleŕre, au dit plement somons, al hon' de Dieu & de Seinte Eglise, & en amendement de son dit Roialme, ad ordeine & establi les choses soutzscriptes.

En p̄mes, p̄ce q̄ tresguntz & tresoutgeouses damages & grevances sont faites au poeple p̄ les pno's & p̄veo's des vitailles p̄ les hosteux nre f̄' le Roi, ma dame la Roigne, & de lo' enfantz, Si est acorde & assentuz en le dit plement, q̄ les pno's & p̄veio's des bledz p̄ les ditz hosteux les p̄ignent p̄ mesure rase, selonc ceo q̄ hōme use p̄my le Roialme. Et q̄ touz bledz, feyns, litere & bestaill, & touz auŕs vitailles & choses quecques, queles sont aprendre p̄ meismes les hosteux, soient p̄sez a la vroie value, p̄ les Conestables & auŕs bons gentz des villes ou tieles prises se feront, sanz ce q̄ p̄ manaces, ou duresces soient les preisours chacez a mettre autre pris q̄ lour ŕement ne voet, & come curt cōement en les p̄scheins marches: et q̄ entre les Purveyours et ceux des queux les biens ŕont prises, en la p̄sence des Conestables & preisours, soient tailles tantost faites, saunz ceo q̄ les gentz des queux les biens ŕont prises soient aillours traitz ou t̄vaillez; & meismes les tailles enscalez des seals les pnours des choses issint prises, p̄ les queles tailles gre soit fait as ceux des queux les choses ŕont issint prises: et si nul pnour ou P̄veour p̄ les ditz hosteux face p̄ autre mañe, soit meintenans arestu p̄ la villee ou la prise ŕa faite, et mesne a la p̄scheine gaole, et si de ceo soit atteint, soit la fait de lui come de laron, si la quantite des biens le demand; solonc ceo qen un estatut fait en temps meisme n̄re f̄' le Roi lan de son regne quint, & en un autre estatut fait en temps laiel n̄re Seign' le Roi s' tieles prises, est contenuz plus au plein: et q̄ desore soit contenuz es cōmissions des tieux P̄veours et pnours, lentent et la peine contenuz en cest estatut: et q̄ nule cōmission soit faite forsq̄ seulement souz les ḡnt ou prive sealez le Roi; ne q̄ nul hōme soit tenuz de obeier a autre cōmission nen autre mañe q̄ nest dit en avant; et q̄ meisme lestatut tiegne lieu en touz pointz deŕs chescun pnour & p̄veour, de chescune mañe des vitailles en chescune ptie du Roialme de quele condition qil soit.

Auxint p̄ceo q̄ diŕses opinions ount este einz ces heures quel cas, q̄nt il avient doit estre dit treson, & en quel cas noun, le Roi a la requeste des Seign's & de la Cōe, ad fait declarissement q̄ ensuit, Cest assavoir;

AT the Parliament summoned at Westminster in the Feast of St. Hilary, the Year of the Reign of our Lord King Edward the Third [after the Conquest,] of England the Five and twentieth, and of France the Twelfth; our said Lord the King, by the assent of the Prelates, Earls, Barons, and of all the Commonalty of his Realm of England summoned to the Parliament, to the honour of God and Holy Church, and in Amendment of his said Realm, hath ordained and established the Things underwritten.

FIRST, Forasmuch as great and outrageous damage and grievance hath been done to the People by the Takers and Purveyors of Victuals, for the Houses of our Sovereign Lord the King, the Queen, and their Children; It is accorded and assented in the said Parliament, That the Takers (') of Corn for the said Houses shall take the same by Measure striked according as it is used through the Land. And that such Corn, Hay, Litter, Bestall and all other Viŕuals and Things, which shall be taken for the said Houses, shall be [taken] by the very Value, by the Constable and other good People of the Towns where such Taking shall be made, without that that the Praisers by Menace or Duress shall be driven to set any other Price than their Oath will, and as commonly runneth in the next Markets. And that betwixt the Purveyors and them whose Goods shall be taken in the presence of the Constables and Praisers, Tallies be made incontinently, without that that the People whose Goods shall be taken, shall be drawn or travelled elsewhere, and the same Tallies sealed with the Seals of the Takers of the Things so taken, by which Tallies Gree shall be made to them whose Goods shall be so taken; and if any Purveyor or Taker for the said Houses, do in any other Manner, he shall be [maintenant'] arrested by the Town where the Taking shall be made, and brought to the next Gaol; and if he be thereof attained, it shall be done of him as of a Thief, if the Quantity of the Goods the same require; according as in a Statute made in the Time of our Sovereign Lord the King that now is, the Fifth Year of his Reign, and in another Statute made in the Time of the King's Grandfather upon such Takings, is contained more at the full: and that from henceforth in the Commissions of such Takers and Purveyors, the Intent and Pain limited in this Statute shall be contained: and that no Commission be made, but only under the King's great Seal or Privy Seal; nor that no Man be bound to obey [any such Commissions, other or in what Manner ')] than is aforesaid; and that the same Statute take place in all Points against every Taker and Purveyor of every Manner of Viŕtual in every part of the Realm, of what Condition soever he be.

ITEM, Whereas divers Opinions have been before this Time [in what Case Treason shall be said, and in what not;'] the King, at the Request of the Lords and of the Commons, hath made a Declaration in the Manner as hereafter followeth, that is to say; When a Man

I. Corn shall be taken by Purveyors by Measure striked

Things taken by Purveyors shall be appraised at the very Value.

Tallies of the Goods taken.

Punishment for undue Purveyance as under Stat. 5 E. III. c. 2.

Purveyors' Commissions shall be under the Great or Privy Seal.

II. Declaration what Offences shall be adjudged Treason.

1 and Purveyors prayed 2 immediately 3 any other Commissions, or in other manner MS. Tr. 2. 4 what case should be adjudged Treason, and what not;

Compassing the Death of the King, Queen, or their eldest Son; violating the Queen, or the King's eldest Daughter unmarried, or his eldest Son's Wife; levying War; adhering to the King's Enemies; counterfeiting the King's Seals, or Money; importing counterfeit Money; killing the Chancellor, Treasurer, or Judges in Execution of their Duty. The King shall have the Forfeiture of all the Offenders' Lands. Petit Treason. Forfeiture of the Lands to the Lords. New Questions of Treasons shall be decided in Parliament.

Certain Offences not Treason. In such Cases already happened, the Chief Lords shall have the Escheats.

Saving the King's Year and Waste. Scire facias to Tenants, &c.

III. Challenge of an Indictor upon an Inquest.

doth compass or imagine the Death of our Lord the King, or of our Lady his [Queen] or of their eldest Son and Heir; or if a Man do violate the King's [Companion,] or the King's eldest Daughter unmarried, or the Wife [the King's eldest Son and Heir; or if a Man do levy War against our Lord the King in his Realm, or be adherent to the King's Enemies in his Realm, giving to them Aid and Comfort in the Realm, or elsewhere, and thereof be [probably] attained of open Deed by [the People] of their Condition: And if a Man counterfeit the King's Great or Privy Seal, or his Money; and if a Man bring false Money into this Realm, counterfeit to the Money of England, as the Money called Lushburgh, or other, like to the said Money of England, knowing the Money to be false, to merchandise or make Payment in Deceit of our said Lord the King and of his People; and if a Man slea the Chancellor, Treasurer, or the King's Justices of the one Bench or the other, Justices in Eyre, or Justices of Assise, and all other Justices assigned to hear and determine, being in their Places, doing their Offices: And it is to be understood, that in the Cases above rehearsed, [that] ought to be judged Treason which extends to our Lord the King, and his Royal Majesty: And of such Treason the Forfeiture of the Escheats pertaineth to our Sovereign Lord, as well of the Lands and Tenements holden of other, as of himself: And moreover there is another manner of Treason, that is to say, when a Servant slayeth his Master, or a Wife her Husband, or when a Man secular or Religious slayeth his Prelate, to whom he oweth Faith and Obedience; and [of such Treason the Escheats ought to pertain] to every Lord of his own Fee: And because that many other like Cases of Treason may happen in Time to come, which a Man cannot think nor declare at this present Time; It is accorded, That if any other Case, supposed Treason, which is not above specified, doth happen [before any Justices, the Justices shall tarry without any going to Judgement of the Treason, till the [Cause] be shewed [and declared before the King and his Parliament,] whether it ought to be judged Treason or [other] Felony. And if percase any Man of this Realm ride abroad [covertly] or secretly with Men of Arms against any other, to slay him, or rob him, or take him, or retain him till he hath made Fine or Ransom for to have his Deliverance, it is not the Mind of the King nor his Council, that in such Case it shall be judged Treason, but shall be judged Felony or Trespass, according to the Laws of the Land of old Time used, and according as the Case requireth. And if in such Case, or other like, before this Time any Justices have judged Treason, and for this Cause the Lands and Tenements have comen into the King's hands as Forfeit, the chief Lords of the Fee shall have the Escheats of the Tenements holden of them, whether that the same Tenements be in the King's hands, or in others, by Gift or in other Manner; Saving always to our Lord the King the Year, and the Waste, and the Forfeitures of Chattels, which pertain to him in the Cases above named; and that [the Writs] of Scire facias be granted in such Case against the Land-tenants, without other Original, and without allowing [any Protection] in the said Suit; and that of the Lands which be in the King's hands, Writs be granted to the Sheriffs of the Counties where the Lands be, to deliver them out of the King's hands without Delay.

ITEM, It is accorded, That no Indictor shall be put in Inquests upon Deliverance of the Indictors of Felonies or Trespass, if he be challenged for that same cause by him which is so indicted.

1 Wife 1 of  
2 provably MS. Tr. 2. 3 People 4 it  
5 such Manner of Treason giveth Forfeiture of Escheats  
6 of new, MS. Tr. 2. 7 Case  
8 before the King in his Parliament, and it be declared  
9 else 10 openly  
11 Writs 12 the Protection of our Lord the King

q'nt hōme fait compasser ou ymaginer la mort nre Seign' le Roi, ma dame sa compaigne, ou de leur fitz primer & heir; ou si hōme violat la compaigne le Roi, ou leismesc fil le Roi nient marie, ou la compaigne leine fitz & heir du Roi; & si hōme leve de guerre contre nre dit Seign' le Roi en son Roialme, ou soit aberdant as enemys nre Seign' le Roi en le Roialme, donant a eux eid ou confort en son Roialme ou p aillours, & de ceo p'ablement soit atteint de o'nt falte p gentz de leur condicion: et si hōme contreface [les g'nt ou prive seax le Roi,] ou sa monioie, et si hōme apport faus monioie en ceste Roialme contrefaite a la monioie Dengle're, sicome la monioie appelle [Lucynburgh] ou autre semblable a la dite monioie Dengle're, sachant la monioie estre faus, p' marchander, ou paiement faire en deceit nre dit Seign' le Roi & son poeple; et si hōme tuast Chancellor, Tresorer, ou Justice nre Seign' le Roi del un Bank ou del autre, Justice en Eir & des assises & toutes auts Justices assignez a oier & yminer esteiantz en leurs places en fesantz leurs offices: et fait a entendre qen les cases suisnommez doit estre ajugge tresson [q' sestent] a nre Seign' le Roi & a sa roial majeste; et de tiele manere de tresson la forfait'e des eschetes ap'pient a nre Seign' le Roi, si bien des Pres & teiz tenuz des auts, come de lui mcismes: et ovesq, ceo il yad autre manere de tresson, cest assavoir q'nt un v'vant tue son meistre, une fēme q' tue son baron, q'nt hōme secular ou de religion tue son Prelat, a q' il doit foi & obediēce; & tiele manere de tresson donn forfait'e des eschetes a chescun Seign' de son fee p'pre: et p' ceo q' plusieurs auts cases de semblable tresson p'ront escheer en temps a venir, queux hōme ne p'ra penser ne declarer en p'sent, assentu est q' si autre cas supposee tresson q' nest especifie p amount aviegne de novel devant aucunes Justices, demoege la Justice saunz aler au jugement de tresson, tanq, p' devant nre Seign' le Roi [en] son plement soit le cas monstree & desclarre le quel ceo doit estre ajugge tresson ou autre felonie. Et si p cas ascun hōme de cest Roialme chivach arme descovert ou secrement od gentz armes contre ascun autre, p' lui tuer ou derober, ou p' lui p'ndre & retenir tanqil face fyn ou raunceon p' sa delivrance avoir, nest pas lentent du Roi & de son conseil q' en tiel cas soit ajugge tresson, einz soit ajugge felonie ou p'pas solonc la lei de la Pre auncienement usee, & solonc ceo q' le cas demand: et si en tieu cas, ou autre semblable devant ces heures, ascune Justice eit ajugge tresson, & p celle cause les Pres & teiz soient devenus en la main nre Seign' le Roi come forfait'es, cient les chiefs Seign's de fee leurs eschetes des teiz de eux tenuz, le quel q' les teiz soient en la main nre Seign' le Roi, ou en la main des auts, p' donn ou en autre manere; Sauvante totefoitz a nre Seign' le Roi lan & le wast, & auts forfait'es des chateux q' a lui attenen en les cases suisnommez; et q' briefs de Scire fac' vs les Pres tenantz soient g'ntez en tieu cas, saunz autre originale & saunz alower la pteccion nre Seign' le Roi en la dite seute; et q' de les Pres q' sont en la main le Roi, soit g'nte brief as viscontes des Countees la ou les Pres front de ostier la main le Roi saunz outre delais. Auxint acorde est, q' nul enditor soit mys en enquest a la delivance del endite de p'pas ou de felonie, sil soit chalange p tiele cause p celui q'est endite.

1 le grant seal le Roi, Rot. Parl. 25 E. 3. P. II. no. vij. (17.)  
2 Lushburgh Rot. Parl. 3 q' ce estent Rot. Parl.  
3 & Rot. Parl.



# Exhibit 5

9388X

THE  
**REVISED STATUTES**

OF THE

**Commonwealth of Massachusetts,**

**PASSED NOVEMBER 4, 1835;**

TO WHICH ARE SUBJOINED,

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

**BOTH PASSED IN FEBRUARY 1836;**

AND TO WHICH ARE PREFIXED,

**THE CONSTITUTIONS**

OF THE

**United States and of the Commonwealth of Massachusetts.**

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

UNDER THE SUPERVISION AND DIRECTION OF

**THERON METCALF AND HORACE MANN.**



**Boston:**

PUBLISHED BY DUTTON & WENTWORTH, STATE PRINTERS.

Nos. 10 & 12 Exchange Street.

1836.

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

On appeal,  
witnesses to  
recognize.

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

Proceedings on  
appeal.

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

Recognizance,  
when to remain  
in force.

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

Persons com-  
mitted for not  
recognizing,  
how discharged.

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

Recognizances  
to be transmit-  
ted to the court.

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

— when to be  
required on  
view of the  
court or magis-  
trate.

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

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

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

Court may re-  
mit part of pen-  
alty.  
7 Mass. 397.  
1810. 80.

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

Surety may  
surrender his

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



# Exhibit 6

[ 35 ]

same offenders come not as afore is said, and the proclamation made and returned, they shall be convicted and attainted of the riot, assembly, or rout aforesaid: And moreover the Justices of Peace in every county or corporation, where such riot, assembly, or rout of people shall be made, in case the same be made in their presence, or if none be present, then the justices having notice thereof, together with the sheriff, under sheriff, or serjeant, of the same county or corporation, shall do execution of this act, every one upon pain of twenty pounds, to be paid to the Commonwealth, as often as they shall be found in default of the execution of the said act; and on such default of the justices and sheriff, under sheriff, or serjeant, a commission shall go from the General Court at the instance of the party grieved, to enquire as well of the truth of the case, and of the original matter for the party complainant, as of the default or defaults of the said justices, sheriff, under sheriff, or serjeant, in this behalf supposed, to be directed to sufficient and indifferent persons at the nomination of the Judges; and the said commissioners presently shall return into the General Court the inquests and matters before them in this behalf taken and found: But no persons convicted of a riot, rout, and unlawful assembly, shall be imprisoned for such offence by a longer space of time than one year. Persons legally convicted of a riot, rout, or unlawful assembly, otherwise than in the manner directed by this act, shall be punished by imprisonment and amercement, at the discretion of a jury, under the like limitation.

## C H A P. XLIX.

*An ACT forbidding and punishing AFFRAYS.*

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

## C H A P. L.

*An ACT against CONSPIRATORS.*

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

## C H A P. LI.

*An ACT against conveying or taking PRETENDED TITLES.*

**B**E it enacted by the General Assembly, That no person shall convey or take; or bargain to convey or take, any pretended title to any lands or tenements, unless the person conveying or bargaining to convey, or those under whom he claims shall have been in possession of the same, or of the reversion or remainder thereof one whole year next before; and he who offendeth herein knowingly, shall forfeit the whole value of the lands or tenements; the one moiety to the Commonwealth, and the other to him who will sue as well for himself as for the Commonwealth: But any person lawfully possessed of lands or tenements, or of the reversion or remainder thereof, may nevertheless take or bargain to take the pretended title of any other person, so far and so far only as it may confirm his former estate.

## C H A P. LII.

*An ACT to punish BRIBERY and EXTORTION.*

**B**E it enacted by the General Assembly, That no Treasurer, Keeper of any Public Seal, Councillor of State, Council for the Commonwealth, Judges, or Attornies at law, practising either in the General Court, High Court of Chancery, Court of Appeals, Court of Admiralty, or Inferior Courts, Clerk of the Peace, Sheriff, Coroner, Escheator, nor any officer of the Commonwealth, shall, in time to come, take, in any form, any manner of gift, brokage, or reward for doing his office, other than is, or shall be allowed by some act of General Assembly, passed after the institution of the Commonwealth; that is to say, after the fiftenth day of May, in the year of our Lord, one thousand seven hundred and seventy six; and he that doth, shall pay unto the party grieved, the treble value of that he hath received, shall be amerced and imprisoned at the discretion of a jury, and shall be discharged from his office forever; and he who will sue in the said matter, shall have suit as well for the Commonwealth as for himself, and the third part of the amercement.

CHAP.

# Exhibit 7

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




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

---

NEW BERN:  
 FROM THE EDITOR'S PRESS.

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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.

*None 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

Exhibit 7

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( 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.

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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



# Exhibit 8

POWER OF JUSTICES.

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CHAPTER LXXVI.

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

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

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

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

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

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

Persons aggrieved may appeal to the C. Court of Com. Pleas.

Must recognize with sureties,

and produce copies of case at C. C. Common Pleas.

Failing to prosecute his appeal, his default to be entered.

Court may order such case to be laid before Grand Jury, or arrest appellant, and affirm sentence, &c.

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

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

Penalty for refusing to obey such Justice.

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

Justices may grant subpoenas for witnesses in criminal cases:

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

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

Penalty for neglect.

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

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

SEC. 5. *Be it further enacted,* That any Justice of the Peace for the preservation thereof, or upon view of the breach thereof, or upon view of any other transgression of law, proper to his cognizance, done or committed by any person or persons whatever, shall have authority, (in the absence of the Sheriff, Deputy Sheriff or Constable,) to require any person or persons to apprehend and bring before him such offender or offenders. And every person so required, who shall refuse or neglect to obey the said Justice, shall be punished in the same manner as for refusing or neglecting to assist any Sheriff, Deputy Sheriff or Constable in the execution of his office as aforesaid. And no person who shall refuse or neglect to obey such Justice, to whom he shall be known, or declare himself to be a Justice of the Peace, shall be admitted to plead excuse on any pretence of ignorance of his office.

SEC. 6. *Be it further enacted,* That Justices of the Peace within their respective counties, be, and they are hereby authorized and empowered to grant subpoenas for witnesses in all criminal causes pending before the Supreme Judicial Court and Circuit Court of Common Pleas, and before themselves or any other Justice: *Provided,* That no Justice of the Peace shall grant subpoenas for witnesses to appear in any Court, except before himself, to testify on behalf of the State, unless by the request of the Attorney General or County Attorney. And all Sheriffs, Constables and other officers are directed and empowered to serve any warrant issuing from a Justice of the Peace.

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



POWER OF JUSTICES.

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

SEC. 9. *Be it further enacted*, That the amount of the sum Justice to have  
 or several sums, specified, expressed or supposed to be de- jurisdiction  
 manded by the plaintiff in his declaration, shall not be de- where the ad  
 considered as any objection against the Justice's jurisdiction, damnum does  
 provided the *ad damnum*, or damage is not laid or stated to ex- not exceed 20  
 ceed twenty dollars.

SEC. 10. *Be it further enacted*, That any party aggrieved Party aggrieved  
 at the judgment of any Justice of the Peace, in a civil action, may appeal may appeal  
 where both parties have appeared and plead, may appeal to C. C. Com-  
 therefrom to the next Circuit Court of Common Pleas to be Pleas.  
 held within the same county; and shall before his appeal is -Must recog-  
 allowed, recognize with a surety or sureties, in such reasona- nize to prote-  
 ble sum as the Justice shall order, not exceeding thirty dol- cute.  
 lars, to pay all intervening damages and costs, and to prose- and produce co-  
 cute his appeal with effect; and shall be held to produce a pies at C. C. C.  
 copy of the whole case, at the Court appealed to, and both Pleas. Proceedings in  
 parties shall be allowed to offer any evidence upon the trial that Court.  
 at the Circuit Court of Common Pleas, in the same manner as if the cause had been originally commenced there. And no  
 other appeal shall be had on such action after one trial at the No further ap-  
 Circuit Court of Common Pleas. And the Circuit Court of appeal.  
 Common Pleas, when any person recognized as before men- Defendant in  
 trespass falling  
 to bring for-

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

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

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

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

General issue may be plead in all actions before Justices and special matter given in evidence except where title to real estate is relied on by defendant.

Justices may grant subpoenas in all civil actions.

May adjourn their Courts by proclamation.

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

tioned to bring forward an action of trespass, doth neglect to do it, upon complaint thereof made in writing by the plaintiff, shall give judgment for such sum in damages, as the plaintiff hath declared for, together with all reasonable costs which accrued both in the same Court and before the Justice. And the Circuit Court of Common Pleas shall, when any appellant thereto shall fail to prosecute his appeal, or if he shall neglect to produce a copy of the case, affirm the former judgment upon the appellec's complaint, and award such additional damages as shall have arisen in consequence of the said appeal, and cost.

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

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

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



POWER OF JUSTICES.

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

In case of waste by executor or administrator, Justice may proceed as C. C. Pleas may in such cases.

SEC. 15. *Be it further enacted,* That each Justice of the Peace shall keep a fair record of all his proceedings; and when any Justice of the Peace shall die before a judgment given by him is paid and satisfied, it shall be in the power of any Justice of the Peace in the same county to grant a scire facias upon the same judgment, to the party against whom such judgment was rendered up, for him to show cause if any he hath, why execution should not be issued against him. And although the costs and debt awarded by the deceased Justice when added together, shall amount to more than twenty dollars, it shall be no bar upon such scire facias, but judgment shall be given thereon for the whole debt and cost, together with the cost arising upon the scire facias. *Provided always,* That either party may appeal from the judgment as

Justice to keep record of his proceedings.

When Justice shall die before a judgment given by him is satisfied what proceedings to be had.

in other personal actions, where judgment is given by a Justice of the Peace. And every Justice of the Peace who shall have complaint made to him, that a judgment given by a Justice of the same county then deceased, remains unsatisfied, shall issue his summons to the person in whose possession the record of the same judgment is, directing him to bring and to produce to him the same record; and if such person shall contemptuously refuse to produce the same record, or shall refuse to be examined respecting the same, upon oath, the Justice may punish the contempt by imprisonment, until he shall produce the same, or until he submits to be examined as aforesaid; and when the Justice is possessed of such record, he shall transcribe the same upon his own book of records, before he shall issue his scire facias; and shall deliver the original back again to the person who shall have produced it, and a copy of such transcription, attested by the transcribing Justice, shall be allowed in evidence in all cases, where an authenticated copy of the original might be received.

Appeal allowed to either party.

Justice to whom complaint is made in such cases, may summon the person possessing the record to produce it.

Punishment for refusal so to do.

Duty of the Justice when the record is produced, to transcribe it into his own records.

Copy of such transcript to be evidence.

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

Justices, whose commissions expire before judgment or satisfaction, may proceed, under a new commission, seasonably obtained, to render judgment, &c.



RECOVERY OF DEBTS.

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

[Approved March 15, 1821.]

—:00:—

CHAPTER LXXVII.

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

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

Justices may take recognizances for debts.

Form of recognizance.

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

ss. Acknowledged the day and year last abovesaid. Before E. F. Justice of the Peace.

To be recorded by the Justice.

Execution may issue thereon within 3 years.

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

State of Maine.

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

Form of execution.

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

# Exhibit 9



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## STATUTES OF WISCONSIN.

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

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

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

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

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

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

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

### AN ACT making general provisions concerning crimes and punishments.

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

# Exhibit 10



TITLE XII.]

PREVENTION OF CRIMES.

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

CHAP. 169.

may be taken after commitment.

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

Return of such recognizance.

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

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

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

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

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

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

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

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

CHAPTER 170.

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

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

# Exhibit 11

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ARREST &c. OF OFFENDERS.

TITLE XXXI.  
CHAPTER 163.

Breach of peace  
in presence of  
magistrate, &c.

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

Person going  
armed to find  
sureties for the  
peace.

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

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

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

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

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

CHAPTER 163.

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

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

SECTION 1. For the apprehension of persons charged with offences, excepting such offences as are cognizable by justices of the peace, the justices of the supreme court, judges of the county courts, circuit court commissioners, mayors and recorders of cities, and all justices of the peace, shall have power to issue process and to carry into effect the provisions of this chapter.

Complainant, &c.  
to be examined.

SEC. 2. Whenever complaint shall be made to any such magistrate, that a criminal offence, not cognizable by a justice of the peace, has been committed, he shall examine on oath the complainant, and any witnesses who may be produced by him.

Proceedings if it  
appear that an  
offence has been  
committed.

SEC. 3. If it shall appear from such examination, that any criminal offence, not cognizable by a justice of the peace, has been committed, the magistrate shall issue a warrant, directed to the sheriff or any constable of the county, reciting the substance of the accusation, and

# Exhibit 12

# ACTS

OF THE

## GENERAL ASSEMBLY

OF

## VIRGINIA,

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

IN THE

SEVENTY-SECOND YEAR OF THE COMMONWEALTH.

---

RICHMOND:

SAMUEL SHEPHERD—PRINTER TO COMMONWEALTH.

1848.



*Arrest and Commitment.*

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

Recognizances required for offences in presence of magistrate or court.

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

Persons armed, required to find sureties.

Appeal allowed.

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

Persons not of good fame to give surety.

CHAP. XV.

OF ARREST AND COMMITMENT.

SECTION	SECTION
1. Officers empowered to act.	17. When prisoner to be discharged.
2. Complaints, warrants and summonses.	18. When to be bailed or committed.
3. Offence committed in another county.	19. If party entitled to examination, &c.
4. In what county warrant may be executed.	20. If not so entitled, and triable on indictment, &c.
5. Prisoner, when to be brought before magistrate on arrest.	21. If party charged be free negro, &c.
6. Magistrate, if he take bail, to return recognizance, &c.	22. Duty of magistrate, &c.
7. Officer, how to proceed if prisoner not bailed.	23. Witnesses to recognize.
8. Prisoner, when to be carried to county whence warrant issued.	24. Witnesses, when to recognize with sureties.
9. Same subject.	25. Recognizances of minors, &c.
10. Magistrate may adjourn examination.	26. Witnesses refusing to recognize.
11. In case of default, recognizance to be certified.	27. Magistrate may associate others.
12. Proceedings when party fails to recognize.	28. Prisoner by whom let to bail.
13. } Manner of conducting examination.	29. Recognizances, &c. to be returned.
14. }	30. Commitments, &c. when to be discharged.
15. }	31. Orders therefor, how to be filed &c.
16. Testimony to be reduced to writing.	32. } Proceedings on forfeited recognizances.
	33. }
	34. }
	35. }
	36. Right of surety to surrender principal.
	37. To whom to be surrendered.
	38. When to the court.

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

Process to arrest for offences, by whom issued.

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

Examination on complaint.

*Arrest and Commitment.*

Warrant for arrest.	mitted, or there is just cause to believe that any such offence has been committed, the court or justice shall issue a warrant reciting the substance of the accusation, and requiring the officer to whom it shall be directed, forthwith to take the person accused and bring him before the said court or justice, or before some other court or magistrate of the county or corporation, to be dealt with according to law, and in the same warrant may require the officer to summon such witnesses as shall be therein named, to appear and give evidence on the examination.
Summons for witnesses.	
Offence committed in another county, prisoner to be conveyed there.	3. If the offence charged in the warrant be committed in any county or corporation other than that in which the warrant shall be issued, the magistrate or court before whom the person arrested may be brought, shall by warrant commit the prisoner to the custody of the officer having him in charge, or some other officer, to be by him conveyed to the county or corporation in which the offence was committed, and there taken before some magistrate thereof, and for that purpose such officer may command the necessary aid; and the warrant with the proper return thereon, signed by the officer, shall be delivered to such magistrate, who shall proceed with the case in the same manner as if the arrest had been by virtue of a warrant originally issued by him, or if the offence charged is not punishable with death or by confinement in the penitentiary, such magistrate or court may take from the person so arrested a recognizance, with sufficient sureties for his appearance at the court having cognizance of the offence, and next to be holden in the county where it shall be alleged to have been committed, and the person arrested shall thereupon be discharged; and the magistrate or court so letting such person to bail, shall certify that fact upon the warrant, and shall cause the same, together with the recognizance taken, to be delivered without delay to the clerk of the court before which the accused was recognized to appear.
Proceedings under warrant.	
When party may be bailed and discharged.	
Return of warrant and bail to proper court.	
Where warrant may be executed.	4. If any person against whom a warrant shall be issued for an alleged offence committed within any county or corporation, shall either before or after the issuing such warrant escape from or be out of the same, the officer to whom such warrant may be directed may pursue and apprehend the party charged in any county or corporation of this state, and for that purpose may command and exercise the same authority as in his own county or corporation.
Right to be brought before magistrate when arrested.	5. In all cases where the offence charged in the warrant is not punishable with death, or by confinement in the penitentiary, if the person arrested shall request that he may be brought before a magistrate of the county or corporation in which the arrest was made, for the purpose of entering into a recognizance, without a trial or examination, the officer who made the arrest shall carry him before a magistrate of that county or corporation, who may take from the person arrested a recognizance, with sufficient sureties, for his appearance at the court having cognizance of the offence, and next to be holden in the county or corporation where it shall be alleged to have been committed, and the party arrested shall thereupon be liberated.
May be bailed.	
Return of recognizance and warrant.	6. The magistrate who shall so let the person arrested to bail, shall certify that fact upon the warrant, and shall deliver the same with the recognizance by him taken to the person who made the arrest, who shall cause the same to be delivered without delay to the clerk of the court before which the accused was recognized to appear; and on application of the complainant, the magistrate who issued the warrant, shall cause such witnesses as he may think necessary to be summoned to the same court.
Witnesses to be recognized.	



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7. If the magistrate in the county or corporation where the arrest was made shall refuse to let to bail the person so arrested and brought before him, or if no sufficient bail shall be offered, the officer having him in charge shall take him before the magistrate who issued the warrant, or before some other magistrate of the county or corporation in which the warrant was issued, to be proceeded with as hereafter directed.

Proceedings when bail is refused.

8. When the offence charged in any warrant is punishable with death or by confinement in the penitentiary, the officer making the arrest in some other county or corporation shall convey the prisoner to the county or corporation where the warrant was issued, and he shall be proceeded with in the manner hereinafter directed.

Prisoner, when to be carried to county where warrant issued.

9. Every person arrested by warrant for any offence where no other provision is made for his examination thereon, shall be brought before the magistrate who issued the warrant, or before some other magistrate of the same county or corporation, and the warrant, with a proper return thereon, signed by the person who made the arrest, shall be delivered to the magistrate.

Where no other provision, like proceedings.

10. Any magistrate may adjourn an examination or trial pending before himself, from time to time, as occasion shall require, not exceeding ten days at any one time, without the consent of the accused, and to the same or a different place in the county, as he shall think proper; and in such case, if the party is charged with a felonious offence, he shall be committed in the mean time, otherwise he may be recognized in a sum and with securities to the satisfaction of the magistrate, for his appearance for such further examination, and for want of such recognizance he shall be committed to prison.

Adjournment of examination both for time and place.

Prisoner, when committed or bailed.

11. If the person so recognized shall not appear before the magistrate at the time appointed for his further examination, according to the condition of such recognizance, the magistrate shall record the default, and shall certify the recognizance, with the record of such default, to the county court at its next term, and like proceedings shall be had thereon, as upon the breach of the condition of a recognizance for appearance before that court.

Breach of recognizance to be certified to court.

Proceedings thereon.

12. When such person shall fail to recognize, he may be committed to prison by an order under the hand of the magistrate, stating concisely that he is committed for further examination on a future day, to be named in the order, and on the day appointed he may be brought before the magistrate by his verbal order to the same officer by whom he was committed, or by an order in writing to a different person.

Proceedings when party fails to recognize.

Orders of magistrates, when verbal, when written.

13. The magistrate before whom any person is brought upon a charge of having committed an offence, shall, as soon as may be, examine the complainant, and the witnesses to support the prosecution, on oath, in the presence of the party charged, touching any matters connected with such charge as may be deemed pertinent.

Mode of examination; testimony for prosecution.

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

Testimony for prisoner. Counsel allowed.

15. The magistrate while examining any witness, may at his discretion, exclude from the place of examination all the other witnesses; he may also, if requested, or if he think proper, direct the witnesses for or against the prisoner, to be kept separate, so that they cannot converse with each other until they shall have been examined.

Witnesses may be excluded or kept separate.

16. The testimony of the witnesses examined shall be reduced to writing by the magistrate, or under his direction, when he shall think

Testimony to be reduced to writing.

*Arrest and Commitment.*

- it necessary, and shall be signed by the witnesses if required by the magistrate.
- When prisoner to be discharged. 17. If it shall appear to the magistrate upon the whole examination that no offence has been committed, or that there is not probable cause for charging the prisoner with the offence, he shall be discharged.
- When to be bailed or committed. 18. If it shall appear that an offence has been committed, and that there is probable cause to believe the prisoner guilty, and if the offence be bailable by the magistrate, and the prisoner offer sufficient bail, it shall be taken and the prisoner discharged; but if no sufficient bail be offered, or the offence be not bailable by the magistrate, the prisoner shall be committed to prison for trial or examination.
- If entitled to examining court, to be bailed or committed therefor. 19. If the offence be one for which the party charged may be entitled to the benefit of an examining court before trial, the magistrate shall bail or commit him for examination before the next succeeding court of his county or corporation.
- If not, and triable on indictment, like proceedings therefor. 20. If the offence be one for which the party charged may not be entitled to the benefit of an examining court, and may be tried on an indictment, the magistrate shall bail or commit him to answer any indictment which may be found against him therefor at the next court of his county or corporation in which a grand jury may be impaneled for such county or corporation.
- If party charged be a slave or free negro. 21. If the offence be felony, and the party charged a slave, free negro or mulatto, except in the case of free negroes and mulattoes charged with felonious homicide, or any offence punishable with death, the magistrate shall bail or commit him for trial at his next succeeding county or corporation court.
- Return of magistrate where, when and how made. 22. If the party charged be bailed or committed for examination or trial, or to answer an indictment as aforesaid, it shall be the duty of the magistrate to return to the clerk of his county or corporation court, on or before the first day of the next term thereof, a certificate stating the nature of the offence, and that the party charged was so bailed or committed therefor; and it shall be the duty of the said clerk forthwith to inform the attorney for the commonwealth in said court that such certificate had been so returned, and to exhibit it to the said court as soon as may be after it shall have been received by him.
- Clerk to inform prosecuting attorney. To exhibit return to court. 23. When the prisoner is admitted to bail or committed by the magistrate, he shall also bind by recognizance such witnesses against the prisoner as he shall deem material, to appear and testify at the next court having cognizance of the offence, and in which the prisoner shall be held to answer.
- Witnesses to be recognized. 24. If the magistrate shall be satisfied that there is good cause to believe that any such witness will not perform the condition of his recognizance, unless other security be given, such magistrate may order the witness to enter into a recognizance with such sureties as may be deemed necessary for his appearance at court.
- When, with sureties. 25. When any married woman or minor or slave is a material witness, any other person may be allowed to recognize for the appearance of such witness, or the magistrate may in his discretion, take the recognizance of such married woman or minor, in a sum not exceeding fifty dollars, which shall be valid and binding in law, notwithstanding the disability of coverture or minority.
- Recognizances of *femes covert*, minors or slaves. 26. All witnesses required to recognize either with or without sureties, shall if they refuse, be committed to jail by the magistrate, there to remain until they comply with such order, or be otherwise discharged according to law.
- Witnesses refusing to recognize, committed.



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27. Any magistrate to whom complaint is made, or before whom any prisoner is brought, may associate with himself one or more of the magistrates of the same county, and they may together execute the powers and duties before mentioned. Magistrate may associate others.

28. The circuit superior courts of law and chancery, and the county courts of the several counties, and any judge or justice thereof in vacation, on application of any prisoner committed for a bailable offence, or of any person committed for not finding sufficient securities to recognize for him, may enquire into the case and admit such prisoner or person to bail: *Provided*, That no person shall be admitted to bail by a justice of the peace in a less sum than was required by the order of commitment. Who may let to bail.

29. All examinations and recognizances taken by any magistrate, pursuant to the provisions of this act, shall be certified and returned by him to the clerk of the court before which the party charged is bound to appear, on or before the first day of the sitting thereof; and if such magistrate shall refuse or neglect to return the same, he may be compelled forthwith by rule of court, and in case of disobedience, may be proceeded against by attachment as for a contempt. Examinations and recognizances to be returned to clerk of court. Magistrate compelled to make return.

30. When any person shall be committed to prison, or be under recognizance to answer to any charge of assault and battery, or other misdemeanor, for which the party injured may have a remedy by civil action, except when the offence was committed by or upon any sheriff or other officer of justice, or riotously, or with intent to commit a felony, if the party injured shall appear before the magistrate who made the commitment or took the recognizance, and acknowledge in writing that he has received satisfaction for the injury, the magistrate may in his discretion, on payment of the costs that have accrued, discharge the recognizance, or supersede the commitment, by an order under his hand, and may also discharge all recognizances, and supersede the commitment of all witnesses in the case. Commitments when to be discharged if injured party satisfied.

31. Every such order of the magistrate discharging the recognizance of the party or witnesses, shall be filed in the office of the clerk before the sitting of the court at which they are bound to appear, and every order superseding the commitment of the party charged, or of any witness, shall be delivered to the keeper of the jail in which he is confined, who shall forthwith discharge him; and every such order, if so filed and delivered, and not otherwise, shall for ever bar all remedy by civil action for such injury. Orders for discharge, how to be filed. Bar to civil action.

32. When any person under recognizance in any criminal prosecution, either to appear and answer or to prosecute an appeal, or to testify in any court, shall fail to perform the condition of such recognizance, his default shall be recorded, and process shall be issued against the persons bound by the recognizance, or such of them as the prosecuting attorney shall direct. Process against person forfeiting recognizance.

33. Any surety in such recognizance may, by leave of the court, after default, and either before or after the process has been issued against him, pay into court the amount for which he was bound as surety, with such costs as the court shall direct, and be thereupon forever discharged. Sureties discharged by paying amount for which bound and costs.

34. When any action is brought on behalf of the commonwealth against a principal or surety in any recognizance, entered into either by a party or a witness, in any criminal prosecution, and the penalty of such recognizance shall be adjudged to be forfeited, the court may, on application of the party defendant, and if a county court, with the assent of the prosecuting attorney, remit any part or the whole of such penalty, and may render judgment thereon for the When and how penalty on forfeited recognizance may be remitted.



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*Coroners' Inquests.*

commonwealth upon such terms and conditions as shall seem just and reasonable.

What neglect or omission no bar to action and no arrest of process-fugis.

35. No such action brought on a recognizance, as mentioned in the preceding section, shall be barred or defeated, nor shall judgment thereon be arrested, by reason of any neglect or omission to note or record the default of any principal or surety, at the term when such default shall happen, nor by reason of any defect in the form of the recognizance, if it sufficiently appear from the tenor thereof at what court the party or witness was bound to appear, and that the court or magistrate before whom it was taken, was authorized by law to require and take such recognizance.

Right of surety to surrender principal.

36. Every surety in a recognizance shall have the same authority to take and surrender his principal, as if he had been bail for him in a civil cause, and upon such surrender shall be discharged and exempt from all liability for any act of the principal subsequent to such surrender, which would be a breach of the condition of the recognizance.

To whom to be surrendered.

37. If the recognizance be entered into before a judge or justice of the peace, the surrender shall be made to the judge or justice before whom the same was entered into, or to some other justice of the same county, and the person so surrendered, may recognize anew, with sufficient sureties, for the residue of the term, and thereupon shall be discharged, and upon his failure so to recognize, shall be committed for the residue of the term as before directed.

When surrender may be to court.

38. If the recognizance be entered into before a court, the surrender shall be made to the court if in session, and thereupon such order shall be taken in the case as the court may deem proper, and if the court be not in session, the surrender shall be made to the sheriff, sergeant or jailor of the county or corporation, and such sheriff, sergeant or jailor shall receive such defendant and commit him to the jail of his county or corporation, and give his receipt for his body, which shall be transmitted to the clerk of the court wherein the recognizance was entered into, and the court at its next session shall take such order in the case as to it may seem proper.

When to sheriff, sergeant or jailor.

CHAP. XVI.

OF CORONERS' INQUESTS.

SECTION	SECTION
1. Coroners' inquests, when to be taken.	8. Inquisition how taken; form thereof.
2. Coroner to issue his warrant for jury; form of it.	9. } Coroner's duty in case of murder,
3. Duty of officer to whom warrant directed, &c.	10. } &c.
4. Jurors, how impaneled and sworn.	11. Coroner, when to bury the body, &c.; costs how paid.
5. Witness, how summoned; attendance, how enforced.	12. Inquest may be held on Sunday.
6. Oath of witnesses.	13. Fine on coroner for neglect of duty.
7. Testimony to be reduced to writing.	14. When justice may discharge duty of coroner.
	15. <i>Post mortem</i> examination.

Coroners' inquests when to be taken.

1. Coroners shall take inquests upon the view of the dead bodies of such persons only as shall be supposed to have come to their death by violence, and not when the death is believed to have been occasioned by casualty.

Coroner to issue warrant for jury.

2. As soon as any coroner shall have notice of the dead body of any person, supposed to have come to his death by violence, found or

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PROCEEDINGS TO PREVENT CRIMES.

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

When person charged to give recognizance.

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

When to be committed.

Forfeiture of recognizance.

When discharged.

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

May be delivered on warrant of executive, &c.

Complainant liable for costs, &c.

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

CHAPTER 112.

OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIMES.

SECTION

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

SECTION

- 3. Magistrate when to issue warrant.
- 4. Proceedings upon examination, before magistrate.
- 5. Defendant may have counsel.



PROCEEDINGS TO PREVENT CRIMES.

SECTION

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

SECTION

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

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

What officers to cause public peace to be kept.

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

Proceedings when complaint is made to magistrate.

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

Magistrate when to issue warrant.

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

Proceedings upon examination before magistrate.

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

Defendant may have counsel.

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

Defendant when to enter into recognizance.

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

Defendant when to be discharged.

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

Defendant when to be committed.

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

Defendant when to be discharged.



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## PROCEEDINGS TO PREVENT CRIME.

- deem the complaint unfounded, frivolous, or malicious, he shall order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and the officer for their fees as for his own debt.
- Costs by whom paid.** SEC. 10. When no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecutions; but in all cases where a person is required to give security for the peace or for his good behavior, the magistrate may further order the costs of prosecution or any part thereof to be paid by such person, who shall stand committed until such costs are paid, or he is otherwise legally discharged.
- Appeal when allowed.** SEC. 11. Any person aggrieved by the order of any justice of the peace requiring him to recognize as aforesaid, may, on giving the security required, appeal to the district court next to be holden in the same county, or that county to which said county is attached for judicial purposes.
- When magistrate may require witness to recognize.** SEC. 12. The magistrate from whose order an appeal is so taken, shall require such witnesses as he may think necessary to support the complaint, to recognize for their appearance at the court to which appeal is made.
- District court how to proceed upon such appeal.** SEC. 13. The court before which such appeal is prosecuted, may affirm the order of the justice or discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court shall think proper, and may also make such order in relation to the costs of prosecution as he may deem just and reasonable.
- When appellant fails to prosecute appeal, recognizance to be in force.** SEC. 14. If any party appealing, shall fail to prosecute his appeal, his recognizance shall remain in full force and effect as to any breach of the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.
- After commitment, how defendant may be discharged.** SEC. 15. Any person committed for not finding sureties, or refusing to recognize as required by the court or magistrate, may be discharged by any judge or justice of the peace on giving such security as was required.
- Recognizance to be transmitted to district court.** SEC. 16. Every recognizance taken in pursuance of the foregoing provision, shall be transmitted by the magistrate to the district court for the county, on or before the first day of the next term, and shall be there filed of record by the clerk.
- When person may be ordered to recognize without warrant.** SEC. 17. Any person who shall in the presence of any magistrate mentioned in the first section of this chapter, or before any court of record make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, and every person, who, in the presence of such court or magistrate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered without process or any other proof, to recognize for keeping the peace, and being of good behavior, for a term not exceeding six months, and in case of a refusal, may be committed as before directed.
- Persons carrying offensive weapons how punished.** SEC. 18. If any person shall go armed with a dirk, dagger, sword, pistol or pistols, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury or violence to his person, or to his family, or property, he may, on complaint of any other person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.
- Suit brought on recognizance.** SEC. 19. Whenever upon a suit brought on any such recognizances, the penalty thereof shall be adjudged forfeited, the court may remit such

# Exhibit 14

## OFFENCES AGAINST CHASTITY, MORALITY AND DECENCY.

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ney to sue for and recover the same in the name of the county in CHAP. 11.  
which such game was played, or money lost, to go for the use of  
common schools.

SEC. 9. All notes, bills, bonds, mortgages or other securities or Gaming se-  
curities void.  
conveyances whatever, in which the whole or any part of the con-  
sideration shall be for any money or goods won by playing or  
gaming at cards, dice or any other game whatever, or by betting  
on the sides or hands of any persons gaming, or for re-imbursing  
or repaying any money knowingly lent or advanced at the time  
and place of such gaming or betting, or lent and advanced for any  
gaming or betting to any person so gaming or betting, shall be  
void and of no effect, as between the parties to the same, and as to  
all persons, except such as shall hold or claim under them in good  
faith, and without notice of the illegality of the consideration of  
such contract or conveyance.

## CHAPTER XI.

## OFFENCES AGAINST CHASTITY, MORALITY AND DECENCY.

- SEC. 1. Punishment for adultery.  
2. For polygamy.  
3. Excepted cases.  
4. Punishment for fornication and lasciviousness.  
5. For seduction under promise of marriage.  
6 & 7. For concealing death of bastard.  
8. For keeping house of ill fame.  
9. Lease of such house when void.  
10. Punishment for publishing obscene books.  
11. For incest.  
12. For sodomy.  
13. For illegal disinterment.  
14. For injuring grave-stones.  
15. For making roads through grave-yards.  
16. For cruelty to animals.  
17. For disturbing religious meetings.  
18. Civil process not to be served on Sunday.  
19. Jurisdiction of justice of peace under this chapter.

SEC. 1. Every person who shall commit the crime of adultery, Adultery.  
shall be punished, on conviction, by imprisonment in the peniten-  
tiary, not more than two years nor less than six months, or by fine  
not exceeding one thousand nor less than one hundred dollars;  
and when the crime is committed between a married woman and a  
man who is unmarried, the man shall be deemed guilty of adultery,  
and be liable to the same punishment; but no prosecution for adul-  
tery shall be commenced, except on the complaint of the husband or  
the wife, and no such prosecution shall be commenced after one  
year from the time of committing the offence.

SEC. 2. If any person, who has a former husband or wife living, Polygamy.  
shall marry another person, or shall continue to cohabit with such  
second husband or wife, he or she shall, except in cases mentioned  
in the third section, be deemed guilty of the crime of polygamy,  
and shall be punished, on conviction, by imprisonment in the peni-  
tentiary, not more than four years nor less than one year, or by  
fine not exceeding one thousand nor less than five hundred dollars.

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**CHAP. 11.** **SEC. 3.** The provisions of the preceding section shall not extend to any person whose husband or wife shall have been continually remaining beyond sea, or shall have voluntarily withdrawn from the other, and remained absent for the space of seven years continuously, the party marrying again not knowing the other to be living within that time; nor to any person who has been legally divorced from the bonds of matrimony.

**Excepted cases.** **Fornication.** **SEC. 4.** If any man and woman, not being married to each other, shall lewdly and lasciviously cohabit and associate together, or if any man or woman, married or unmarried, shall be guilty of open and gross lewdness and lascivious behavior, every such person shall, on conviction, be punished by fine not exceeding three hundred, nor less than fifty dollars, or by imprisonment in the county jail, not exceeding three months.

**Lasciviousness.** **SEC. 5.** Any unmarried man who, under promise of marriage, or any married man who shall seduce and have illicit connection with any unmarried female of previous chaste character, upon conviction, shall be punished by imprisonment in the penitentiary not more than five years, nor less than one year, or by imprisonment in the county jail not more than one year, nor less than six months, or by fine not exceeding one thousand, nor less than five hundred dollars; but no conviction shall be had under the provisions of this section, on the testimony of the female seduced, unsupported by other evidence, nor unless the indictment shall be found within two years after the commission of the offence; *provided*, that the subsequent intermarriage of the parties may be pleaded in bar of a conviction.

**Seduction under promise of marriage.** **SEC. 6.** If any woman shall conceal the death of any issue of her body, which if born alive would be a bastard, so that it may not be known whether such issue was born alive or not, or whether it was not murdered, she shall, on conviction, be punished by imprisonment in the penitentiary not more than one year, nor less than six months, or by fine not exceeding three hundred, nor less than one hundred dollars.

**Concealing death of bastard.** **SEC. 7.** Any woman who shall be indicted for the murder of her infant bastard child, may also be charged in the same indictment with the offence described in the last preceding section; and if on the trial, the jury shall acquit her of the charge of murder, and find her guilty of the other offence, judgment and sentence may be awarded against her for the same.

**Ib. Indictable with murder.** **SEC. 8.** Every person who shall keep a house of ill fame, resorted to for the purpose of prostitution or lewdness, on conviction, shall be punished by imprisonment in the county jail not more than one year, nor less than six months, or by fine not exceeding five hundred nor less than one hundred dollars.

**Keeping house of ill fame.** **SEC. 9.** Whenever the lessee of any dwelling-house shall be convicted of the offence mentioned in the next preceding section, the lease or contract for letting such house, shall, at the option of the lessor, become void; and such lessor shall thereupon have the like remedy to recover the possession, as against a tenant for holding over after the expiration of his term.

**Ib. Lease of when void.** **SEC. 10.** If any person shall import, print, publish, sell or distribute any book or any pamphlet, ballad, printed paper or other

**Publishing obscene books, &c.**



## OFFENCES AGAINST CHASTITY, MORALITY AND DECENCY.

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thing containing obscene language or obscene prints, pictures, figures, or other descriptions, manifestly tending to the corruption of the morals of youth, or shall introduce into any family, school or place of education, or shall buy, procure, receive, or have in his possession, any such book, pamphlet, ballad, printed paper or other thing, either for the purpose of loan, sale, exhibition or circulation, or with intent to introduce the same into any family, school, or place of education, he shall, on conviction, be punished by imprisonment in the county jail not more than six, nor less than three months, or by a fine not more than three hundred, nor less than fifty dollars. ORAP. 11.

SEC. 11. All persons being within the degree of consanguinity, within which marriages are prohibited, or declared by law to be incestuous and void, who shall intermarry with each other, or who shall commit adultery or fornication with each other, shall be punished on conviction, by imprisonment in the penitentiary not more than two years, nor less than six months. Incest.

SEC. 12. Every person who shall commit sodomy, or the crime against nature, either with mankind or any beast, shall, on conviction, be punished by imprisonment in the penitentiary not more than five years nor less than one year. Sodomy.

SEC. 13. If any person, not being lawfully authorized, shall wilfully dig up, disinter, remove or convey away any human body, or the remains thereof, or shall knowingly aid in such disinterment, removal or conveying away, every such offender and every accessory thereto, either before or after the fact, shall, on conviction, be punished by imprisonment in the penitentiary not more than two years, nor less than six months, or by fine not exceeding one thousand, nor less than fifty dollars. Illegal disinterments.

SEC. 14. If any person shall wilfully or with evil intent, destroy, mutilate, deface or remove any tomb, monument, grave-stone or other structure, or thing placed, designed for a memorial of the dead, or any fence, railing, curb, or other thing intended for the protection or for the ornament of any tomb, monument, grave-stone or other structure before mentioned, or of any inclosure for the burial of the dead, or shall wilfully and with evil intent, destroy, mutilate, remove, cut, break or injure any tree, shrub or plant, placed or being within any such inclosure, the person so offending, shall, on conviction, be punished by a fine not exceeding one thousand, nor less than twenty-five dollars. Injuring grave stones, &c.

SEC. 15. If any person shall open or make any highway or town-way, or shall construct any railroad, turnpike, canal, or any other thing in the nature of a public easement, over, in, through, or upon such part of any inclosure, being the property of a town, village, or religious society, or of private proprietors, as may be used for the burial of the dead, unless an authority for that purpose shall have been specially granted by law, or unless the consent of such town, village, religious society, or private proprietors respectively, shall have first been obtained, he shall be liable to punishment by imprisonment in the county jail not more than one year, nor less than six months, or by fine not more than five hundred, nor less than one hundred dollars. Making roads, &c. through grave-yards.

SEC. 16. Every person who shall cruelly beat or torture any Cruelty to animals.

OFFENCES AGAINST THE PUBLIC HEALTH.

**CHAP. 19.** horse, ox or other animal, whether belonging to himself or another, shall be liable to punishment by imprisonment in the county jail, not more than thirty nor less than ten days, or by fine not exceeding fifty, nor less than five dollars.

**Disturbing religious meetings.** **SEC. 17.** Every person, who, on the Lord's day, or at any other time, shall wilfully interrupt or disturb any assembly of people, met for the worship of God, within the place of such meeting, or out of it, shall be liable to fine not exceeding fifty, nor less than five dollars, or by imprisonment in the county jail not exceeding thirty days.

**Civil process not to be executed on Sunday.** **SEC. 18.** No person shall serve or execute any civil process from the midnight preceding to the midnight following the Lord's day, but such service shall be void, and the person serving or executing such process, shall be liable in damages to the party aggrieved, in like manner as if he had not had any such process.

**Jurisdiction of justice.** **SEC. 19.** Justices of the peace shall have jurisdiction of the offences mentioned in the seventeenth and eighteenth sections of this chapter.

CHAPTER XII.

OFFENCES AGAINST THE PUBLIC HEALTH.

- SEC. 1.** Punishment for selling unwholesome food.
- 2. For adulterating food, liquors, &c.
- 3. For adulterating medicines and drugs.
- 4. For inoculating with small pox.
- 5. For selling poisons without labels.

**Selling unwholesome provisions, &c.** **SEC. 1.** If any person shall, knowingly, sell any kind of diseased, corrupted, or unwholesome provisions, whether for meat or drink, without making the same fully known to the buyer, he shall be punished, on conviction, by imprisonment in the county jail, not more than one year, nor less than three months, or by fine, not exceeding five hundred, nor less than ten dollars.

**Adulterating food or liquors.** **SEC. 2.** If any person shall fraudulently adulterate, for the purpose of sale, any substance intended for food, or any wine, spirits, malt liquors, or other liquor intended for drinking, with any substance injurious to health, he shall, on conviction, be punished by imprisonment in the county jail not more than one year, nor less than three months, or by fine not exceeding one thousand, nor less than fifty dollars, and the articles so adulterated shall be forfeited and destroyed.

**Adulterating medicine.** **SEC. 3.** If any person shall fraudulently adulterate, for the purpose of sale, any drug or medicine, or knowingly offer any adulterated drug or medicine for sale, in such a manner as to render the same injurious to health, he shall, on conviction, be punished by imprisonment in the county jail not more than one year, nor less than three months, or by fine not exceeding five hundred, nor less than fifty dollars, and such adulterated drugs and medicines shall be forfeited and destroyed.

**Inoculating with small-pox.** **SEC. 4.** If any person shall inoculate himself, or any other person, or shall suffer himself to be inoculated with the small pox,

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# Exhibit 15

**A C T S**  
  
**PASSED**  
  
***AT THE SECOND SESSION***  
  
**OF THE**  
  
**FIRST LEGISLATURE**  
  
**OF THE**  
  
**STATE OF LOUISIANA.**



Render account  
 Penalty for default.

agreeable to the assessment; and the said trustees shall at the end of the time for which they were elected, render an account of the same to the parish judge, and should any sums be unappropriated, the same shall be paid into the hands of the parish judge in trust for the succeeding trustees, and in case of default of the trustees whose term of time is thus expired, it shall be the duty of the parish judge to summon them to a settlement, enter judgment and issue execution for arrearages if necessary.

Clerk and collector.  
 Fees.

SECT. 3. *And be it further enacted,* That the trustees shall appoint one clerk and one collector, whose term of service shall expire at the same time with that of the trustees, which said officers shall be entitled to such fees as the said trustees may deem proper to allow them.

STEPHEN A. HOPKINS,  
*Speaker of the house of representatives.*  
 J. POYDRAS,  
*President of the senate,*

APPROVED, March 25th, 1813.  
 WILLIAM C. C. CLAIBORNE,  
*Governor of the state of Louisiana.*

AN ACT

*Against carrying concealed weapons, and going armed in public places in an unnecessary manner.*

Preamble

Whereas assassination and attempts to commit the same, have of late been of such frequent occurrence as to become a subject of serious alarm to the peaceable and well disposed inhabitants of this state; and whereas the same is in a great measure to be attributed to the dangerous and wicked practice of carrying about in public places concealed and deadly weapons, or going to the same armed in an unnecessary manner, therefore;

Penalty for carrying concealed weapons.

SECT. 1. *Be it enacted by the senate and house of representatives of the state of Louisiana, in general assembly convened,* That from and after the passage of this act, any person who shall be found with any concealed weapon, such as a dirk, dagger, knife, pistol or any other deadly weapon concealed in his bosom, coat or in any other place about him that do not appear in full open view, any person so offending, shall on conviction thereof before any justice of the peace, be subject to pay a fine not to exceed fifty dol-

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esclaves) et pour son usage, d'une piastre sur chaque mille piastres, suivant le tableau des taxes; et les administrateurs, à l'expiration du terme pour lequel ils auront été élus, en rendront compte au juge de la paroisse, et, s'il restait en caisse des fonds disponibles, ils seront versés entre les mains du juge de paroisse qui les gardera jusqu'à la nomination d'autres administrateurs, et si lesdits administrateurs, à l'expiration du terme pour lequel ils auront été élus, négligeaient de rendre le compte susdit, il sera du devoir du juge de paroisse de les sommer de rendre leurs comptes et de les poursuivre en justice et de lancer contre eux des mandats d'exécution pour les sommes arriérées, s'il le juge nécessaire.

Rédiction de compte.  
Peines pour défaut.

SECT. 3. Et il est de plus décrété, Que lesdits administrateurs nommeront un commis et un collecteur de taxe, dont le tems de service finira en même tems que celui des administrateurs et qui auront droit à la compensation que les administrateurs jugeront à propos de leur accorder.

Commis et collecteur.  
Compensation.

STEPHEN A. HOPKINS,  
Orateur de la Chambre des Représentans,  
J. POYDRAS,  
Président du Senat.

Approuvé le 25 Mars 1813.

WM. C. C. CLAIBORNE,  
Gouverneur de l'Etat de la Louisiane.

~~~~~  
ACTE

Pour défendre de porter des armes cachées et de se présenter armé d'une manière inutile dans les endroits publics.

Vu qu'il s'est commis dernièrement des assassinats et qu'il a été essayé d'en commettre d'autres de manière à causer de sérieuses alarmes aux habitans paisibles et bien disposés de cet état, et vu qu'on doit en grande partie attribuer la cause de ces assassinats à la coutume pernicieuse et condamnable de porter dans des endroits publics, des armes cachées et dangereuses, ou de s'y rendre armé d'une manière inutile,

Preambule.

SECT. 1<sup>er</sup>. Il est décrété par le sénat et la chambre des Représentans de l'Etat de la Louisiane réunis en Assemblée Générale, Qu'à dater de la passation de cet acte, toute personne qui sera trouvée armée d'aucune arme cachée, tels que poignard, dague, couteau, pistolet ou toute autre arme meurtrière dans son habit ou ailleurs sur lui et qui ne seront point ostensibles, toute personne coupable de cette convention, sera, sur conviction du fait, devant un juge de paix, condamné à une amende qui n'excédera pas

Peines contre ceux qui portent des armes cachées.

How dis-tributed. For the second offence.

lars nor less than twenty dollars, one half to the use of the state, and the balance to the informer; and should any person be convicted of being guilty of a second offence before any court of competent jurisdiction, shall pay a fine not less than one hundred dollars to be applied as aforesaid, and be imprisoned for a time not exceeding six months.

Penalty for stabbing &c.

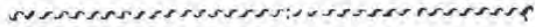
SECT. 2. *And be it further enacted,* That should any person stab or shoot, or in any way disable another by such concealed weapons, or should take the life of any person, shall on conviction before any competent court suffer death, or such other punishment as in the opinion of a jury shall be just.

Suspect ed persons may be searched. Fine. Sureties of the peace.

SECT. 3. *And be it further enacted,* That when any officer has good reason to believe that any person or persons have weapons concealed about them, for the purpose of committing murder, or in any other way armed in such concealed manner, on proof thereof being made to any justice of the peace, by the oath of one or more credible witnesses, it shall be the duty of such judge and justice to issue a warrant against such offender and have him searched, and should he be found with such weapons, to fine him in any sum not exceeding fifty dollars nor less than twenty dollars, and to bind over to keep the peace of the state, with such security as may appear necessary for one year; and on such offender failing to give good and sufficient security as aforesaid; the said justice of the peace shall be authorised to commit said offender to prison for any time not exceeding twenty days.

STEPHEN A. HOPKINS,  
*Speaker of the house of representatives,*  
J. POYDRAS,  
*President of the senate.*

APPROVED, March 25th, 1816.  
WILLIAM C. C. AIBORNE,  
*Governor of the state of Louisiana,*



AN ACT

*To establish a permanent seat of justice in and for the parish of St. Tammany.*

Commissioners.

SECT. 1. *Be it enacted by the senate and house of representatives of the state of Louisiana, in general assembly convened,* That Thomas Spell, Robert Bardon, Benjamin Howard, Joseph Hestraire and Ben-

# Exhibit 16



SEC. 12. Every person who shall be convicted of any misdemeanor, the punishment of which is not defined in this or some other statute, shall be punished by imprisonment, not exceeding one year, or by fine not exceeding two hundred and fifty dollars, or by fine and imprisonment both.

SEC. 13. Every person who shall wear any pistol, dirk, butcher or large knife, or a sword in a cane, concealed as a weapon, unless upon a journey, shall be adjudged guilty of a misdemeanor, and upon conviction thereof, in the county in which the said offence shall have been committed, shall be fined in any sum not less than twenty-five dollars, nor more than one hundred dollars, one half to be paid into the county treasury, the other half to the informer, and shall also be imprisoned not less than one, nor more than six months.

## ART. II.—LIBEL.

## SECTION

1. Definition of.
2. Punishment of.
3. The truth of the libel may be given in evidence.
4. Proclaiming a person a coward, for not fighting a duel, &c.

## SECTION

5. Publisher or printer required to testify.
6. Punishment of publisher or printer refusing to testify.
7. Their testimony not to be used against themselves.

SEC. 1. A libel is a malicious defamation, expressed either by writing, printing, or by signs or pictures, or the like, tending to blacken the memory of one who is dead, or to impeach the honesty, integrity, veracity, virtue or reputation, or to publish the natural defects, of one who is living, and thereby expose him to public hatred, contempt and ridicule.

SEC. 1. Every person, whether writer, printer or publisher, convicted of the crime of libel, shall be fined in any sum not exceeding five thousand dollars, and may also be imprisoned, not exceeding one year, at the discretion of the jury who shall pass on the case; and when any such case shall be decided without the intervention of a jury, then at the discretion of the court.

SEC. 3. In all prosecutions for libel, under the provisions of the preceding sections, the truth thereof may be given in evidence in justification.

SEC. 4. If any person shall, in any newspaper, handbill or other advertisement, written or printed, publish or proclaim any other person as a coward, or use any other opprobrious or abusive language, for not

# Exhibit 17

**ACTS**

OF THE

**GENERAL ASSEMBLY**

OF

**VIRGINIA,**

PASSED AT THE SESSION OF **1838,**

COMMENCING 1ST JANUARY, 1838, AND ENDING 9TH APRIL, 1838,

IN THE

SIXTY-SECOND YEAR OF THE COMMONWEALTH.

---

**RICHMOND:**  
PRINTED BY THOMAS RITCHIE,  
*Printer to the Commonwealth.*  
**1838.**

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*Free Negroes.—Burning in Hand.—Concealed Weapons.*

CHAP. 99.—An ACT to prevent free persons of colour who leave the state from returning to it in certain cases.  
(Passed April 7, 1833.)

Free negroes leaving state to be educated not permitted to return.

Infants so returning how dealt with.

Adults how punished.

Commencement.

1. *Be it enacted by the general assembly,* That if any free person of colour, whether infant or adult, shall go or be sent or carried beyond the limits of this commonwealth for the purpose of being educated, he or she shall be deemed to have emigrated from the state, and it shall not be lawful for him or her to return to the same; and if any such person shall return within the limits of the state contrary to the provisions of this act, he or she being an infant, shall be bound out as an apprentice until the age of twenty-one years, by the overseers of the poor of the county or corporation where he or she may be, and at the expiration of that period, shall be sent out of the state agreeably to the provisions of the laws now in force, or which may hereafter be enacted to prohibit the migration of free persons of colour to this state; and if such person be an adult, he or she shall be sent in like manner out of the commonwealth; and if any person having been so sent off, shall thereafter return within the state, he or she so offending shall be dealt with and punished in the same manner as is or may be prescribed by law in relation to other persons of colour returning to the state after having been sent therefrom.

2. This act shall be in force from and after the first day of August next.

CHAP. 100.—An ACT abolishing the punishment of burning in the hand in all cases.

(Passed February 8, 1833.)

Burning in hand abolished.

Commencement.

1. *Be it enacted by the general assembly,* That so much of any law of this commonwealth as authorizes or inflicts the punishment of burning in the hand in any case whatever, shall be, and the same is hereby repealed. And every person who may be hereafter convicted of any offence within the benefit of clergy, shall be punished in the mode now prescribed by law, except only the burning in the hand.

2. This act shall be in force from the passing thereof.

CHAP. 101.—An ACT to prevent the carrying of concealed weapons.

(Passed February 2, 1833.)

Penalty for carrying concealed weapons.

Courts to ascertain if murders or felonies be perpetrated by concealed weapons.

1. *Be it enacted by the general assembly,* That if any person shall hereafter habitually or generally keep or carry about his person any pistol, dirk, bowie knife, or any other weapon of the like kind, from the use of which the death of any person might probably ensue, and the same be hidden or concealed from common observation, and he be thereof convicted, he shall for every such offence forfeit and pay the sum of not less than fifty dollars nor more than five hundred dollars, or be imprisoned in the common jail for a term not less than one month: nor more than six months, and in each instance at the discretion of the jury; and a moiety of the penalty recovered in any prosecution under this act, shall be given to any person who may voluntarily institute the same.

2. *And be it further enacted,* That if any person shall hereafter be examined in any county or corporation court upon a charge of murder or felony, perpetrated by shooting, stabbing, maiming, cutting or wounding, and it shall appear that the offence charged was



*Concealed Weapons.—Banks.*

in fact committed by any such weapon as is above mentioned, and that the same was hidden or concealed from or kept out of the view of the person against whom it was used, until within the space of one half hour next preceding the commission of the act, or the infliction of the wound, which shall be charged to have caused the death, or constituted the felony, it shall be the duty of the examining court to state that the fact did so appear from the evidence; and if the court shall discharge or acquit the accused, such discharge or acquittal shall be no bar to an indictment for the same offence in the superior court having jurisdiction thereof, provided the same be found within one year thereafter. And whether the accused shall be by such court sent on for further trial or discharged, it shall be lawful to charge in the indictment that the offence was committed in any of the modes herein before described; and upon the trial it shall be the duty of the jury (if they find the accused not guilty of the murder or felony) to find also whether the act charged was in fact committed by the accused, though not feloniously, and whether the same was committed or done with or by means of any pistol, dirk, bowie knife, or other dangerous weapon, which was concealed from or kept out of the view of the person on or against whom it was used, for the space before mentioned, next preceding such use thereof; and if the jury find that the act was so committed, they shall assess a fine against the accused, and it shall be lawful for the court to pronounce judgment as in cases of misdemeanor.

Acquittal no bar to indictment in superior court.

Offence how charged in indictment.

Verdict of jury will not contain.

Penalty.

3. This act shall be in force from and after the first day of June next.

Commencement.

CHAP. 102.—An ACT to extend the act for the temporary relief of the banks of this commonwealth.  
 [Passed February 20, 1837.]

1. *Be it enacted by the general assembly,* That the first, second and seventh sections of the act passed on the twenty-fourth day of June, eighteen hundred and thirty-seven, entitled, "an act for the temporary relief of the banks of this commonwealth, and for other purposes," shall be, and the same are hereby continued in force till the twentieth day of March next.

Laws for temporary relief of banks extended. See post, ch. 102. Acts extra session 1837, pp. 3, 4, § 1, 2, 7.

2. *Be it further enacted,* That so much of the provisions of the act, entitled, "an act increasing the banking capital of the commonwealth," passed March the twenty-fifth, eighteen hundred and thirty-seven, as relates to the Bank of Virginia, the Farmers bank of Virginia, and the Bank of the Valley of Virginia, shall be and the same is hereby suspended until the first day of April next.

Part of act increasing banking capital suspended. Acts 1836-7, pp. 63-74.

3. This act shall commence and be in force from the passage thereof.

Commencement.

CHAP. 103.—An ACT further to extend the act for the temporary relief of the banks of this commonwealth.  
 [Passed March 16, 1838.]

1. *Be it enacted by the general assembly,* That the first, second and seventh sections of the act passed on the twenty-fourth day of June, eighteen hundred and thirty-seven, entitled, "an act for the temporary relief of the banks of this commonwealth," be and the same is hereby continued in force till the expiration of the present session of the legislature, any law to the contrary notwithstanding.

Laws for temporary relief of banks further extended.

2. This act shall be in force from its passage.

Commencement.

# Exhibit 18



sons, and each and every individual of said company, corporation, or unchartered banking association, so making, issuing, emitting, or putting in circulation, such note, bill, bond, draft, check, post note, or other paper, shall be held to be guilty of a misdemeanor, and shall be liable to be indicted therefor, and, upon conviction, shall be fined for every such offence, at the discretion of the jury trying the same, not less than one hundred, nor more than five hundred dollars, and, upon failure to pay the fine, shall be imprisoned in the county jail for a term not exceeding twelve months.

Penalty.

Signing such note, bill, &c. as pre-ident, cashier, or otherwise, for any such company

§ 2. If any person or persons shall sign any note, bill, bond, draft, check, post note, or any paper of other name or description whatsoever, as cashier, or president, or under any other name, or in the name of any company, incorporation, or unchartered banking association, to be put in circulation to answer the purposes of money, such president, or cashier, or other person, under any other name, so signing said note, bill, bond, draft, check, post note, or paper as aforesaid, shall be deemed guilty of a misdemeanor, and shall be liable to be indicted, and, upon conviction, shall be fined for every such offence, in a sum not less than one hundred, nor more than five hundred dollars, at the discretion of the jury trying the same, and the signatures of the person or persons, so charged, to the note, bond, bill, draft, check, post note, or paper aforesaid, shall be taken and held to be proof of such signing, unless the fact of signing be denied on oath by the defendant.

Penalty.

Unlawful to pass any such paper.

§ 3. It shall be unlawful for any person or persons, within the limits of this state, to pass off, issue, emit, or put in circulation, any note, bill, bond, check, draft, or post note, of any incorporation, company, or unchartered banking association; and any person or persons, violating the provisions of this section, shall be deemed guilty of a misdemeanor, and shall be liable to be indicted, and, upon conviction, shall be fined for every such note, bill, bond, check, draft, post note, or other paper so issued, emitted, passed off, or put in circulation, not less than twenty, nor more than one hundred dollars, at the discretion of the jury trying said offence.

Penalty.

Carrying concealed weapons, unless there be cause to apprehend an attack, or person be travelling.

§ 4. Every one, who shall hereafter carry concealed about his person, a bowie knife, or knife or instrument of the like kind or description, by whatever name called, dirk or any other deadly weapon, pistol or any species of fire arms, or air gun, unless such person shall be threatened with, or have good cause to apprehend an attack, or be traveling, or setting out on a journey, shall, on conviction, be fined not less than fifty nor more than three hundred dollars: It shall devolve on the person setting up the excuse here allowed for carrying concealed weapons, to make it out by proof, to the satisfaction of the jury; but no excuse shall be sufficient to authorize the carrying of an air gun, bowie knife, or knife of the like kind or description.

Burthen of proof, as to excuse—but none sufficient as to air gun, bowie knife, &c.

Illegal voting at elections.

§ 5. If any person shall, at the same election, vote more than once for the same candidate for the same office, or for different candidates for the same office, either in the same or in different precincts, or vote, when he is not legally authorized so to do, he shall, upon conviction, be adjudged guilty of a misdemeanor, and fined in the sum of two hundred dollars, and be imprisoned in the county jail not exceeding one year.

How punished.

Apothecary selling poisonous drugs, without label.

§ 6. Every apothecary, druggist, or other person, who shall sell and deliver any arsenic, corrosive sublimate, prussic acid, or other substance, either solid or liquid, usually denominated poisonous,

# Exhibit 19



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LAWS OF THE STATE OF MISSISSIPPI.

1921

CHAP. XLIX.

An Act, to prohibit the carrying or wearing of concealed weapons.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Mississippi, in General Assembly convened,* That from and after the passage of this act, any person or persons convicted before any magistrate of his or their wearing or carrying any pistols, dirk or other such offensive weapons, concealed about his or their persons, shall forfeit and pay the sum of fifty dollars for every such offence, to be applied to the use of the literary fund: *Provided,* That in all cases of persons travelling, they shall not be bound by the provisions of this act.

COWLES MEAD,

*Speaker of the House of Representatives.*

JAMES PATTON,

*Lieutenant-Governor and President of the Senate.*

APPROVED, NOVEMBER 28, 1921.

GEO. POINDEXTER.

CHAP. L.

An Act, to regulate the salaries of the district attorneys of the third and fourth Judicial Districts.

Salaries fixed.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Mississippi, in General Assembly convened,* That the district attorneys of the third and fourth judicial districts of this State, shall hereafter receive for their services the sum of six hundred dollars per annum, payable quarter yearly, out of any money in the treasury, not otherwise appropriated.

Repealing clause.

SEC. 2. *And be it further enacted,* That so much of the acts as allows the district attorney of the third judicial district, the sum of four hundred dollars, and the district attorney of the fourth judicial district, the sum of eight hundred dollars, be, and the same is hereby repealed.

COWLES MEAD,

*Speaker of the House of Representatives.*

JAMES PATTON,

*Lieut. Gov. and President of the Senate.*

APPROVED, NOVEMBER 28, 1921.

GEO. POINDEXTER.

# Exhibit 20

A  
**DIGEST**  
OF THE  
**STATUTE LAW OF KENTUCKY:**  
BEING A COLLECTION OF ALL THE  
**ACTS OF THE GENERAL ASSEMBLY,**  
OF A PUBLIC AND PERMANENT NATURE,  
FROM THE COMMENCEMENT OF THE GOVERNMENT TO MAY SESSION 1822.  
ALSO, THE  
**English and Virginia Statutes,**  
YET IN FORCE; TOGETHER WITH SEVERAL  
**ACTS OF CONGRESS.**  
WITH REFERENCES TO REPORTS OF  
**JUDICIAL DECISIONS**  
IN THE COURT OF APPEALS OF KENTUCKY AND SUPREME COURT  
OF THE UNITED STATES.  
—♦—  
IN TWO VOLUMES.  
—♦—  
BY WILLIAM LITTELL AND JACOB SWIGERT.  
—♦—  
PUBLISHED UNDER THE PATRONAGE OF THE LEGISLATURE.  
—♦—  
**VOLUME I.**  
—♦—  
FRANKFORT:  
PRINTED BY KENDALL AND RUSSELL,  
PRINTERS FOR THE STATE.  
—♦—  
1822.

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**Governor to accept of the services of any volunteer company or companies (not exceeding three thousand as aforesaid) who shall tender their services within such time, and for such term, not exceeding six months, as the Governor in his discretion, shall proclaim and appoint. And the Governor shall designate and commission for that purpose, all officers necessary and proper for the command of such volunteers.**

**Sec. 3. Be it further enacted,** That all volunteer officers, non-commissioned officers, musicians and privates, whose service may be rendered and accepted under the provisions of this act, shall, at such place or places of rendezvous as the Governor shall appoint within this state, be entitled to receive in advance, the sum of ten dollars, to be taken and considered as a part of their pay.

**Sec. 4. Be it further enacted,** That the forces to be raised and organized, as provided by this act, shall be disposed of according to the discretion of their Governor (that discretion subject only to the requisitions of the general government) and shall be liable to be marched to any place, and engaged in the service of the U. States, as the exigencies of the present war may, in the opinion of the executive, require.

**Sec. 5. Be it further enacted,** That the governor of this commonwealth, for the purpose of carrying into effect the third section of this act, shall be authorized to draw from the Treasury of this state, any sums of money that may be necessary therefor; or in case of deficiency in the public funds, to borrow from any Bank or individuals, upon the best terms he can obtain such additional sums as may be necessary for the purpose aforesaid.

**Sec. 6. Be it further enacted,** That the powers vested in the Governor by the first and second sections of this act, shall be exercised and carried into effect by him to such extent, and in such a manner and time, as his own discretion and the emergency of public affairs may dictate.

CHAP. LXXXIX.

*AN ACT to prevent persons in this Commonwealth from wearing concealed Arms, except in certain cases.*

Approved, February 3, 1813.

**Sec. 1. BE it enacted by the general assembly of the commonwealth of Kentucky,** That any person in this commonwealth, who shall hereafter wear a pocket pistol, dirk, large knife, or sword in a cane, concealed as a weapon, unless when travelling on a journey, shall be fined in any sum, not less than one hundred dollars; which



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may be recovered in any court having jurisdiction of like sums, by action of debt, or on the presentment of a grand jury—and a prosecutor in such presentment shall not be necessary. One half of such fine shall be to the use of the informer, and the other to the use of this commonwealth.

This act shall commence and be in force, from and after the first day of June.

## CHAP. XC.

*AN ACT to amend the Militia Law.*

Approved February 3, 1813.

Sec. 1. **B**E it enacted by the General Assembly of the Commonwealth of Kentucky, That if any non-commissioned officer, musician or private, failing to march, or furnishing an able bodied substitute in his place, when ordered and lawfully called on, or leaving the service without a discharge from the proper officer, shall be considered as a deserter, & treated as followeth, to wit: Any person may apprehend such deserter, and deliver him to the officer commanding such detachment, or any recruiting officer within this commonwealth, and take his receipt for the same; which receipt shall describe the name of such deserter, and the length of time he was to serve, and by whom he was delivered—which receipt shall be assignable; and the reward for taking and so delivering such deserter, as aforesaid, shall be a credit for a tour or tours of duty for the length of time such deserter was bound to serve; and said deserter shall serve out the term of time aforesaid before he shall be discharged, in addition to the time he was to serve, if such term of time is then required; otherwise shall serve said tour or tours, when required so to do. And any person holding such receipt, when he is called on to perform a tour or tours of duty, and producing the same to the captain calling on him, it shall be the duty of said captain to receive the same, and give the owner thereof a credit for as many tours as is therein contained.

Persons failing to perform tour of duty considered a deserter

Sec. 2. And where any delinquent militia-man shall belong to any society who hold a community of property, the sheriff shall call on the agent or superintendent of the common stock, or firm of said society, or compact, for the same; and if he fails to pay the same as before described, the sheriff shall make distress, and sell so much of the property belonging to said stock, as will satisfy the fine, cost, &c. as is before directed.

Sec. 3. *And be it further enacted,* That brigade inspectors and brigade quarter masters, when not taken from the line, shall each be entitled to the rank, pay, and emoluments

Brigade inspectors quarter masters, sergeants and paymasters

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of a major of infantry ; and adjutants, regimental pay-masters, and quarter masters, when not taken from the line, shall each be entitled to the rank, pay, and emoluments of lieutenants of infantry ; and whether taken from the line or not, shall receive the additional pay of ten dollars per month, and for forage for one horse.

Persons who may scruple to bear arms shall furnish a substitute

Sec. 4. *And be it further enacted*, That where any non-commissioned officer or private who may conscientiously scruple to bear arms, is legally called on to perform a tour of duty, in the service of this state or the United States, shall perform the same by himself or an able bodied substitute; and, upon failure, the commanding officer of the company shall hire a substitute, and the person failing to perform his tour, shall pay the price said officer may agree to give said substitute, not exceeding one hundred dollars; which sum may be recovered by action of debt, before any court having jurisdiction of like sums.

Oaths

Sec. 5. *And be it further enacted*, That while the militia are either in the actual service of this state or the United States, the several oaths which militia officers are required by law to take, may be administered by any commissioned officer belonging to the same corps.

Former law repealed

Sec. 6. *And be it further enacted*, That so much of the militia law, as requires the commandants of companies to lay of their companies into ten classes for an equal routine of duty, shall be and the same is hereby repealed,

Companies how to be classed

Sec. 7. *And be it further enacted*, That hereafter, when the captains of companies are commanded to detach any number of men from their respective companies for the service of this state or the United States, it shall be the duty of each captain to lay off his company by lot, into as many classes, as the number of men he is ordered to detach ; and the class or classes failing voluntarily to furnish a man, shall determine by lot which man shall do the duty required ; and the man, which each class may voluntarily furnish, and also the man selected by lot, shall be entitled to a credit for as many tours of duty as they may serve. But it is clearly to be understood, that no man shall be called on to perform a tour of duty, who has been drafted on the late six months' expedition, and served his tour by himself or substitute, or has volunteered and served said tour. And whereas, a number of volunteers have served tours of thirty days, or more, either as mounted rifle-men, pack-horse drivers, or guards on the frontiers, and have got a discharge for the same, they nor either of them shall be called on to serve a tour until every other man fit for such service, belonging to their respective companies, shall have served a tour or tours,

Restrictions

# Exhibit 21

GENERAL LAWS  
OF THE  
TWELFTH LEGISLATURE,  
OF THE  
STATE OF TEXAS.

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CALLED SESSION.

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BY AUTHORITY.



AUSTIN:  
PRINTED BY TRACY, SIEMERING & CO.  
1870.



GENERAL LAWS.

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CHAPTER XLVI.

AN ACT REGULATING THE RIGHT TO KEEP AND BEAR ARMS.

SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That if any person shall go into any church or religious assembly, any school room or other place where persons are assembled for educational, literary or scientific purposes, or into a ball room, social party or other social gathering composed of ladies and gentlemen, or to any election precinct on the day or days of any election, where any portion of the people of this State are collected to vote at any election, or to any other place where people may be assembled to muster or to perform any other public duty, or any other public assembly, and shall have about his person a bowie-knife, dirk or butcher-knife, or fire-arms, whether known as a six shooter, gun or pistol of any kind, such person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than fifty or more than five hundred dollars, at the discretion of the court or jury trying the same; provided, that nothing contained in this section shall apply to locations subject to Indian depredations; and provided further, that this act shall not apply to any person or persons whose duty it is to bear arms on such occasions in discharge of duties imposed by law.

SEC. 2. That this act take effect and be in force in sixty days from the passage thereof.

Approved August 12, 1870.

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CHAPTER XLVII.

AN ACT AUTHORIZING THE GOVERNOR TO ORDER AN ELECTION TO BE HELD IN HILL COUNTY FOR THE PERMANENT LOCATION OF THEIR COUNTY SEAT.

SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That the Governor of the State of Texas be, and is hereby authorized to order an election to be held in the county of Hill, on the second Monday in September, A. D. 1870, (or as soon thereafter as possible), for the permanent location of the county seat of the

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GENERAL LAWS.

county of Hill; said election shall be held at such places and under such rules and regulations as the Governor may prescribe.

SEC. 2. That the returns of said election shall be made to the Secretary of State, within twenty days after said election shall have been held, and the town receiving two-thirds of the votes cast shall be the permanent county seat of the county of Hill, but should no place receive two-thirds of the votes cast, the present county seat shall remain the permanent one.

SEC. 3. That the Governor shall, within twenty days after the returns of said election shall have been received, notify the Police Court of the county of Hill of the result of said election.

SEC. 4. That this act be in force from and after passage.  
Approved August 12, 1870.

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CHAPTER XLVIII.

AN ACT MAKING APPROPRIATIONS FOR THE PAYMENT OF THE EXPENSES OF MAINTAINING RANGING COMPANIES ON THE FRONTIER.

SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That the sum of seven hundred and fifty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any moneys in the State Treasury (derived from the sale or hypothecation of the bonds of the State issued for frontier protection), for the purpose of paying all expenses connected with the organization, arming and maintenance of the ranging companies on the frontier, called into service under the provisions of the act approved June 18, 1870.

SEC. 2. That this appropriation shall be expended under the direction of the Governor; and the Comptroller of Public Accounts shall, under the special direction of the Governor, audit all claims and accounts incurred for the purposes hereinbefore mentioned, and shall draw his warrant on the Treasurer for the payment of the same.

SEC. 3. That this act shall take effect from and after its passage.  
Approved August 12, 1870.

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## GENERAL LAWS.

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## CHAPTER XXXIV.

## AN ACT TO REGULATE THE KEEPING AND BEARING OF DEADLY WEAPONS.

SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That any person carrying on or about his person, saddle, or in his saddle bags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured or sold for the purposes of offense or defense, unless he has reasonable grounds for fearing an unlawful attack on his person, and that such ground of attack shall be immediate and pressing; or unless having or carrying the same on or about his person for the lawful defense of the State, as a militiaman in actual service, or as a peace officer or policeman, shall be guilty of a misdemeanor, and, on conviction thereof shall, for the first offense, be punished by fine of not less than twenty-five nor more than one hundred dollars, and shall forfeit to the county the weapon or weapons so found on or about his person; and for every subsequent offense may, in addition to such fine and forfeiture, be imprisoned in the county jail for a term not exceeding sixty days; and in every case of fine under this section the fines imposed and collected shall go into the treasury of the county in which they may have been imposed; *provided,* that this section shall not be so construed as to prohibit any person from keeping or bearing arms on his or her own premises, or at his or her own place of business, nor to prohibit sheriffs or other revenue officers, and other civil officers, from keeping or bearing arms while engaged in the discharge of their official duties, nor to prohibit persons traveling in the State from keeping or carrying arms with their baggage; *provided further,* that members of the Legislature shall not be included under the term "civil officers" as used in this act.

SEC. 2. Any person charged under the first section of this act, who may offer to prove, by way of defense, that he was in danger of an attack on his person, or unlawful interference with his property, shall be required to show that such danger was immediate and pressing, and was of such a nature as to alarm a person of ordinary courage; and that the weapon so carried was borne openly and not concealed beneath the clothing; and if it shall appear that this danger had its origin in a difficulty first commenced by the accused, it shall not be considered as a legal defense.

SEC. 3. If any person shall go into any church or religious assembly, any school room, or other place where persons are assem-



bled for amusement or for educational or scientific purposes, or into any circus, show, or public exhibition of any kind, or into a ball room, social party, or social gathering, or to any election precinct on the day or days of any election, where any portion of the people of this State are collected to vote at any election, or to any other place where people may be assembled to muster, or to perform any other public duty, (except as may be required or permitted by law,) or to any other public assembly, and shall have or carry about his person a pistol or other firearm, dirk, dagger, slung shot, sword cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured and sold for the purposes of offense and defense, unless an officer of the peace, he shall be guilty of a misdemeanor, and, on conviction thereof, shall, for the first offense, be punished by fine of not less than fifty, nor more than five hundred dollars, and shall forfeit to the county the weapon or weapons so found on his person; and for every subsequent offense may, in addition to such fine and forfeiture, be imprisoned in the county jail for a term not more than ninety days.

SEC. 4. This act shall not apply to, nor be enforced in any county of the State, which may be designated, in a proclamation of the Governor, as a frontier county, and liable to incursions of hostile Indians.

SEC. 5. All fines collected under the provisions of this act shall be paid into the treasury of the county, and appropriated exclusively to the keeping in repair and maintenance of public roads, and all weapons forfeited to the county under the provisions of this act shall be sold as may be prescribed by the county court, and the proceeds appropriated to the same purpose.

SEC. 6. It shall be the duty of all sheriffs, constables, marshals, and their deputies, and all policemen, and other peace officers, to arrest any person violating the first or third sections of this act, and to take such person immediately before a justice of the peace of the county where the offense is committed, or before a mayor or recorder of the town or city in which the offense is committed, who shall investigate and try the case without delay. On all such trials the accused shall have the right of a trial by jury, and of appeal to the district court; but, in case of appeal, the accused shall be required to give bond with two or more good and sufficient sureties in a sum of not less than one hundred nor more than two hundred dollars, if convicted under the first section and in a sum of not less than two hundred nor more than one thousand dollars, if convicted under the third section of this act; said bond to be payable to the State of Texas, and approved by the magistrate, and conditioned that the defendant will abide the judgment of the district court that may

## GENERAL LAWS.

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be rendered in the case; and in case of forfeiture the proceedings thereon shall be as is or may be prescribed by law in similar cases; and all moneys collected on any bond or judgment upon the same, shall be paid over and appropriated as provided in the fifth section of this act.

SEC. 7. Any officer named in the sixth section of this act who shall refuse or fail to arrest any person whom he is required to arrest by said section on his own information, or where knowledge is conveyed to him of any violation of the first or third sections of this act, shall be dismissed from his office on conviction in the district court, on indictment or information, or by such other proceedings or tribunal as may be provided by law, and in addition, shall be fined in any sum not exceeding five hundred dollars, at the discretion of the court or jury.

SEC. 8. That the district courts shall have concurrent jurisdiction under this act, and it is hereby made the duty of the several judges of the district courts of this State to give this act especially in charge to the grand juries of their respective counties.

SEC. 9. It is hereby made the duty of the Governor to publish this act throughout the State; and this act shall take effect and be in force from and after the expiration of sixty days after its passage.

Approved April 12, 1871.

## CHAPTER XXXV.

AN ACT TO AUTHORIZE THE COUNTY COURT OF ROBERTSON COUNTY TO LEVY AND COLLECT A SPECIAL TAX FOR THE TERM OF TWO YEARS TO BUILD A COURT HOUSE AND JAIL IN THE CITY OF CALVERT, THE COUNTY SEAT OF SAID COUNTY.

SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That the County Court of Robertson county be and the same is hereby authorized to levy and collect, annually, for the term of two years, a special *ad valorem* tax upon all property, real, personal and mixed, in said county, not to exceed one half of one per centum in addition to all general and special taxes now authorized to be levied and collected by law, which tax shall be levied and collected the same as other taxes, and shall be appropriated and paid out solely for the purpose of building a substantial court house and jail at Calvert, the county seat of Robertson county, Texas.

SEC. 2. That this act shall take effect and be in force from and after its passage.

Approved April 12, 1871.

# Exhibit 23



EXHIBIT D

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TITLE IX.—OFFENSES AGAINST PUBLIC PEACE.—CH. 3, 4.

who continue so unlawfully assembled, or engaged in a riot, after being warned to disperse, shall be punished by the addition of one-half the penalty to which they would otherwise be liable, if no such warning had been given.

CHAPTER THREE.

AFFRAYS AND DISTURBANCES OF THE PEACE.

|                               |         |                                            |         |
|-------------------------------|---------|--------------------------------------------|---------|
|                               | Article |                                            | Article |
| "Affray" defined.....         | 313     | Shooting in public place.....              | 316     |
| Disturbance of the peace..... | 314     | Horse-racing on public road or street..... | 317     |
| "Public place" defined.....   | 315     |                                            |         |

"Affray" defined.  
P.C. 381.  
Disturbance of the peace.  
(Act June 20, 1875, p. 24.)  
P.C. 382.

ARTICLE 313. If any two or more persons shall fight together in a public place, they shall be punished by fine not exceeding one hundred dollars.

ART. 314. If any person shall go into any public place, or into or near any private house, or along any public street or highway near any private house, and shall use loud and vociferous or obscene, vulgar or indecent language, or swear, or curse, or expose his person, or rudely display any pistol or other deadly weapon in such public place, or upon such public street or highway, or near such private house, in a manner calculated to disturb the inhabitants thereof, he shall be fined in a sum not exceeding one hundred dollars.

"Public place" defined.  
P.C. 383.

ART. 315. A public place within the meaning of the two preceding articles, is any public road, street or alley, of a town or city, inn, tavern, store, grocery, work-shop, or any place to which people commonly resort for purposes of business, recreation or amusement.

Shooting in public place.  
(Act Nov. 12, 1866, p. 210.)

ART. 316. If any person shall discharge any gun, pistol, or fire-arms of any description, on or across any public square, street or alley in any city, town or village in this state, he shall be fined in a sum not exceeding one hundred dollars.

Horse-racing on public road or street.  
(Act May 10, 1873, pp. 83-4.)

ART. 317. Any person who shall run, or be in any way concerned in running any horse race in, along, or across any public square, street or alley in any city, town or village, or in, along or across any public road within this state, shall be fined in a sum not less than twenty-five nor more than one hundred dollars.

CHAPTER FOUR.

UNLAWFULLY CARRYING ARMS.

|                                                |         |                                            |         |
|------------------------------------------------|---------|--------------------------------------------|---------|
|                                                | Article |                                            | Article |
| Unlawfully carrying arms.....                  | 318     | Arrest without warrant.....                | 322     |
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| Carrying arms in church or other assembly..... | 320     | Not applicable to, frontier counties.....  | 323     |
| Not applicable, to whom.....                   | 321     |                                            |         |

Unlawfully carrying arms.  
(Act April 12, 1871, p. 25.)

ARTICLE 318. If any person in this state shall carry on or about his person, saddle, or in his saddle-bags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured or sold for purposes of offense or defense, he shall be punished by fine of not less than twenty-five nor more than one hundred dollars; and, in addition thereto, shall forfeit to the county in which he is convicted, the weapon or weapons so carried.

Not applicable when and to whom.  
(Act April 12, 1871, p. 25.)

ART. 319. The preceding article shall not apply to a person in actual service as a militiaman, nor to a peace officer or policeman, or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one's own prem-



## TITLE IX.—OFFENSES AGAINST PUBLIC PEACE.—CH. 4.

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ises or place of business, nor to persons traveling, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack, upon legal process.

ART. 320. If any person shall go into any church or religious assembly, any school room, or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show, or public exhibition of any kind, or into a ball-room, social party, or social gathering, or to any election precinct on the day or days of any election, where any portion of the people of this state are collected to vote at any election, or to any other place where people may be assembled to muster, or to perform any other public duty, or to any other public assembly, and shall have or carry about his person a pistol or other fire-arm, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of a knife manufactured and sold for the purposes of offense and defense, he shall be punished by fine not less than fifty nor more than five hundred dollars, and shall forfeit to the county the weapon or weapons so found on his person.

Carrying arms  
in church or  
other assembly  
(Act April 12,  
1871, p. 25.)

ART. 321. The preceding article shall not apply to peace officers, or other persons authorized or permitted by law to carry arms at the places therein designated.

Not applicable  
to whom.  
(Act April 12,  
1871, p. 25.)

ART. 322. Any person violating any of the provisions of articles 318 and 320, may be arrested without warrant by any peace officer, and carried before the nearest justice of the peace for trial; and any peace officer who shall fail or refuse to arrest such person on his own knowledge, or upon information from some credible person, shall be punished by fine not exceeding five hundred dollars.

Arrest without  
warrant.  
Officer failing  
punished.  
(Act April 12,  
1871, p. 30.)

ART. 323. The provisions of this chapter shall not apply to or be enforced in any county which the governor may designate, by proclamation, as a frontier county and liable to incursions by hostile Indians.

Not applicable  
to frontier  
counties.  
(Act April 12,  
1871, p. 30.)

# Exhibit 24

**Election polls.** SEC. 2. That said election shall be held at the different places in the cities and counties, as now provided by law, in this State, and according to the Constitution and existing laws governing elections in this State, so far as applicable, and the returning officers shall make their returns in the manner, and to the persons, as now provided by law.

## 1869-70—CHAPTER XXII.

[Enacted Dec. 1, 1869.]

**Voters to ballot in their own districts.** SECTION 1. That all voters in this State shall be required to vote in the civil district or ward in which they may reside. Any person violating this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall not be fined less than twenty nor more than fifty dollars: *Provided*, that Sheriffs and other officers holding elections shall be permitted to vote at any ward or precinct in which they may hold an election.

**Deadly or dangerous weapons.** SEC. 2. That it shall not be lawful for any qualified voter or other person attending any election in this State, or for any person attending any fair, race course, or other public assembly of the people, to carry about his person, concealed or otherwise, any pistol, dirk, Bowie-knife, Arkansas tooth-pick, or weapon in form, shape, or size resembling a Bowie-knife or Arkansas tooth-pick, or other deadly or dangerous weapon.

**Penalty.** SEC. 3. That all persons convicted under the second section of this act shall be punished by fine of not less than fifty dollars, and by imprisonment, or both, at the discretion of the court.

**Saloons to be closed.** SEC. 4. That no liquor shop in this State shall be kept open on election days, nor shall any person, on said days, give or sell intoxicating liquors to any person for any purpose at or near an election ground.<sup>1</sup>

**Powers of grand jury.** SEC. 5. That the grand juries of this State shall have inquisitorial powers concerning the commission of the offenses created by these acts, and may send for witnesses, as in cases of gaming, illegal voting, tippling, and offenses now prescribed by law.

**Duty of the judges.** SEC. 6. That it shall be the duty of the Circuit and Criminal Judges of this State to give the above in special charge to the several grand juries of the courts.

**No exemption from execution.** SEC. 7. That there shall be no property exempt from execution for fines and costs for this offense: *Provided*, that if from any cause, there should be a failure to hold an election in any civil district or ward, then nothing in this act shall be so construed as to prevent any voter from voting in

**Failure to open poll.**

<sup>1</sup> See the act next following.

# Exhibit 25



ACTS AND RESOLUTIONS  
OF THE  
GENERAL ASSEMBLY  
OF THE  
STATE OF GEORGIA,  
PASSED IN ATLANTA, GEORGIA,  
AT THE  
SESSION OF 1870.

COMPILED AND PUBLISHED BY AUTHORITY.

ATLANTA, GEORGIA:  
PRINTED BY THE PUBLIC PRINTER,  
1870.

## PUBLIC LAWS.—PENAL CODE—AMENDMENTS TO.

421

To preserve the peace and harmony of the people of this State, etc.

## TITLE XVI.

## PENAL CODE—AMENDMENTS TO.

## SECTIONS.

1. Carrying deadly weapons to certain places prohibited.
2. Violation—misdemeanor—penalty.
3. Chain-gang punishment prohibited.
4. Punishment in lieu of chain-gang.

## SECTIONS.

5. Section 415 of the Code changed—*nolle prosequi*.
6. All indictments, etc., submitted to a jury.

(No. 285.)

*An Act to preserve the peace and harmony of the people of this State, and for other purposes.*

SECTION 1. *Be it enacted, etc.,* That, from and immediately after the passage of this act, no person in said State of Georgia be permitted or allowed to carry about his or her person any dirk, bowie-knife, pistol or revolver, or any kind of deadly weapon, to any court of justice, or any election ground or precinct, or any place of public worship, or any other public gathering in this State, except militia muster-grounds.

Carrying deadly weapons to certain places prohibited.

Exception.

SEC. 2. *Be it further enacted,* That if any person or persons shall violate any portion of the above recited section of this act, he, she or they shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty nor more than fifty dollars for each and every such offense, or imprisonment in the common jail of the county not less than ten nor more than twenty days, or both, at the discretion of the court.

Violation a misdemeanor—penalty

SEC. 3. All laws and parts of laws militating against this act are hereby repealed.

Approved October 18, 1870.

(No. 286.)

*An Act to alter and amend section 4245 of Irwin's Revised Code, by striking out of said section the words "to work in a chain-gang on the public works," and for other purposes.*

SECTION 1. *Be it enacted, etc.,* That the words "to work in a chain-gang on the public works," which occur in fourth and fifth lines of section 4245 of Irwin's Code, be, and the same are hereby,

Chain-gang punishment prohibited.

422

PUBLIC LAWS.—PENAL CODE—AMENDMENTS TO.

To repeal Section 415 of the Revised Code.

stricken from said section, and chain-gangs shall no longer exist, or be tolerated in the State of Georgia, for persons convicted of misdemeanors.

SEC. 2. *Be it further enacted*, That said section be further amended, by substituting for the words herein stricken out, the words "to work on the city or town streets, or county roads, not longer than six months; but in no case shall such prisoners be chained or otherwise confined in a gang, but shall be guarded."

Punishment in lieu of chain-gang.

SEC. 3. *Be it further enacted*, That all laws and parts of laws in conflict with this act be, and they are hereby, repealed.

Approved October 27, 1870.

(No. 287.)

*An Act to repeal section four hundred and fifteen (415) of Irwin's Revised Code, in relation to entering nolle prosequis, and to prescribe the mode of settlement in criminal cases.*

SECTION 1. *Be it enacted, etc.*, That section four hundred and fifteen (415) of Irwin's Revised Code of Georgia, which said section authorizes Solicitors-General in this State to enter a *nolle prosequi* on indictments, be, and the same is hereby repealed, and no *nolle prosequi* shall be allowed, except it be in open court, for some fatal defect in the bill of indictment, to be judged of by the court, in which case the presiding Judge shall order another bill of indictment to be forthwith submitted to the grand jury.

Section 415 of Code, as to nolle prosequi, repealed.

Judge shall order second bill.

SEC. 2. *And be it further enacted by the authority aforesaid*, That all cases of indictments, or special presentments, shall be submitted to and passed upon by the jury, under the direction of the presiding Judge, unless there is a settlement thereof between the prosecutor and defendant, which settlement shall be good and valid only by the approval and order of the court on examination into the merits of the case.

All indictments submitted to jury.

Settlement—when good.

SEC. 3. *And be it further enacted, etc.*, That all laws and parts of laws conflicting with this act be, and the same are hereby, repealed.

Approved October 28, 1870.

# Exhibit 26



SEC. 1271. *Abandonment of children.*—If any father or mother of any child under the age of six years, or any other person to whom such child shall have been confided, shall expose such child in a street, field or other place, with intent wholly to abandon it, he or she shall, upon conviction, be punished by imprisonment in the penitentiary not exceeding five years, or in the county jail not less than six months. (G. S. 781, § 39.)

SEC. 1272. *Mistreatment of apprentices.*—If any master or mistress of an apprentice or other person having the legal care and control of any infant, shall, without lawful excuse, refuse or neglect to provide for such apprentice or infant, necessary food, clothing or lodging, or shall unlawfully and purposely assault such apprentice or infant, whereby his life shall be endangered, or his health shall have been or shall be likely to be permanently injured, the person so offending shall, upon conviction, be punished by imprisonment in the penitentiary not exceeding three years, or by imprisonment in the county jail not exceeding one year, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment. (New section.)

SEC. 1273. *Abandonment of wife or child.*—If any man shall, without good cause, abandon or desert his wife, or abandon his child or children under the age of twelve years born in lawful wedlock, and shall fail, neglect or refuse to maintain and provide for such wife, child or children, he shall, upon conviction, be punished by imprisonment in the county jail not more than one year, or by a fine of not less than fifty, nor more than one thousand dollars, or by both such fine and imprisonment. No other evidence shall be required to prove that such husband was married to such wife, or is the father of such child or children, than would be necessary to prove such fact or facts in a civil action. (Laws 1867, p. 112, amended—*m.*)

SEC. 1274. *Carrying deadly weapons, etc.*—If any person shall carry concealed, upon or about his person, any deadly or dangerous weapon, or shall go into any church or place where people have assembled for religious worship, or into any school room or place where people are assembled for educational, literary or social purposes, or to any election precinct, on any election day, or into any court room during the sitting of court, or into any other public assemblage of persons met for any lawful purpose, other than for militia drill or meetings called under the militia law of this state, having upon or about his person any kind of firearms, bowie-knife, dirk, dagger, slung-shot, or other deadly weapon, or shall, in the presence of one or more persons, exhibit any such weapon in a rude, angry or threatening manner, or shall have or carry any such weapon upon or about his person when intoxicated or under the influence of intoxicating drinks, or shall, directly or indirectly, sell or deliver, loan or barter to any minor, any such weapon, without the consent of the parent or guardian of such minor, he shall, upon conviction, be punished by a fine of not less than five nor more than one hundred dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment. (Laws 1874, p. 43; laws 1875, p. 50, and laws 1877, p. 240, amended.)

SEC. 1275. *Above section not to apply to certain officers.*—The next preceding section shall not apply to police officers, nor to any officer or person whose duty it is to execute process or warrants, or to suppress breaches of the peace, or make arrests, nor to persons moving or traveling peaceably through this state, and it shall be a good defense to the charge of carrying such weapon, if the defendant shall show that he has been threatened with great bodily harm, or had good reason to carry the same in the necessary defense of his person, home or property. (New section.)

SEC. 1276. *Fire arms not to be discharged near court house.*—Hereafter it shall be unlawful for any person in this state, except he be a sheriff or other officer in the discharge of official duty, to discharge or fire off any

(*m*) Wife held to be a competent witness to prove fact of abandonment. 43 Mo. 429. The fact that the defendant has brought suit for divorce is no defense. 62 Mo. 172.

# Exhibit 27

THE  
STATUTES OF OKLAHOMA

1890.

Compiled under the supervision and direction of Robert Martin,  
Secretary of the Territory,

—BY—

WILL T. LITTLE, L. G. PITMAN and R. J. BARKER,

—FROM—

The Laws Passed by the First Legislative Assembly of the Territory.

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



CRIMES AND PUNISHMENT.

495

(2430) § 6. Every person who, with intent to extort any money or other property from another, sends to any person any letter or other writing, whether subscribed or not, expressing or implying, or adapted to imply, any threat, such as is specified in the second section of this article, is punishable in the same manner as if such money or property were actually obtained by means of such threat. Chap. 25.  
Sending threatening letter.

(2431) § 7. Every person who unsuccessfully attempts by means of any verbal threat such as is specified in the second section of this article, to extort money or other property from another is guilty of a misdemeanor. Attempting to extort money.

ARTICLE 47.—CONCEALED WEAPONS.

SECTION.

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

SECTION.

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

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

(2433) § 2. It shall be unlawful for any person in the Territory of Oklahoma, to carry upon or about his person any pistol, revolver, bowie knife, dirk knife, loaded cane, billy, metal knuckles, or any other offensive or defensive weapon, except as in this article provided. Same.

(2434) § 3. It shall be unlawful for any person within this Territory, to sell or give to any minor any of the arms or weapons designated in sections one and two of this article. Minors.

(2435) § 4. Public officers while in the discharge of their duties or while going from their homes to their place of duty, or returning therefrom, shall be permitted to carry arms, but at no other time and under no other circumstances: *Provided, however,* That if any public officer be found carrying such arms while under the influence of intoxicating drinks, he shall be deemed guilty of a violation of this article as though he were a private person. Public officials, when privileged.

(2436) § 5. Persons shall be permitted to carry shot-guns or rifles for the purpose of hunting, having them repaired, or for killing animals, or for the purpose of using the same in public muster or military drills, or while travelling or removing from one place to another, and not otherwise. Arms, when lawful to carry.

(2437) § 6. Any person violating the provisions of any one of the foregoing sections, shall on the first conviction be adjudged guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, or by imprisonment in the county jail not to exceed thirty days or both at the discretion of the court. On the second and every subsequent con- Degree of punishment.



CRIMES AND PUNISHMENT.

Chap. 25. **v**iction, the party offending shall on conviction be fined<sup>1</sup> not less than fifty dollars nor more than two hundred and fifty dollars or be imprisoned in the county jail not less than thirty days nor more than three months or both, at the discretion of the court.

Public build-  
ings and gather-  
ings.

(2438) § 7. It shall be unlawful for any person, except a peace officer, to carry into any church or religious assembly, any school room or other place where persons are assembled for public worship, for amusement, or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into any ball room, or to any social party or social gathering, or to any election, or to any place where intoxicating liquors are sold, or to any political convention, or to any other public assembly, any of the weapons designated in sections one and two of this article.

Intent of per-  
sons carrying  
weapons.

(2439) § 8. It shall be unlawful for any person in this Territory to carry or wear any deadly weapons or dangerous instrument whatsoever, openly or secretly, with the intent or for the avowed purpose of injuring his fellow man.

Pointing  
weapons at an-  
other.

(2440) § 9. It shall be unlawful for any person to point any pistol or any other deadly weapon whether loaded or not, at any other person or persons either in anger or otherwise.

Violation of  
section seven.

(2441) § 10. Any person violating the provisions of section seven, eight or nine of this article; shall on conviction, be punished by a fine of not less than fifty dollars, nor more than five hundred and shall be imprisoned in the county jail for not less than three not more than twelve months.

ARTICLE 48.—FALSE PERSONATION AND CHEATS.

SECTION.

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

SECTION.

7. False representation of charitable purposes.
8. Falsely representing banking corporations.
9. Using false check.
10. Holding mock auction.

Punishment  
for false imper-  
sonation.

(2442) § 1. Every person who falsely personates another, and in such assumed character, either:

First. Marries or pretends to marry, or to sustain the marriage relation toward another, with or without the connivance of such other person; or,

Second. Becomes bail or surety for any party, in any proceeding whatever, before any court or officer authorized to take such bail or surety; or,

Third. Subscribes, verifies, publishes, acknowledges or proves, in the name of another person, any written instrument, with intent that the same may be delivered or used as true; or,

Fourth. Does any other act whereby, if it were done by the person falsely personated, he might in any event become liable to any suit or prosecution, or to pay any sum of money, or to incur any charge, forfeiture or penalty, or whereby any benefit might accrue to the party personating, or to any other person.

# Exhibit 28



1025-1029

## CRIMES AND MISDEMEANORS.

**1025 (2766). The same; opening graves for certain purposes.**—Every person who shall open a grave or other place of interment with intent to move the dead body of any human being for the purpose of selling the same, or for the purpose of dissection, or to steal the coffin or any part thereof, or the vestments or other articles interred with the dead body, or any of them, shall, upon conviction, be punished by imprisonment in the penitentiary not exceeding two years, or in the county jail not more than six months, or by fine of not more than three hundred dollars, or both.

**1026 (2985). Deadly weapons; carrying of concealed.** (Laws 1888, p. 89).—Any person who carries concealed, in whole or in part any bowie-knife, dirk-knife, butcher-knife, pistol, brass or metallic knuckles, slung-shot, sword, or other deadly weapon of like kind or description, shall be guilty of a misdemeanor, and, on conviction, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned in the county jail not less than one month nor more than three months, or both.

**1027. The same; not applicable to certain persons.**—Any person indicted or charged for a violation of the last section may show as a defense—

(a) That he was threatened, and had good and sufficient reason to apprehend a serious attack from an enemy, and that he did so apprehend; or

(b) That he was traveling and was not a tramp, or was setting out on a journey, and was not a tramp; or

(c) That he was a peace officer or deputy in the discharge of his duties; or

(d) That he was at the time in the discharge of his duties as a mail carrier; or

(e) That he was at the time engaged in transporting valuables for an express company or bank; or

(f) That he was in lawful pursuit of a felon.

And the burden of proving either of said defenses shall be on the accused.

The "traveling or setting out on a journey" in the statute means a travel of such distance as to take one beyond the circle of his friends and acquaintances. *McGuirk v. State*, 64 Miss., 209.

The pursuit of a fugitive daughter, begun without knowing where it will lead, is "traveling on a journey." *Haywood v. State*, 66 Miss., 402.

"Threatened with an attack" does not contemplate mere denunciation, but menace such as to cause a reasonable apprehension of an attack that might properly be resisted with the deadly weapon. *Tipler v. State*, 57 Miss., 685.

Even if the accused be "threatened" and entertain the "apprehension," it will be no defense if he carried the weapon for some other reason, and for some other purpose. *McGuirk v. State*, 64 Miss., 209.

The threats must not be too remote. *McGuirk v. State*, 64 Miss., 210.

The act of 1888, amendatory of the Code, 1880, on the subject of carrying weapons concealed, was ex post facto in its application to offenses previously committed. (1) It cut off a defense, and (2) it changed, but did not mitigate, the penalty. *Lindsey v. State*, 65 Miss., 542; *Hodnett v. State*, 66 Miss., 26.

The statute makes the fact of carrying a weapon concealed criminal, regardless of intent. *Strahan v. State*, 68 Miss., 347.

**1028 (2986). The same; and cartridges not sold to infant or drunk person.**—It shall not be lawful for any person to sell, give, or lend to any minor or person intoxicated, knowing him to be a minor or in a state of intoxication, any deadly weapon, or other weapon the carrying of which concealed is prohibited, or pistol cartridge; and, on conviction thereof, he shall be punished by a fine not less than twenty-five dollars nor more than two hundred dollars, or imprisoned in the county jail not exceeding three months, or both.

**1029 (2987). The same; father not to suffer infant son to have or carry.**—Any father who shall knowingly suffer or permit any son under the age of sixteen

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## CRIMES AND MISDEMEANORS.

1030-1034

years to have or to own, or to carry concealed, in whole or in part, any weapon the carrying of which concealed is prohibited, shall be guilty of a misdemeanor, and, on conviction, shall be fined not less than twenty dollars nor more than two hundred dollars, or may be imprisoned not more than sixty days in the county jail, or both.

**1030 (2988). The same; college students not to have, etc.**—A student of any university, college, or school, who shall carry, bring, receive, own, or have on the campus, college or school grounds, or within two miles thereof, any weapon the carrying of which concealed is prohibited, or a teacher, instructor, or professor who shall knowingly suffer or permit any such weapon to be carried, or so brought, received, owned, or had by a student or pupil, shall be guilty of a misdemeanor, and, on conviction, be fined not exceeding three hundred dollars or imprisoned in the county jail not exceeding three months, or both.

**1031 (2804). The same; exhibiting in rude, angry, or threatening manner, etc.**—If any person, having or carrying any dirk, dirk-knife, sword, sword-cane, or any deadly weapon, or other weapon the carrying of which concealed is prohibited, shall, in the presence of three or more persons, exhibit the same in a rude, angry, or threatening manner, not in necessary self-defense, or shall in any manner unlawfully use the same in any fight or quarrel, the person so offending, upon conviction thereof, shall be fined in a sum not exceeding five hundred dollars or be imprisoned in the county jail not exceeding three months, or both. In prosecutions under this section it shall not be necessary for the affidavit or indictment to aver, nor for the state to prove on the trial, that any gun, pistol, or other fire-arm was charged, loaded, or in condition to be discharged.

The omission of the word "manner," after the words "rude, angry, and threatening," in an indictment, is a formal defect, and may be amended as such. In such indictment it is unnecessary to aver that the defendant was "carrying" the weapon. *Gamblin v. State*, 45 Miss., 658.

**1032 (2769). Disturbance of family; noises and offensive conduct.**—A person who willfully disturbs the peace of any family or person by an explosion of gunpowder or other explosive substance, or by loud or unusual noise, or by any tumultuous or offensive conduct, shall be punished by fine and imprisonment, or either; the fine not to exceed one hundred dollars, and the imprisonment not to exceed six months in the county jail.

What constitutes the offensive conduct, or the nature or character of the offensive conduct, should be stated in the affidavit or indictment. *Finch v. State*, 64 Miss., 461.

This section and the next one are intended to protect the peace of families. An affidavit or indictment averring the disturbance merely of an individual, charges no offense under either section. *Brooks v. State* 67 Miss., 577.

**1033 (2770). The same; using abusive, etc., language, etc.**—Any person who enters the dwelling-house of another, or the yard or curtilage thereof, or upon the public highway, or any other place near such premises, and in the presence or hearing of the family of the possessor or occupant thereof, or of any member thereof, or of any female, makes use of abusive, profane, vulgar, or indecent language, or is guilty of any indecent exposure of his person at such place, shall be punished for a misdemeanor.

Place is material. An indictment charging the use of abusive language in a yard, is not sustained by proof of its use near the yard. *Quin v. State*, 65 Miss., 479.

**1034 (2767). Disturbance of worship; proceedings and penalty.**—If any person shall willfully disturb any congregation of persons lawfully assembled for reli-



# Exhibit 29



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Bluebook 21st ed.  
1891-1892 95 .

ALWD 7th ed.  
, , 1891-1892 95 .

Chicago 17th ed.  
", " Vermont - 12th Biennial Session; Special Session - 1891 : 95-96

AGLC 4th ed.  
" Vermont - 12th Biennial Session; Special Session - 1891 95

OSCOLA 4th ed.  
" 1891-1892 95

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1892.]

PUBLIC ACTS.

95

SEC. 5. This act shall take effect on the first day of May, 1893.

Approved November 22, 1892.

No. 84.—AN ACT IN AMENDMENT OF SECTION 4074 OF THE REVISED LAWS, RELATING TO GAMES.

*It is hereby enacted by the General Assembly of the State of Vermont :*

Section four thousand and seventy-four of the Revised Laws is hereby amended by inserting therein, after the word "billiard table," in the first line of said section, the words "pool table."

Approved November 15, 1892.

No. 85.—AN ACT AGAINST CARRYING CONCEALED WEAPONS.

*It is hereby enacted by the General Assembly of the State of Vermont :*

SECTION 1. A person who shall carry a dangerous or deadly weapon, openly or concealed, with the intent or avowed purpose of injuring a fellow man, shall, upon conviction thereof, be punished by a fine not exceeding two hundred dollars, or by imprisonment not exceeding two years, or both, in the discretion of the court.

SEC. 2. A person who shall carry or have in his possession while a member of and in attendance upon any school, any firearms, dirk knife, bowie knife, dagger or other dangerous or deadly weapon shall, upon conviction thereof, be fined not exceeding twenty dollars.

Approved November 19, 1892.

No. 86.—AN ACT TO PREVENT FRAUD AT AGRICULTURAL FAIRS AND EXHIBITIONS OF HORSES.

- |                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>SECTION.</p> <p>1. Societies authorized to hold public fairs may offer premiums or purses for competition of horses in respect to speed, and may make rules for the conduct of their exhibitions.</p> | <p>SECTION.</p> <p>2. Societies may classify horses respecting previous exhibitions of speed.</p> <p>3. Penalty for entering disguised horse, representing animal to be another horse; or entering horse in a class in which he is not eligible.</p> <p>4. When to take effect.</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

*It is hereby enacted by the General Assembly of the State of Vermont:*

SECTION 1. Agricultural societies, corporations and associations, authorized under the laws of this State to hold public fairs

for the competition of horses or horse kind in respect to speed, are hereby authorized to offer premiums or purses for success in such competition, and to conduct and manage their exhibitions in accordance with their own rules and regulations, publicly advertised, and not in conflict with the laws of this State.

SEC. 2. Such societies, corporations and associations are hereby authorized to establish and designate classes of horses or horse kind, with respect to the previous exhibitions of speed of such animals, or to any other reasonable and lawful grounds of classification, particularly set forth in such publicly advertised rules or regulations.

SEC. 3. Whoever, for the purpose of competing for any purse or premium, offered by any such society, corporation or association within this State, shall knowingly and designedly enter or drive any horse or animal of the horse kind that shall have been painted or disguised; or who, for such purpose, shall falsely and fraudulently represent any animal of the horse kind to be another or different animal from the one it really is; or who knowingly or designedly, for the purpose of competing for any such premium or purse, shall enter or drive any horse, or animal of the horse kind, in a class where it is not entitled to be entered, under the said rules and regulations of the society, corporation or association offering such premium or purse, shall be deemed guilty of an offense under section four thousand one hundred and fifty-four (4154) of the Revised Laws of Vermont; and upon conviction, shall be punished by a fine of not more than five hundred dollars, or by imprisonment not exceeding six months.

SEC. 4. This act shall take effect from its passage.

Approved November 16, 1892.

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No. 87.—AN ACT TO PREVENT FRAUD IN THE SALE  
OF LARD.

*It is hereby enacted by the General Assembly of the State of Vermont:*

SECTION 1. No manufacturer or other person shall sell, deliver, prepare, put up, expose or offer for sale any lard, or any article intended for use as lard, which contains any ingredient but the pure fat of swine, in any tierce, bucket, pail, or other vessel or wrapper, or under any label bearing the words "pure," "refined," "family," or either of them, alone or in combination with other words, unless every vessel, wrapper or label, in or under which such article is sold, delivered, prepared, put up or exposed for sale, bears on the top or outer side thereof, in letters not less than one-half inch in length and plainly exposed to view, the words "compound lard."



# Exhibit 30



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Bluebook 21st ed.  
1870 145 .

ALWD 7th ed.  
, , 1870 145 .

Chicago 17th ed.  
" , " Louisiana - 1st Legislature, 3rd Session; 1st Legislature, 2nd Session : 145-161

AGLC 4th ed.  
" Louisiana - 1st Legislature, 3rd Session; 1st Legislature, 2nd Session 145

OSCOLA 4th ed.  
" 1870 145

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False certifi-  
cates, etc.

Sec. 63. *Be it further enacted, etc.,* That any person who shall vote or attempt to vote on any false or fraudulent paper or certificate of registration, or upon any paper or certificate of registration issued to a person other than the one voting or attempting to vote on said paper or certificate of registration, shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine not exceeding five hundred dollars nor less than one hundred dollars, and by imprisonment in the penitentiary for a term not less than one year nor more than three years.

Bribery and vio-  
lence.

Sec. 64. *Be it further enacted, etc.,* That any person who shall induce, by offer of reward, by threats of violence, or otherwise, any person to vote or attempt to vote on any false or fraudulent paper or certificate of registration, or upon any papers or certificate of registration belonging to a person other than the one voting or attempting to vote on said paper or certificate of registration, shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine not exceeding five hundred dollars nor less than one hundred dollars, and by imprisonment in the penitentiary for a period not exceeding three years nor less than one year.

Twice voting.

Sec. 65. *Be it further enacted, etc.,* That any person who shall vote or attempt to vote more than once at the same election, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars, and by imprisonment in the penitentiary for a term of not less than three years.

Arrest of offend-  
ers.

Sec. 66. *Be it further enacted, etc.,* That it shall be the duty of any commissioner of election to forthwith arrest any person who shall vote or attempt to vote more than once, and commit him to the parish prison, and to immediately file an information against such person with the district attorney or district attorney *pro tempore* whose duty it shall be to prosecute such person before the proper court; and upon his failure so to do, the Attorney General shall appoint some attorney to prosecute such person, and also to prosecute such district attorney or district attorney *pro tempore* for such failure. Any supervisor of registration, commissioner of election, district attorney, or district attorney *pro tempore* who shall refuse, neglect or fail to comply with the provisions of this section of this act, shall be deemed guilty of a misdemeanor in office, and upon conviction thereof shall be removed from office, and punished by a fine of not less than one hundred dollars, and imprisonment for not less than three nor more than six months.

Influencing  
voters.

Sec. 67. *Be it further enacted, etc.,* That any person who shall, by threats of discharge from employment, of withholding wages, or proscription in business, influence or attempt to influence any voter in the casting of his vote at any election, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five hundred dollars, which shall go to the school fund of the parish, and by imprisonment in the parish prison for not less than three months.

Discharge from  
employment of  
voter.

Sec. 68. *Be it further enacted, etc.,* That any person who shall discharge from his employment any laborer, employe, tenant or mechanic, who shall have been working for such person under contract, written or oral, for a specified time before such time shall have expired, or who shall withhold from any laborer, employe, tenant or



mechanic any part of the wages due to such laborer, employe, tenant or mechanic, on account of any vote which such laborer, employe, tenant or mechanic has given or purposes to give, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than five hundred dollars, one half of which shall go to the school fund of the parish in which the offense was committed, and by imprisonment in the parish prison for not less than three months.

Sec. 69. *Be it further enacted, etc.*, That any person who shall molest, disturb, interfere with, or threaten with violence, any commissioner of election or person in charge of the ballot boxes, while in charge of the same, between the time of the close of the polls and the time that said ballot boxes are delivered to the supervisor of registration, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than five hundred dollars, or by imprisonment in the penitentiary not less than one year, or both, at the discretion of the court.

Interference  
with commis-  
sioners, etc.

Sec. 70. *Be it further enacted, etc.*, That any person not authorized by this law to receive or count the ballots at an election, who shall, during or after any election, and before the votes have been counted by the supervisors of registration, disturb, displace, conceal, destroy, handle or touch any ballot, after the same has been received from the voter by a commissioner of election, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars, or by imprisonment for not less than six months, or both, at the discretion of the court.

Disturbing the  
counting of bal-  
lots.

Sec. 71. *Be it further enacted, etc.*, That any person not authorized by this law to take charge of the ballot boxes at the close of the election who shall take, receive, conceal, displace or [in] any manner handle or disturb any ballot box at any time between the hour of the closing of the polls and the transmission of the ballot box to the supervisor of registration, or during such transmission, or at any time prior to the counting of the votes by the supervisor of registration, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than five hundred dollars, or by imprisonment in the penitentiary not less than one year, or both, at the discretion of the court.

Interference  
with ballot  
boxes.

Sec. 72. *Be it further enacted, etc.*, That if any person shall by bribery, menace, willful falsehood, or other corrupt means, directly or indirectly attempt to influence any elector of this State in the giving his vote or ballot, or to induce him to withhold the same, or disturb or hinder him in the free exercise of the right of suffrage at any election in this State, he shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not more than five hundred dollars, and be imprisoned in the parish prison for a term not exceeding six months, and shall also be ineligible to any office in the State for the term of two years.

Interference  
with free exer-  
cise of right of  
suffrage.

Sec. 73. *Be it further enacted, etc.*, That it shall be unlawful for any person to carry any gun, pistol, bowie knife or other dangerous weapon, concealed or unconcealed, on any day of election during the hours the polls are open, or on any day of registration or revision of registration, within a distance of one-half mile of any place of registration or revision of registration; any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than one hundred dol-

Weapons.



lars, and by imprisonment in the parish jail for not less than one month; provided, that the provisions of this section shall not apply to any commissioner or officer of the election or supervisor or assistant supervisor of registration, police officer or other person authorized to preserve the peace on days of registration or election.

**Liquors.** Sec. 74. *Be it further enacted, etc.,* That no person shall give, sell or barter any spirituous or intoxicating liquors to any person on the day of election, and any person found guilty of violating the provisions of this section shall be fined in a sum of not less than one hundred dollars, nor more than three hundred dollars, which shall go to the school fund.

**Corruptly voting.** Sec. 75. *Be it further enacted, etc.,* That whoever, knowing that he is not a qualified elector, shall vote or attempt to vote at any election, shall be fined in a sum not to exceed one hundred dollars, to be recovered by prosecution before any court of competent jurisdiction.

**Double vote.** Sec. 76. *Be it further enacted, etc.,* That whoever shall knowingly give or vote two or more ballots folded as one at any election, shall be fined in a sum not to exceed one hundred dollars, to be recovered by prosecution before any court of competent jurisdiction.

**Bribery to influence voters.** Sec. 77. *Be it further enacted, etc.,* That whoever, by bribery or by a promise to give employment or higher wages to any person, attempts to influence any voter at any election, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, and by imprisonment in the parish prison for not less than three months.

**Obtaining illegal voting.** Sec. 78. *Be it further enacted, etc.,* That whoever willfully aids or abets any one, not legally qualified, to vote or attempt to vote at any election, shall be fined in a sum of not less than fifty dollars, to be recovered by prosecution before any court of competent jurisdiction.

**Disorderly houses.** Sec. 79. *Be it further enacted, etc.,* That whoever is disorderly at any poll or voting place during an election, shall be fined in a sum not less than twenty dollars, to be recovered by prosecution before any court of competent jurisdiction.

**Meetings of citizens.** Sec. 80. *Be it further enacted, etc.,* That whoever shall molest, interrupt or disturb any meeting of citizens assembled to transact or discuss political matters, shall be fined in a sum not less than fifty dollars, to be recovered by prosecution before any court of competent jurisdiction.

Any sheriff, constable or police officer present at the violation of this section shall forthwith arrest the offender or offenders, and convey him or them, as soon as practicable, before the proper court.

**Imprisonment.** Sec. 81. *Be it further enacted, etc.,* That the court imposing any fine, as directed in sections seventy-four, seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine and eighty of this act, shall commit the person so fined to the parish prison until the fine is paid; *Provided,* That said imprisonment shall not exceed six months.

**Perjury.** Sec. 82. *Be it further enacted, etc.,* That in cases where any oath or affirmation shall be administered by any supervisor of registration, assistant supervisor of registration or commissioner of election, in the performance of his duty as prescribed by law, any person swearing or affirming falsely in the premises shall be deemed guilty of perjury, and subjected to the penalties provided by the law for perjury.

**Duty of Governor to insure peace.** Sec. 83. *Be it further enacted, etc.,* That the Governor shall take all necessary steps to secure a fair, free and peaceable election; and shall, on the days of election, have paramount charge and con-

trol of the peace and order of the State, over all peace and police officers, and shall have the command and direction in chief of all police officers, by whomsoever appointed, and of all sheriffs and constables in their capacity as officers of the peace.

SEC. 84. *Be it further enacted, etc.* That to defray the expenses of the next revision of registration, and of the next general election, there is hereby appropriated out of any funds in the treasury not otherwise appropriated, the sum of fifty thousand dollars (\$50,000), or so much thereof as may be necessary.

SEC. 85. *Be it further enacted, etc.* That all laws or parts of laws contrary to the provisions of this act, and all laws relating to the same subject matter are hereby repealed, and that this act shall take effect from and after its passage.

(Signed) MORTIMER CARR,  
Speaker of the House of Representatives.

(Signed) OSCAR J. DUNN,  
Lieutenant Governor and President of the Senate.

Approved March 16, 1870.

(Signed) H. C. WARMOTH,  
Governor of the State of Louisiana.

A true copy:  
GEO. E. BOVER,  
Secretary of State.

[No. 101.]

AN ACT

To define and regulate the cost of the Clerks, Sheriffs, Recorders and Notaries Public throughout the State of Louisiana, and providing forfeitures and penalties for overcharging or failing to perform their duties, and the mode of collecting their fees.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Louisiana, in General Assembly convened,* That the clerks of the district courts throughout the State shall be entitled to demand and receive the following fees of office, and no more; and they shall not be entitled to charge any other fees of office than those specially set forth therein, for any services as clerks which they may be required to render:

- For indorsing, registering and filing petition, for all, ten cents.
- For indorsing, registering and filing answer, for all, ten cents.
- For issuing citation, with copy of same, with certificate and seal on each, fifty cents, one charge for both.
- For issuing attachment, with copy of same, with certificates and seals on both, one dollar, one charge for both.
- For issuing *ieri factas*, with seal, fifty cents.
- For issuing writ of seizure and sale, with seal, one dollar.
- For issuing writ of sequestration, with copy of same, with certificates and seals, one dollar, one charge for both.
- For issuing writ of *certiorari*, with copy of same, with certificates and seals, one dollar, one charge for both.

# Exhibit 31

*Tex. Laws, Statutes, etc. Digest*

# A DIGEST

OF THE

# LAW S OF TEXAS:

CONTAINING THE LAWS IN FORCE,

AND

# THE REPEALED LAWS

ON WHICH RIGHTS REST,

FROM 1864 TO 1872,

CAREFULLY ANNOTATED.

BY GEORGE W. PASCHAL,

*OF AUSTIN, TEXAS,*

LATE REPORTER OF THE SUPREME COURT OF TEXAS, AUTHOR OF PASCHAL'S ANNOTATED CONSTITUTION, PASCHAL'S DIGEST OF DECISIONS, ETC., ETC.

Third Edition—Volume II.

8.

WASHINGTON, D. C.:

W. H. & O. H. MORRISON,

LAW BOOKSELLERS AND PUBLISHERS.

1873.

*5  
10-11  
2-11  
EWS*

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CRIMINAL CODE.

1317

ceeding one thousand dollars, and imprisoned in the penitentiary for a period not exceeding three years.

CHAPTER IV.—RIOTS AND UNLAWFUL ASSEMBLIES AT ELECTIONS, VIOLENCE USED TOWARDS ELECTORS. 11 July, 1870. Art. 6476 for caption.

ART. 6485. [28] Any person who may, by threats, intimidation, or violence, resist or impede a registrar, or board of appeals or revision, in the discharge of their duties, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine of not less than fifty, nor more than one hundred dollars, and by imprisonment of not less than sixty days, or more than six months, in the county jail. Punishment of threats and intimidation impeding registration. Art. 6684.

ART 6486. [28] Any registrar who, by violence or threats, is impeded in the discharge of his duty, shall report the same to the sheriff, who shall furnish a sufficient force to enable him to proceed in the discharge of his duty. Registrars to report violence.

ART. 6487. [38] Any person or persons who shall disturb the registrars or boards of revision in the full and fair discharge of their duties, by acts of intimidation, by inciting or encouraging a tumult or mob, or who shall cause such disturbance, or encourage, or abet any tumult, mob, or violence in the vicinity of any place of registry, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding five hundred dollars, or by imprisonment in the penitentiary for a period not exceeding two years, nor less than six months Disturbers of registrars punished. Fine or imprisonment.

ART. 6488. [46] (cl. 1) Any person who shall, by threats of discharge from employment, of withholding wages, or of proscription in business, influence, or attempt to influence, any voter in the casting of his vote at any election, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than five hundred dollars, one-half of which shall go to the informer, and the other half to the school fund of the state, and by imprisonment in the county prison for not less than three months. Intimidation of voter by threats punished as misdemeanor. Art. 1893. Fine not less than \$500. and 3 months imprisonment.

ART. 6489. [43] (cl. 2) Any person who shall discharge from his employment any laborer, employé, tenant, or mechanic, who shall have been working for such person under contract, written or oral, for a specified time, before such time shall have expired, or who shall withhold from any laborer, employé, tenant, or mechanic, any part of the wages due to such laborer, employé, tenant, or mechanic, on account of any vote which such laborer, employé, tenant, or mechanic has given, or purposes to give, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than five hundred dollars, one-half of which shall go to the informer, and the other half to the school fund of the state, and by imprisonment in the county jail for not less than three months. Punishment for discharging laborer on account of his vote; made a misdemeanor, and punished by fine not less than \$500 and 3 months imprisonment.

ART. 6490. [55] (1) It shall be unlawful for any person to carry any gun, pistol, bowie-knife, or other dangerous weapon, concealed or unconcealed, on any day of election, during the hours the polls are open, within a distance of one half mile of any place of election. (2) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than one hundred dollars, and by imprisonment in the county jail for not less Carrying weapons at election punished. Art. 1891. Penalty for violating this section.

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1318

CRIMINAL CODE.

Officers of election and police exempted.

than one month: *Provided*, That the provisions of this section shall not apply to any officer of the election, police officer, or other person authorized to preserve the peace on the days of election.

Selling liquor on days of election.

ART. 6491. [56] No person shall give, sell, or barter any spirituous or intoxicating liquor to any person on the days of election; and any person found guilty of violating the provisions of this section shall be fined in a sum not less than one hundred dollars, nor more than three hundred dollars, which shall go to the school fund.

School fund.

15 Aug., 1870: art. 6481 for caption. Disturbing election by mob punished. Arts. 1891-1894.

ART. 6492. [49] Any person or persons who shall disturb an election, by inciting or encouraging a tumult or mob, or shall cause such disturbance in the vicinity of any poll or voting place, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by a fine not exceeding five hundred dollars, nor less than two hundred dollars, and by imprisonment in the penitentiary for a period not exceeding two years, nor less than six months.

11 July, 1870. Art. 6476 for caption.

CHAPTER V.—MISCELLANEOUS OFFENSES AFFECTING THE RIGHT OF SUFFRAGE.

Alterations, changes, and mutilations of registration books punished by fine or imprisonment. Art. 1900.

ART. 6493. [26] If any person shall alter, change, mutilate, or in any manner deface any book of registration, or shall take and carry away the same from the office of the clerk of the district court, registrar, or judge of election, or other place where the same may be lawfully deposited, or from the lawful possession of any person whomsoever, with intent to destroy, suppress, alter, or conceal, or in any wise mutilate or destroy the same, so as to prevent the lawful use of such book or books of registration, such person shall be deemed guilty of felony, and, upon conviction thereof, shall be punished as prescribed in section twenty-five of this act.

Art. 6480.

Punishment for false registration and illegal voting. Perjury. Art. 1898.

ART. 6494. [32] (cl. 1) Any person who shall take and subscribe the registration oath falsely shall, upon conviction thereof, be punished as provided by law for the crime of perjury, and any person who shall knowingly and willfully vote, or attempt to vote, upon the registration certificate of another, or of one who may be dead, shall, upon conviction thereof, forfeit and pay a fine of five hundred dollars, and in default thereof shall be imprisoned in the county jail for a term not exceeding one year.

Penalty.

Giving false name punished by fine or imprisonment.

ART. 6495. [32] (cl. 2) Any person giving a false name, with intent to deceive a registrar, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and fined in a sum not to exceed one hundred dollars, or be punished by imprisonment in the county jail for a term not to exceed one year.

15 Aug., 1870. Art. 6481 for caption. Disturbing ballots punished by fine or imprisonment.

ART. 6496. [47] Any person not authorized by this law to receive or count ballots at an election, who shall, during or after any election, and before the votes have been counted by the judges of election, disturb, displace, conceal, destroy, handle, or touch any ballot, after the same has been received from the voter by the judge of election, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars, or by imprisonment for not less than six months, or both, at the discretion of the court.

At discretion.

Repeaters punished by fine and imprisonment. Art. 1897.

ART. 6497. [48] Any person who shall vote, or attempt to vote, more than once at the same election, shall be deemed guilty of a felony, and, upon conviction thereof, shall be pun-

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# Exhibit 32

20013470

THE MARYLAND CODE.

---

Public Local Laws,

CODIFIED BY

JOHN PRENTISS POE.

---

ADOPTED BY THE GENERAL ASSEMBLY OF MARYLAND  
MARCH 14, 1888.

---

*Including also the Public Local Acts of the Session of 1888  
incorporated therein.*

BY AUTHORITY OF THE



STATE OF MARYLAND.

VOLUME II,

CONTAINING ARTICLE 11, FREDERICK COUNTY, TO ARTICLE 24,  
WORCESTER COUNTY.

---

BALTIMORE:

KING BROS., PRINTERS AND PUBLISHERS.

1888.



ART. 15.] ELECTION DISTRICTS—FENCES. 1457

1874, ch. 250.

**99.** It shall not be lawful for any person in Kent county to carry, on the days of election, secretly or otherwise, any gun, pistol, dirk, dirk-knife, razor, billy or bludgeon; and any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof before any justice of the peace of said county, shall be fined not less than five nor more than twenty dollars, and on refusal to pay said fine shall be committed by such justice of the peace to the jail of the county until the same shall be paid.

Ibid.

**100.** The fines collected under the preceding section shall be paid by the officer collecting the same, to the school commissioners of the county, for school purposes.

Ibid.

**101.** Any constable of said county, or the sheriff thereof, who shall refuse to arrest any person violating section 99, upon information of such offence, shall be deemed guilty of a misdemeanor, and on conviction thereof before the circuit court shall be fined not less than twenty nor more than fifty dollars, and shall forthwith be discharged from office.

**FENCES.**

P. L. L., (1860,) art. 14, sec. 91.

**102.** Wherever joint fences have been or may be established in said county, for the mutual advantage of different owners or possessors of adjoining lands, each party shall keep in good repair his proper proportion thereof, in manner following, that is to say: all post and rail or plank fences shall be at least four feet six inches high, and not more than four inches between the lower and second, and not more than five inches between the second and third rails; and all worm or other fences shall be five feet high; the height of said fences to be in every case computed from the ground or base of any embankment upon which they may be erected.

Ibid. sec. 92.

**103.** If either of the parties so making or keeping a joint fence shall not comply with the provisions of the preceding

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# Exhibit 33

HENRY LLOYD, ESQUIRE, GOVERNOR.

315

G. L. Copeland; and also to issue his warrant upon the Treasurer for the sum of sixty dollars, payable to the order of Abram Zarks; and also to issue his warrant upon the Treasurer for the sum of sixty dollars, payable to the order of C. E. Gordon; the said sums of money having been paid for State license erroneously issued to said persons by the Clerk of the Circuit Court of Anne Arundel county.

SEC. 2. *And be it enacted*, That this act shall take effect from the date of its passage. Effective.

Approved April 7, 1886.

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CHAPTER 189.

AN ACT to prevent the carrying of guns, pistols, dirk-knives, razors, billies or bludgeons by any person in Calvert county, on the days of election in said county, within one mile of the polls.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That from and after the passage of this act, it shall not be lawful for any person in Calvert county to carry, on the days of election and primary election, within three hundred yards of the polls, secretly, or otherwise, any gun, pistol, dirk, dirk-knife, razor, billy or bludgeon, and any person violating the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof by the Circuit Court of Calvert county having criminal jurisdiction thereof, or before any Justice of the Peace in said county, shall be fined not less than ten nor more than fifty dollars for each offence, and on refusal or failure to pay said fine, shall be committed to the Jail of the county until the same is paid.

Unlawful to carry weapons to the polls.

SEC. 2. *And be it enacted*, That the fines collected under this act shall be paid by the offi-

# Exhibit 34



# ACTS

AND

## JOINT RESOLUTIONS

PASSED BY

# THE GENERAL ASSEMBLY

OF THE

## STATE OF VIRGINIA

DURING THE

SESSION OF 1877-78.

---

RICHMOND:

R. F. WALKER, SUPERINTENDENT PUBLIC PRINTING.

1878.

304

## ACTS OF ASSEMBLY.

Penalty      ished by a fine not exceeding one hundred dollars, or by imprisonment in jail not exceeding six months.

*Cruelty to animals; profanity and drunkenness.*

Cruelty to animals      15. If a person cruelly beat or torture any horse, animal or other beast, whether his own or that of another, he shall be fined not exceeding fifty dollars.

Penalty  
Profanity and drunkenness      16. If any person, arrived at the age of discretion, profanely curse or swear, or get drunk, he shall be fined by a justice one dollar for each offence.

Penalty

*Violation of the Sabbath.*

Violation of Sabbath      17. If a person, on a Sabbath day, be found laboring at any trade or calling, or employ his apprentices or servants in labor or other business, except in household or other work of necessity or charity, he shall forfeit two dollars for each offence; every day any servant or apprentice is so employed constituting a distinct offence.

Penalty

*Exceptions as to the mail, and as to certain persons.*

Transportation of mail excepted      18. No forfeiture shall be incurred under the preceding section for the transportation on Sunday of the mail, or of passengers and their baggage. And the said forfeiture shall not be incurred by any person who conscientiously believes that the seventh day of the week ought to be observed as a Sabbath, and actually refrains from all secular business and labor on that day: provided he does not compel an apprentice or servant, not of his belief, to do secular work or business on Sunday, and does not on that day disturb any other person.

Exception as to certain religiousists

Proviso

Sale of intoxicating liquors prohibited between certain hours      19. No bar-room, saloon, or other place for the sale of intoxicating liquors, shall be opened, and no intoxicating bitters or other drink shall be sold in any bar-room, restaurant, saloon, store, or other place, from twelve o'clock on each and every Saturday night of the week, until sunrise of the succeeding Monday morning; and any person violating the provisions of this section, shall be deemed guilty of a misdemeanor, and, if convicted, shall be punished by fine not less than ten nor more than five hundred dollars; and shall, moreover, at the discretion of the court, forfeit his license: provided that this law shall not apply to any city having police regulations on this subject, and an ordinance inflicting a penalty equal to the penalty inflicted by this section.

Penalty

Proviso

Disturbance of religious worship      20. If a person willfully interrupt or disturb any assembly met for the worship of God, or being intoxicated, if he disturb the same, whether willfully or not, he shall be confined in jail not more than six months, and fined not exceeding one hundred dollars, and a justice may put him under restraint during religious worship, and bind him for not more than one year to be of good behavior.

Penalty

## ACTS OF ASSEMBLY.

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21. If any person carrying any gun, pistol, bowie-knife, dagger, or other dangerous weapon, to any place of worship while a meeting for religious purposes is being held at such place, or without good and sufficient cause therefor, shall carry any such weapon on Sunday at any place other than his own premises, shall be fined not less than twenty dollars. Carrying dangerous weapons at a place of worship or on Sunday

If any offence under this section be committed at a place of religious worship, the offender may be arrested on the order of a conservator of the peace, without warrant, and held until warrant can be obtained, but not exceeding three hours. Penalty

It shall be the duty of justices of the peace, upon their own knowledge, or upon the affidavit of any person, that an offence under this section has been committed, to issue a warrant for the arrest of the offender. Offenders subject to arrest without warrant

Duty of justices where he knows of offence under this section

*Protection of religious assemblies; prohibition against sale of liquors or other things near such meetings; proviso.*

22. If any person shall erect, place, or have any booth, stall, tent, carriage, boat, vessel, vehicle, or other contrivance whatever, for the purpose or use of selling, giving, or otherwise disposing of any kind of spirituous and fermented liquors, or any other articles of traffic; or shall sell, give, barter, or otherwise dispose of any spirituous or fermented liquors, or any other articles of traffic within three miles of any camp-meeting, or other place of religious worship, during the time of holding any meeting for religious worship at such place, such person, on conviction before a justice of the peace, for the first offence, shall be fined not less than ten dollars, nor more than twenty dollars, and stand committed to jail until the fine and costs are paid; and for the second offence, shall be fined as aforesaid, and be imprisoned not less than ten nor more than thirty days. Sale of liquors, &c., prohibited

23. If any person shall commit any offence against the provisions of the preceding section, he shall, in addition to the penalties therein mentioned, forfeit all such spirituous or fermented liquors, and other articles of traffic, and all the chests and other things containing the same, belonging to and in the possession of the person so offending, together with such booth, stall, tent, carriage, boat, vessel, vehicle, or other contrivance or thing prepared and used in violation of said section; and it shall be the duty of any sheriff, deputy sheriff, or constable, if he sees any person violating the preceding section, to arrest the offender and carry him before a justice of the peace. The sheriff, deputy sheriff, or constable, when he arrests the offender, shall seize the property hereby declared to be forfeited, or shall seize the same on a warrant against the offender, if such offender cannot be found; and the justice of the peace before whom such offender is convicted, or before whom the warrant is returned that the offender cannot be found, shall enter judgment of condemnation against such property, and issue a fieri facias for the Penalty

Additional penalty

Duty of sheriffs, &c., to arrest offender and seize the property

Judgment of condemnation



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ACTS OF ASSEMBLY.

Fl. fn. to issue  
Proviso sale thereof: provided the person who has been returned not found, and whose property has been condemned in his absence, may appear at any time before the sale of the property and have the case tried as if he had appeared at the return of the warrant.

To whom provisions not to apply 24. The provisions of the two preceding sections shall not apply to any licensed tavern-keeper, merchant, shop-keeper, farmer, or other person in the usual and lawful transaction of his ordinary business, in the usual place of transacting such business, or to any person having permission, in writing from the superintendent of such meeting, to sell such articles as may be named in such permission: provided this permission shall not extend to the sale of any spirituous or fermented liquors.

Proviso

*Right of appeal.*

Right of appeal preserved 25. Nothing in this chapter shall prevent the courts of record from exercising their common law or statutory jurisdiction in all cases for disturbing public worship: provided that the party convicted under the twenty-second or twenty-third sections of this chapter shall have the right to appeal to the next county court for the county where the conviction is had, upon giving bail for his appearance at court, and upon such appeal shall be entitled to a trial by jury: and provided further, that when any person or persons are proceeded against under the twenty-second or twenty-third sections of this chapter, he or they shall not be held to answer for the same offence before any grand jury or court of record, except as herein provided.

Proviso

Persons proceeded against not subject to answer before grand jury

*Temporary police force for religious meetings.*

Temporary police authorized 26. The supervisor, or any justice of the magisterial district where the meeting is held, shall have power to appoint a temporary police to enforce the provisions of this chapter.

CHAPTER VIII.

OF OFFENCES AGAINST PUBLIC HEALTH.

*Selling unsound provisions.*

Sale of unsound provisions 1. If a person knowingly sell any diseased, corrupted, or unwholesome provisions, whether meat or drink, without making the same known to the buyer, he shall be confined in jail not more than six months, and fined not exceeding one hundred dollars.

Penalty



# Exhibit 35

REVISED  
ORDINANCES

— OF THE —

CITY OF BOULDER

---

Published by Authority of the City.

---

OSCAR F. A. GREENE,  
COMPILER.

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1899:  
Printed by Ricketts & Kerr, at The News Office,  
BOULDER, COLORADO.

MAR 11 1909

Exhibit 35  
Page 180

**ER\_1799**

PARKS—PROTECTION.

157

thirty-two in township one north of range seventy west, is hereby named and shall hereafter be known as VALVERDAN PARK.

**510. Washington Park.**

SEC. 5. That the city property in the west half of the south-west quarter of section twenty-five in township one north of range seventy-one west, shall be named and hereafter known as WASHINGTON PARK.

PARKS.

An Ordinance for the Protection of the Several Parks Belonging to the City and of the Buildings and Reservoirs and Trees and Other Improvements at and Within Said Parks, and to Provide Penalties for Injuring the Same.

Passed October 4, 1898.

(With amendment as noted.)

**511. No firearms or shooting in.**

SECTION 1. Any person other than the police officers of the city who shall take or carry or cause to be taken or carried into any of the parks belonging to the City of Boulder, any gun, pistol, revolver, or other firearm, or who shall shoot any firearm at or towards or over or into or upon any of said parks, shall be deemed guilty of a misdemeanor. (As amended August 2, 1899.)

**512. No powder or explosives in.**

SEC. 2. Any person who shall take or carry or cause to be taken or carried into any of said parks, any powder of any quality or kind or any explosive or dangerous or inflammable or combustible substance, shall be deemed guilty of a misdemeanor.

**513. No fires or explosives.**

SEC. 3. Any person who shall start any fire or cause or permit to be started any fire in any of said parks, not



being thereunto first authorized by the Mayor, or who shall in any of said parks fire or explode any fire-crackers, torpedoes, or any other substance or thing containing powder or other explosive substance, shall be deemed guilty of a misdemeanor.

**514. Injury to property.**

SEC. 4. Any person who shall deface, tear down, destroy or injure in any manner whatsoever any fence, building, furniture, seat, structure, excavation, post, bracket, lamp, awning, fire plug, hydrant, water pipe, tree, shrub, plant, flower, railing, bridge, culvert, or any other property whatsoever belonging to the city or to any private corporation or persons in, at or upon any of said parks, shall be deemed guilty of a misdemeanor.

**515. Injury continued.**

SEC. 5. Any person who shall injure or damage in any manner whatsoever any property of the city at, in or upon any of said parks by cutting, hacking, bending, breaking, burning, daubing with paint or other substances, hitching of horses or other animals, or by means of fire, or by effecting such acts in any other manner, shall be deemed guilty of a misdemeanor.

**516. Violation—Misdemeanor Penalty.**

SEC. 6. Any person upon conviction of any misdemeanor specified in any of the five preceding sections herein shall be fined not less than five and not more than three hundred dollars.

PARKS.

An Ordinance in Relation to Cottages in Texado Park.

Passed April 17th, 1899.

WHEREAS, a contract was made on, to-wit, the 19th day of March, A. D. 1898, at Boulder, Colorado, by and

# Exhibit 36

#937

## An Ordinance Concerning the carrying of Arms or Deadly Weapons.

Be it ordained by the City Council of the City of San Antonio,

SECTION 1. That if any person shall, within the Corporate limits of the City of San Antonio, go into any church, or religious assembly, any school-room, or other place where persons are assembled, for educational, literary or scientific purposes, or into any ball room, social or wedding party, or other assembly or gathering, for amusement or instruction, composed of males and females, or to any election precinct in the city, on the day or days of any election, or into any Court room or court of Justice, or to any other place where people or individuals may be assembled, to perform any public duty, or shall go into any other public assembly, or shall enter any bar-room, drinking saloon or any other place where people resort for business or amusement, or shall join or accompany any public procession, having about his or her person, a bowie-knife, dirk, or butcher-knife or any fire-arms or arms, whether known as six-shooter, gun or pistol of any kind, or having about his or her person, what is known as brass-knuckles, slung shot, club, loaded or sword cane, or any other weapon of offence or defence. Such person shall be deemed guilty of a misdemeanor, and upon conviction thereof, before the Recorder of the city, shall be fined not less than five dollars nor more than one hundred dollars and costs, and in default of payment, shall be confined in the city prison, or placed at hard labor on the public works of the city, for not less than five days, nor more than thirty days, to be determined by the Recorder; Provided, this Ordinance shall not apply to any legally authorized conservator of the peace, when he may be in the lawful discharge of his duty.

SEC. 2. It shall be the duty of the Police of the city to strictly enforce this Ordinance, and promptly to arrest and disarm any person violating the same; Provided, that in all cases where arms are taken possession of by the police, as herein provided, they shall be returned to the owner when he leaves the city.

SEC. 3. This ordinance shall take effect and be in force from and after its publication.

Approved, San Antonio, December 14th, A. D. 1870.

WM. C. A. THIELEPAPE,  
Mayor City of San Antonio.

Attest :

G. W. BARTHOLOMEW, Jr., City Clerk.  
20-12-70d10f.

Exhibit 36  
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ROB BONTA  
Attorney General of California  
MARK R. BECKINGTON  
R. MATTHEW WISE  
Supervising Deputy Attorneys General  
TODD GRABARSKY  
JANE REILLEY  
LISA PLANK  
ROBERT L. MEYERHOFF  
Deputy Attorneys General  
State Bar No. 298196  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013-1230  
Telephone: (213) 269-6177  
Fax: (916) 731-2144  
E-mail: Robert.Meyerhoff@doj.ca.gov  
*Attorneys for Rob Bonta, in his Official Capacity as  
Attorney General of the State of California*

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)

**DECLARATION OF JOSHUA  
SALZMANN 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                   **DECLARATION OF PROFESSOR JOSHUA SALZMANN**

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

4           1.     I have been retained by the Office of the Attorney General of the  
5 California Department of Justice to provide expert opinions on the history of  
6 passenger transportation in the United States from the Colonial Period to the 21st  
7 century, with an emphasis on towns, cities, and settled, urban areas.

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

11                   **BACKGROUND AND QUALIFICATIONS**

12           3.     I am an associate professor in, and the associate chair of, the  
13 Department of History and Political Science at Northeastern Illinois University  
14 (“NEIU”). I earned my Ph.D. in U.S. History from the University of Illinois at  
15 Chicago in 2008. My teaching and scholarship focus on the history of cities, urban  
16 economies, public policy, and the built environment. A true and correct copy of my  
17 current curriculum vitae is attached as **Exhibit 1** to this declaration.

18           4.     I have produced prize-winning scholarship on urban and transportation  
19 history. I have published articles in leading peer-reviewed journals, an edited  
20 volume of scholarly essays, and several encyclopedias. My book, *Liquid Capital:*  
21 *Making the Chicago Waterfront*, was published by the University of Pennsylvania  
22 Press in 2018. *Liquid Capital* examines the political economy of Chicago’s  
23 waterfront—a crucial site for the transshipment of people, goods, and  
24 information—from the late 18th to the 20th century, emphasizing the significance  
25 of various forms transportation. My book won prizes for “superior scholarship”  
26 from the Illinois State Historical Society, an “Excellence Award” from NEIU, and  
27 an “honorable mention” in the Midwest History Association’s contest for the best  
28 book on the region’s history in 2019. My academic research has been supported by

1 several grants, including an award from the National Endowment for the  
2 Humanities.

3 5. I have presented my scholarship in various other forums, including the  
4 web, academic conferences, and invited lectures. In 2020, I created a guide to  
5 conducting historical research using Chicago city government documents that won  
6 a “best website” prize from the Illinois State Historical Society. I have presented  
7 scholarly papers at numerous conferences including the meetings of the: Newberry  
8 Library, Urban History Association, Midwest History Association, Illinois History  
9 Conference, Missouri Valley History Conference, and Business History Conference.  
10 I have also given invited lectures at the Chicago Gun Violence Research  
11 Collaborative and the Chicago Maritime Museum—where I serve as a collection  
12 consultant.

#### 13 **RETENTION AND COMPENSATION**

14 6. I am being compensated for services performed in the above-entitled  
15 case at an hourly rate of \$250. My compensation is not contingent on the results of  
16 my analysis or the substance of any testimony.

#### 17 **BASIS FOR OPINIONS, MATERIALS CONSIDERED, AND** 18 **METHODOLOGY**

19 7. The opinions I provide in this declaration are based on my education,  
20 expertise, and research in the fields of transportation, urban, and economic history,  
21 and my review and analysis of a wide range of primary and secondary sources.

22 8. The analysis I have provided draws primarily on a broad cross-section  
23 of peer-reviewed, historical scholarship on transportation, urban, and policy history.  
24 The studies I have consulted treat transportation and transportation infrastructure,  
25 firstly, as a material and technological artifact, explaining how it worked in a  
26 technical sense. Historians of transportation technology do not, however, fall into  
27 the trap of “technological determinism,” assuming the function of an artifact alone  
28 determined how history unfolded. Rather, we also address the question of “how it



1 worked” by considering, secondly, how various transportation technologies were  
2 (and sometimes were not) incorporated into distinctive—and ever-changing—  
3 social, political, and economic contexts. Thus, the following report both highlights  
4 the material changes in transportation as well as the ways that new technologies  
5 shaped—and were shaped by—the social, political, and physical landscape in  
6 different eras of U.S. history.

7 9. This declaration is comprised of two parts. The first part of this  
8 declaration provides an overview of the history of transportation in America,  
9 including a narrative description of the origin of America’s public transit systems in  
10 the first half of the 20th century. The second part of this declaration addresses  
11 historical rules and regulations related to the concealed carrying of weapons on  
12 transit systems.

13 **PART ONE: OVERVIEW OF THE HISTORY OF TRANSPORTATION IN**  
14 **THE UNITED STATES**

15 10. The American urban landscape is a canvas layered with brushstrokes  
16 of human engineering across more than two centuries. From the start of the republic  
17 to today, citizens, corporations, and government agencies have collaborated in  
18 constructing our nation’s infrastructure. They have built, broken, and rebuilt—  
19 repeatedly—the streets, waterways, railroads, subways, highways, and airports that  
20 disseminate ideas and information, move freight to market, and take people to the  
21 places where they worship, work, play, shop, and participate in civic life.

22 11. America’s transportation history is defined by a dizzying array of  
23 interests and actors—public and private and at all levels, from local to state to  
24 federal—sometimes working together and sometimes pulling in opposite directions,  
25 each with their own agendas, timeframes, and interests. Transportation has, by  
26 turns, been a tool for building the economy, advancing political careers, and doing  
27 the nuts and bolts work of nation-building. Above all, transportation is the sector  
28 where Americans not only think about—and compete over—what kind of nation

1 they want to build but spend vast sums of money to translate visions and ideas into  
2 on-the-ground realities.

3 12. The distinct periods of urban/transportation history in the United States  
4 include the Pre-Industrial Era (1600s-1800), The Canal and Early Steamboat Era  
5 (1800 to 1830s), the Industrial Railroad City Era (1840s to 1920s), and the Era of  
6 Modern Automotive City (1920s to 2020s). This declaration focuses on the first  
7 three of these distinct periods.

8 **I. Pre-Industrial Era, 1600s-1800s**

9 13. In 1721, Benjamin Franklin arrived in a quintessential pre-industrial  
10 walking city, Philadelphia. Arriving by ship at the city's waterfront, which was  
11 cluttered with wharves, warehouses, and taverns, Franklin bought some bread and  
12 took a walk through a Philadelphia that had all the hallmarks of pre-industrial  
13 settlements: dense populations, rich and poor people living in close proximity to  
14 each other, and the blending of living quarters and the workshops of artisans.<sup>1</sup>  
15 Franklin also experienced something a bit more novel, the urban grid, which was a  
16 product of William Penn's 1681 design. "I went up Market Street as far as Fourth  
17 Street..." recalled Franklin. "Then I turned and went down Chestnut Street and part  
18 of Walnut Street, eating my role, and coming round, found myself again at Market  
19 Street warf."<sup>2</sup> This prosaic experience pointed to several key elements of pre-  
20 industrial urban transportation: the centrality of the waterfront, dense settlements,  
21 and travel by the power of wind and foot.

22 14. Urban geographers have described 18th-century seaports like  
23 Philadelphia, New York, Charleston, Boston, and Baltimore as "hinge" cities.<sup>3</sup> With  
24 both ocean harbors and rivers penetrating the colonial interior, they functioned as a  
25 point for the collection of North American export commodities. Ships laden with  
26

27 <sup>1</sup> GIDEON SJOBERG, *THE PREDINDUSTRIAL CITY* (1960).

28 <sup>2</sup> JOHN R. STILGOE, *COMMON LANDSCAPES OF AMERICA, 1580 to 1845* 96  
(1982).

<sup>3</sup> MOHL AND BILES, *THE MAKING OF URBAN AMERICA*, *supra*, at 4.



1 tobacco, grain, rice, fish, furs, wheat, indigo, lumber, livestock, naval stores and  
2 minerals sailed from colonial America to Europe and the West Indies. They returned  
3 loaded with slaves, tea, sugar, migrants, and British manufactured goods, many of  
4 which became politicized during the American Revolution.<sup>4</sup> To facilitate this  
5 Atlantic World “triangular trade,” a host of industries cropped up along the  
6 waterfront docks: flour milling, brewing, ship building, and rope and barrel making.  
7 Urban craftsmen, merchants, and seamen frequently gathered, as Franklin often did,  
8 in taverns which became centers of social life and discourse about political rights  
9 and trade policy. British officials, meantime, managed and regulated the mercantile  
10 economy from administrative offices located in seaport cities. As the historical  
11 geographer Carville V. Earle put it, “colonization was unthinkable without them.”<sup>5</sup>  
12 In spite of their economic centrality, those cities were small. Boston’s population in  
13 1700 stood at 7,000. New York had 5,000 people, and Philadelphia and Charleston  
14 claimed about 2,000 inhabitants. A century later, Boston had grown to 25,000, New  
15 York to 60,000, Philadelphia to 62,000, Charleston to 13,000 and Baltimore, a  
16 newer city, contained 27,000 people.<sup>6</sup>

17 15. Colonial and Revolutionary Era Americans lived in a world of wind,  
18 wood, human, and animal power. While inventors like Thomas Newcomen and  
19 James Watt were developing steam engine technology in the 18th century, it was  
20 not widely harnessed for ship and railroad travel until the 1800s.<sup>7</sup> The most  
21 common options for long-distance travel included horseback, a small boat, walking,  
22 or a wagon—all of which were slow and arduous compared to forms of travel that

23  
24 <sup>4</sup> T.H. BREEN, THE MARKETPLACE OF REVOLUTION: HOW CONSUMER  
POLITICS SHAPED AMERICAN INDEPENDENCE (2005).

25 <sup>5</sup> Earle quoted in MOHL AND BILES, THE MAKING OF URBAN AMERICA, *supra*, at  
26 4.

26 <sup>6</sup> Gary B. Nash, The Social Evolution of Preindustrial American Cities, 1700-1820 in the  
27 MAKING OF URBAN AMERICA 17-18 (Raymond A. Mohl & Roger Biles eds., 2012).

27 <sup>7</sup> MARTIN V. MELOSI, COPING WITH ABUNDANCE: ENERGY AND  
28 ENVIRONMENT IN INDUSTRIAL AMERICA (1985).

1 would emerge in the 19th century. The most expensive options were booking  
2 passage on a ship or a stagecoach line. For short-distance travel, well-off people  
3 could hire wagons, called “taxis” or “hackneys,” to go across town, or they could  
4 take their own horses or wagons. Most people, especially those without means,  
5 walked. Prior to the 1820s, no city possessed a land-based mass-transit system.<sup>8</sup>

6 A. City Streets, Natural Roads, and Turnpikes

7 16. Two distinct models of city street design defined colonial America, one  
8 lacking a master plan and the other rationally ordered by a planner. Boston  
9 embodied the former style of development. Philadelphia embodied the latter.

10 17. Though Boston was not planned by a single person, New England  
11 towns were nonetheless built according to principals that derived from 17th century  
12 traditions. The core idea animating this design was that the town was a communal  
13 entity and its survival was the paramount concern. An anonymous New Englander  
14 articulated these in the 1635 “Ordering of Towns,” which proposed that settlements  
15 consist of concentric zones within a six-square-mile area with the core consisting of  
16 a meetinghouse—for religious and governmental purposes—surrounded by a zone  
17 of houses, and then a zone of fields and pastures for commonly-held crops and  
18 livestock. At a point when the settlement’s survival seemed secure, the common  
19 fields and pasture lands were divided among the households and new zones were  
20 opened up for settlement by freeholders. Reflecting the centrality of the  
21 meetinghouse, most “roads” or public “ways” radiated from the center of the town  
22 outward. In its earliest years, Boston reflected this organization with its  
23 meetinghouse situated at the center of town life. That changed quickly, however, as  
24 Boston became a thriving commercial center. The population grew too large to meet  
25 in a single meetinghouse, and Boston’s clergy established distinctive churches.

26  
27 <sup>8</sup> KENNETH T. JACKSON, CRABGRASS FRONTIER: THE SUBURBANIZATION  
28 OF THE UNITED STATES 33 (1985).



1 Meantime, waterfront wharves, built with a combination of public and private  
2 money, became spatial foci as crucial to city life as its meetinghouse and churches.<sup>9</sup>

3 18. As it grew quickly, urban development proceeded haphazardly in  
4 Boston. In 1666, Boston's selectmen ordered that two "street ways" be laid out to  
5 accommodate people. The term "street" was significant because, by the late-16<sup>th</sup>  
6 century it had acquired a distinctive connotation from "road." A street evoked a  
7 passageway through a town—a pathway for carts, wagons, and horses—cut through  
8 the verticality of abutting buildings and often bordered by pedestrian sidewalks.  
9 Streets also promised action, throngs of strangers, and play. An observer of  
10 Boston's streets in 1650 noted they were full "of girls and boys sporting up and  
11 down, with a continued concourse of people." However, city streets were not  
12 always constructed directly by government. Boston, for instance, frequently  
13 empowered individuals to construct streets, a practice that was replicated in other  
14 cities. The individuals who built the street, in turn, sold off abutting lots. Boston's  
15 pattern of development produced a somewhat chaotic urban landscape—with  
16 narrow, crooked streets. This pattern of private construction of city streets persisted  
17 throughout the 18th century and, in many places, well into the 19th century.<sup>10</sup>

18 19. By contrast, William Penn introduced the grid to the English colonies  
19 when he laid out Philadelphia in 1681. Penn's grid was not novel. Towns in New  
20 Spain, the Spanish colonies in the Americas, were laid out with streets at right  
21 angles formed around a central plaza. Penn's Philadelphia, though, centered on the  
22 city's two waterfront sites, which he recognized would be crucial for commerce.  
23 Penn ordered that no house be built closer to the shore than a quarter mile so that  
24 streets and warehouses could be built without difficulty. Nine streets were crossed  
25 at right angles by twenty-one other streets. That grid provided order and a  
26 framework for city development, and it spurred imitation in many cities, including

27 \_\_\_\_\_  
28 <sup>9</sup> STILGOE, COMMON LANDSCAPES OF AMERICA, *supra*, at 44-48, 91.

<sup>10</sup> STILGOE, COMMON LANDSCAPES OF AMERICA, *supra*, at 49, 90.

1 Reading, Allentown, York, Pittsburgh, Cincinnati, Louisville, and Lexington. By the  
2 1790s, cities were becoming synonymous with the grid. As Cincinnati resident  
3 Daniel Drake remarked: “Curved lines...symbolize the country, straight lines the  
4 city.”<sup>11</sup>

5 20. Most people in 18th century America understood “roads” as  
6 something that appeared naturally. That is, they appeared by chance rather than  
7 planning. They were footpaths, for humans, herds, horses, and occasionally animal-  
8 pulled carts (though many roads were too crude for wagons or stagecoaches). Long-  
9 distance travelers whose needs were not often factored in the creation of roads often  
10 wandered over disparate landscapes trying to piece together the most direct route to  
11 their destination. Natural roads were based, instead, on local travel patterns.  
12 Footpaths or roads emerged as people traveled common routes: from homes to  
13 outlying fields, from farmsteads to nearby wharves, or from settlements to public  
14 buildings like the post office or semi-public buildings like stores and taverns.<sup>12</sup>

15 21. These “natural roads” often traversed or abutted privately owned  
16 lands. Although these roads were often located on private property, colonists and  
17 early Americans considered the roads to be public ways, and land owners were not  
18 allowed to obstruct travel. Not only did land owners have to refrain from blocking  
19 the public right of way, they were expected, along with other frequent users, to  
20 improve, maintain, and repair roads when they became rutted or overgrown.  
21 Sometimes, though, local governments helped with such expenditures, especially as  
22 these roads became increasingly critical to communal life in a region over time.<sup>13</sup>

23  
24  
25 <sup>11</sup> STILGOE, COMMON LANDSCAPES OF AMERICA, *supra*, at 94-95, 98. On the  
26 urban grid see, DAVID HENKIN, CITY READING: WRITTEN WORDS AND PUBLIC  
27 SPACES IN ANTEBELLUM AMERICA (1998). One of the most crucial applications of the grid  
beyond urban areas was the organization of the western territories in accord with the provisions of  
the Northwest Ordinance. See, PETER S. ONUF, STATEHOOD AND UNION: A HISTORY  
OF THE NORTHWEST ORDINANCE (1987).

28 <sup>12</sup> STILGOE, COMMON LANDSCAPES OF AMERICA, *supra*, at 128-130.

<sup>13</sup> STILGOE, COMMON LANDSCAPES OF AMERICA, *supra*, at 94-95, 128-130.



1           22. Many of the long-distance roads in colonial America originated as  
2 trails created by Native Americans. Native Americans often walked single-file on  
3 paths of about 18 inches in width that followed the contours of the land—hugging  
4 rivers or streams and following the easiest gradients over hills and mountains. Over  
5 time, Anglo-American travelers used axes to transform these trails into roads wide  
6 enough for the passage of horses, oxen, and, sometimes, the carts and wagons those  
7 animals pulled. In addition to the improvements of individual travelers, local and  
8 colonial governments also allocated money to expand, improve, and sometimes  
9 augment the road network. In the 18th century, long-distance country roads were  
10 often referred to as “King’s Highways” or sometimes “post roads” in recognition of  
11 their use by the horseback riders who carried the mail.<sup>14</sup> After the Revolution, many  
12 of the new states worked to expand the road network for purposes of passenger  
13 travel and carrying the mail. In 1783, New York, for example, established a post  
14 road from Albany to Schenectady, and 1785-1786 Pennsylvania passed laws for the  
15 construction of roads to the interior, but a key problem remained—the United States  
16 was rich in land and lacking in capital—and its roads tended to be poor.<sup>15</sup>

17           23. European travelers often remarked on the terrible condition of the  
18 roads. Englishman Hugh Finlay recorded his observations of the roads used by  
19 postal couriers along the Atlantic Coast from Canada to South Carolina in 1773 and  
20 1774. Finlay found them uniformly lacking for the purpose: “The road is one  
21 continued bed of rocks, and very hilly,” he said of a road in Connecticut. “It is  
22 impossible for a Post to ride above four miles an hour on such road....”<sup>16</sup>

23           24. As Finlay’s emphasis on postal service suggests, the question of  
24 transportation was not just a matter of the movement of people and goods but also

25 \_\_\_\_\_  
26 <sup>14</sup> WILLIAM CHAUNCY LANGDON, EVERYDAY THINGS IN AMERICAN LIFE  
1607-1776 241-242, 245-246 (1937).

27 <sup>15</sup> HENRY MEYER, HISTORY OF TRANSPORTATION IN THE UNITED STATES  
BEFORE 1860 51 (1948).

28 <sup>16</sup> Finlay quoted in STILGOE, COMMON LANDSCAPES OF AMERICA, *supra*, at 128-  
130.

1 of ideas and information essential to representative government. The issue of  
2 communications preoccupied the founders of the United States. Anti-Federalists,  
3 who opposed the creation of a strong federal government and the ratification of the  
4 1787 Constitution, argued that the physical size of the United States would make it  
5 impossible to govern as a single nation. In rebuttal, James Madison’s 1787  
6 *Federalist 14* argued that under the proposed Constitution “intercourse throughout  
7 the union will be daily facilitated by new improvements,” such as roads and canals  
8 that could facilitate communication between citizens and their elected leaders.<sup>17</sup>

9 25. While Congress was considering the merits of spending on internal  
10 improvements, many roads in the early republic were being built by corporations  
11 chartered by state governments that lacked money for construction. Those  
12 privately-built roads were commonly called “turnpikes,” a term that has become  
13 synonymous with toll roads. The turnpike’s name derives from the type of gate  
14 used to regulate access to the toll road. The “turnpike” consisted of four poles  
15 mounted horizontally on a vertical axis—like a turn style. The person who pushed  
16 the pole to gain access to the road closed the next pike behind. The roads were  
17 constructed by states and, mostly, by private companies. In 1785, Virginia opened  
18 the nation’s first toll road leading to the town of Alexandria, and in 1794 The  
19 Philadelphia and Lancaster Turnpike Company—which was chartered by the  
20 state—opened a road of crushed stone interrupted by nine toll collection gates.  
21 Turnpike companies set the price of travel by the value and damage caused by the  
22 load. Pedestrians paid little. A horseback rider paid more. Sheep and cattle herders  
23 paid by the head. Carriages and wagons paid according to the value of the contents  
24 of their cargo. These roads were common from Maine to Georgia. The profit-  
25 seeking companies that built turnpikes often did so on the cheap by creating steep  
26

27 <sup>17</sup> Madison quoted in STILGOE, COMMON LANDSCAPES OF AMERICA, *supra*, at  
28 107.



1 gradients and experimenting to find the cheapest surfaces, and people frequently  
2 complained of their deep holes and ruts.<sup>18</sup>

3 B. Wagons and Stagecoaches

4 26. One consequence of the poor condition of the roads in colonial and  
5 Revolutionary-Era America, travel by stagecoaches or wagon could be difficult.  
6 Horseback or foot was the most common method of transport on land. When people  
7 did travel by carriage or wagon, the experience was often nerve-wracking, as one  
8 European traveler, Brissot de Warville, noted of his journey on the Boston Post  
9 Road in 1788: “I know not which to admire most in the driver, his intrepidity or  
10 dexterity. I cannot conceive of how he avoided dashing the carriage to pieces and  
11 how his horses could retain themselves in descending the staircase of rocks.”<sup>19</sup>

12 27. In addition to poor road quality, there were economic constraints on  
13 carriage and wagon travel. Most colonial Americans could not afford a carriage. As  
14 two historians of stagecoaches put it, the “working class in towns and cities had no  
15 carriages at all. Except for a few southern planters, the country people, who  
16 overwhelmingly predominated the population, did not purchase them until after  
17 1800, and even then, they did not own carriages in significant numbers until the  
18 mass-produced vehicle was introduced in the 1870s.” During the 18th century then,  
19 most carriages were concentrated in the hands of well-to-do residents of seaport  
20 cities. The case of Massachusetts is illustrative. According to 1753 tax records, the  
21 entire colony contained just 6 coaches. Massachusetts also had 18 chariots, 339  
22 chaises, and 992 chairs and calashes—the vast majority of which were located in  
23 Boston. Carriage ownership was a rarity.<sup>20</sup>

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25 \_\_\_\_\_  
26 <sup>18</sup> STILGOE, COMMON LANDSCAPES OF AMERICA, *supra*, at 112-115.

27 <sup>19</sup> WILLIAM CHAUNCY LANGDON, EVERYDAY THINGS IN AMERICAN LIFE  
1607-1776 249 (1937).

28 <sup>20</sup> OLIVER W. HOLMES AND PETER T. ROHRBACH, STAGECOACH EAST:  
STAGECOACH DAYS IN THE EAST FROM THE COLONIAL PERIOD TO THE CIVIL  
WAR 5-6 (1983).

1           28.     Just as carriage ownership was usually limited to the upper class, so  
2 too was most travel on stagecoach lines. The first stagecoach lines date to the early  
3 1700s. Operators had to secure permission from local governing bodies to establish  
4 routes. In 1706, for instance, the colony of New Jersey awarded Hugh Amboy a  
5 patent to “employ one or more stage coach or stage coaches and one or more wagon  
6 or wagons or any other and as many carriages as he shall see convenient for the  
7 carrying or transportation of goods and passengers” between Burlington and Perth  
8 Amboy. Even though some lines date to the early 18th century, the stagecoach  
9 industry did not blossom until the period after the Seven Years War (1763) and  
10 before the start of the American Revolution (1776). During that time, most  
11 stagecoach lines were concentrated in three areas: the routes between New York and  
12 Philadelphia, the Maryland and Delaware peninsula region, and the route between  
13 Boston and New York. Several lines also radiated out from New York, Boston, and  
14 Philadelphia into the hinterlands of those seaport cities.<sup>21</sup>

15           29.     Stagecoaches became crucial to the business of the new nation after  
16 the Revolutionary War. Starting in 1785, Congress voted to contract with  
17 stagecoaches for carrying the mail. At that time, the U.S. mail was the primary  
18 means of long-distance communication as well as of circulating checks, bank notes,  
19 and legal and business documents. The stagecoach thus became the lifeblood of the  
20 nation’s economy. Reflecting its connection to the U.S. mail, most of the  
21 stagecoach routes were located along the Main Post Road that ran from the State of  
22 Maine to Georgia. In 1790, 51 of the nation’s 200 post offices were also situated on  
23 that route. Mail contracts could be quite lucrative for stagecoach operators. One  
24 stage line, for instance, got a \$1,333 annual contract in 1792 to carry mail between  
25 Philadelphia and New York five times per week.<sup>22</sup>

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<sup>21</sup> HOLMES AND ROHRBACH, *STAGECOACH EAST*, *supra*, at 6, 14.

<sup>22</sup> HOLMES AND ROHRBACH, *STAGECOACH EAST*, *supra*, at 2, 15, 25, 37.



1           30. The Post Office was so crucial to the stagecoach industry that it even  
2 started to dictate how the coaches should be built. Early stagecoaches were not  
3 always covered and did not necessarily have locking compartments or lamps, but  
4 those features eventually became synonymous with the carriages because of the  
5 Post Office. Postmaster General Joseph Habersham (who served from 1795 to  
6 1801) specified how he wanted stagecoaches to be designed, telling a stagecoach  
7 operator: “I wish you to employ some carriage maker at Newark to build a four  
8 horse stage with harness and two Lamps complete as soon as possible. The stage is  
9 intended to carry tow of our largest mails within its body and six passengers. At  
10 each end, within the body, is to be built a chest of box equal to 22 inches square and  
11 as long as the width of the stage will admit. The lids of the chest are to be covered  
12 in the same manner as the seats usually are, and it is intended they would be used  
13 for that purpose: the passengers who sit on the fore seat will set with their backs to  
14 the horses....”<sup>23</sup>

15           31. Stagecoach lines were an expensive option for passenger travel, and  
16 they mainly catered to the wealthy. A Stagecoach often carried about half a dozen  
17 people. Frequent stagecoach users included foreign travelers, merchants, bankers,  
18 and real-estate speculators. Travel on bumpy roads was uncomfortable and the fares  
19 were high, but the trips were relatively fast due to the frequent changing of the  
20 horse teams at different stages of the journey. Another benefit, stage lines steered  
21 travelers unfamiliar with their surroundings to taverns and inns where they could  
22 get decent meals and rent sleeping quarters. Except in cases of bad weather, travel  
23 schedules and stops were routine. “The Flying Stage Coach,” for instance, left  
24 Philadelphia at 4:00 AM, stopped for breakfast in Bristol and for dinner in  
25 Princeton before it reached its terminus in Elizabeth, NJ at nighttime. Passengers  
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<sup>23</sup> HOLMES AND ROHRBACH, STAGECOACH EAST, *supra*, at 40-43.

1 shelled out \$4 for the ride from Philadelphia to Elizabeth, but in the spring of 1783  
2 The Flying Stage raised the price to \$6, citing the rising costs of oats and hay.<sup>24</sup>

3 C. Ferries and Ships

4 32. Ferries became fixtures of colonial American infrastructure from the  
5 early days of colonization. Private entrepreneurs established ferries with the  
6 sanction of local governing bodies at sites frequently named for the operator.  
7 Harper's Ferry, WV and Harrisburg, PA, for instance, are named after men (Robert  
8 Harper and John Harris) who established ferries across the Potomac and  
9 Susquehanna Rivers in the 18th century. The permission to establish a ferry often  
10 came with various stipulations from government authorities including fees,  
11 assurances the operator would provide consistent service, and an agreement about  
12 the toll travelers had to pay. These agreements go back to early days of British  
13 colonization. In 1630, for example, the Massachusetts Bay Colony awarded a  
14 charter to Edward Converse to operate a ferry between Boston and Charlestown.  
15 Converse had to pay a 40 pounds sterling fee each year, and he was required to  
16 keep two boats, one on each side of the river, and charge a rate of no more than  
17 three pence for pedestrians.<sup>25</sup>

18 33. Colonial-era ferries were propelled by human, animal, and wind  
19 power and seldom provided the type of rapid, consistent service that became  
20 common with steam ferries in the 19th century. Human power was often used for  
21 the various types of ferries that transported pedestrians. Ferry operators used small  
22 boats that could be rowed, paddled, or poled across the water. Larger vessels were  
23 rowed by two or four oarsmen; sometimes passengers joined the rowing crew. To  
24 propel ferries carrying heavy horses or oxen, operators usually harnessed wind  
25 power. A sailing scow on the Boston-Winnisimmet route, for example, carried up  
26 to 20 horses, making the three-mile journey in 1 to 2 hours. To cross rivers with fast  
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28 <sup>24</sup> HOLMES AND ROHRBACH, STAGECOACH EAST, *supra*, at 16, 43, 56.

<sup>25</sup> JOHN PERRY, AMERICAN FERRYBOATS, *supra*, at 9-10, 28.



1 currents, ferry operators often used a rope or wire ferry. In the waters surrounding  
2 Manhattan, 18th century ferry operators frequently used a barge-like sailing craft  
3 called a “periauger.” In good conditions, the crossing was smooth, but wind and  
4 currents could blow it off course. Sometimes a periauger had to land on Governor’s  
5 Island and its passengers and crew had to regroup for the journey to Manhattan  
6 when the conditions improved. When heavy cattle were loaded onto a boat, the  
7 danger of capsizing in bad weather was much greater. People who wished to ferry  
8 cattle from Long Island to Manhattan sometimes waited for several days for good  
9 weather before risking the ferry trip. Bad weather could strike anytime, however. In  
10 April 1798, a periauger sailing from Brooklyn sank in a sudden squall, claiming the  
11 lives of seven people and five fat oxen.<sup>26</sup>

12 34. Even in good weather, a traveler going to a major city like  
13 Philadelphia, New York, or Boston by ferry might have to wait an hour or two for a  
14 boat. Given the irregularity and slow speed of service, many travelers stopped for  
15 food, rest, and fun at the sites of ferry crossings. While they waited, travelers often  
16 availed themselves of services provided in the “ferry house,” an often-boisterous  
17 combination of tavern, hotel, restaurant, and stable, usually run by the ferry  
18 operator. In 1781, the Brooklyn ferry house, for example, boasted: “Breakfasting  
19 and Relishes;” fox hunts and races; and even a lottery. Some ferry operators even  
20 found the boat to be something of a nuisance. The act of taking passengers across  
21 the water could be deadly. Meantime, the business of feeding and boarding travelers  
22 was less dangerous and often more lucrative.<sup>27</sup>

23 35. Much like ferries and stagecoaches, ocean-going vessels carried both  
24 freight and passengers. Until the 19th century, however, carrying freight was the  
25 primary purpose of most of the vessels that plied the Atlantic. Passengers were a  
26 secondary business, and their comfort was often of little concern. Ships, moreover,  
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28 <sup>26</sup> JOHN PERRY, AMERICAN FERRYBOATS, *supra*, at 30-32.

<sup>27</sup> PERRY, AMERICAN FERRYBOATS, *supra*, at 38, 42.

1 did not generally sail on regular schedules that passengers could count on until  
2 well-into the 19th century. Instead, they departed when they had a cargo in need of  
3 transport. Not only was the schedule contingent on freight, it also depended on  
4 weather conditions. Travel times were irregular. There were two types of trade, a  
5 transoceanic and a coastwise trade, in which ships traveled along the Atlantic  
6 seaboard dispersing goods from the colonies and, later, the states.<sup>28</sup>

7 36. Much of the infrastructure for sailing ships was created by private  
8 parties, but public officials took charge of lighthouses because they were so critical  
9 for safety. In New York, Boston, and other port cities, local governing bodies often  
10 granted or leased waterfront spaces to private parties to build and operate docks and  
11 wharves.<sup>29</sup> In 1716, Boston constructed the first colonial lighthouse, a 60-foot  
12 structure on Little Brewster Island. Eleven other lighthouses followed, including the  
13 imposing 103-foot lighthouse at Sandy Hook built by the New York legislature in  
14 1764. The new federal government assumed control of these locally-constructed  
15 lighthouses by a 1789 act of Congress. These structures were so important to  
16 navigation that Revolutionary-era politicians insisted on careful lighthouse design  
17 and meticulous regulation. President Thomas Jefferson remarked: “The keepers of  
18 lighthouses should be dismissed for small degrees of remissness because of the  
19 calamities which even these produce.” Through the Lighthouse Service, the federal  
20 government began building more. By 1817, 55 lighthouses dotted the shores of the  
21 United States. These structures signaled the growing power of the national  
22 government.<sup>30</sup>

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26 <sup>28</sup> ALEX ROLAND, W. JEFFREY BOLSTER, and ALEX KEYSSAR, WAY OF THE  
SHIP: AMERICA’S MARITIME HISTORY REENVISIONED, 1600-2000 69 (2008).

27 <sup>29</sup> HENDRIK HARTOG, PUBLIC PROPERTY AND PRIVATE POWER: THE  
CORPORATION OF THE CITY OF NEW YORK IN AMERICAN LAW, 1730-1870 44-59  
28 (1989).

<sup>30</sup> STILGOE, COMMON LANDSCAPES OF AMERICA, *supra*, at 110-111.



1 **II. The Canal and Early Steamboat Era, 1800-1830s**

2 37. In 1808, Secretary of the Treasury Albert Gallatin made one of the  
3 most forceful arguments for internal improvements to date, adding an economic  
4 rationale to political and military security arguments. Gallatin penned his *Report on*  
5 *Roads and Canals* at the request of the Senate. The problem of conducting  
6 government business over vast expanses had been magnified by Thomas Jefferson  
7 1803 Louisiana Purchase, which had more than doubled the nation's territory.<sup>31</sup>  
8 Gallatin said, "Good roads and canals will shorten distances, facilitate commercial  
9 and personal intercourse, and unite, by a still more intimate community of interests,  
10 the most remote quarters of the United States." Gallatin called on the government to  
11 build an extensive network of roads and canals financed by the sale of public lands:  
12 "No other single operation within the power of Government, can more effectually  
13 trend to strengthen and perpetuate that Union which secured external independence,  
14 domestic peace, and internal liberty."<sup>32</sup> Between 1811 and 1837, Congress  
15 constructed the first highway built by the federal government. The "National  
16 Road," with a surface of crushed stone, ran from Cumberland, MD to Vandalia,  
17 IL.<sup>33</sup>

18 38. Gallatin's ambitious plans for internal improvements, however, went  
19 unrealized because there was a robust debate over spending federal money on  
20 internal improvements in the early republic and antebellum eras. Some lawmakers  
21 questioned whether Article One, Section Eight of the Constitution granted Congress  
22 the power to build roads or merely establish rights of way. What was really at stake  
23 in the quibbling, though, was a deeper issue. Many lawmakers and voters did not  
24

25 <sup>31</sup> JOHN KUKLA, A WILDERNESS SO IMMENSE: THE LOUISIANA PURCHASE  
26 AND THE DESTINY OF AMERICA (2004).

27 <sup>32</sup> Gallatin quoted in STILGOE, COMMON LANDSCAPES OF AMERICA, *supra*, at  
28 108.

<sup>33</sup> ROGER PICKENPAUGH, AMERICA'S FIRST INTERSTATE: THE NATIONAL  
ROAD, 1806-1853 (2020).

1 think in national terms, and they did not see why they should pay for far-away  
2 projects that presumably benefitted people elsewhere.<sup>34</sup>

3 39. This vision was also informed by a political tradition of localism and  
4 antipathy to federal power embodied in the “Jacksonian Democracy” of the 1830s.  
5 The debate followed from Revolutionary-era discussions over federal power. The  
6 Maysville Road veto offers a case in point. In 1830, Jackson had denied federal  
7 funding to build a road between Maysville and Lexington, KY, the home of political  
8 rival Henry Clay, on the basis that the project was of a “purely local character.”  
9 Jackson’s veto rejected the integrated approach to internal improvements  
10 championed by Whigs such as Clay. Rooted in a Hamiltonian vision of centralized  
11 government and economic institutions, Clay’s “American System” advocated  
12 funding internal improvements that, even if confined within one state, would  
13 function as parts of an integrated, national transportation network.<sup>35</sup> The first  
14 shipping company to offer regularly scheduled passenger service—and to make  
15 passenger comfort a selling point—between New York and Europe was the Black  
16 Ball Line. Its first ship, the *Courier*, departed from New York on January 5, 1818  
17 loaded with seven passengers, mail, and a cargo of apples, flour, ashes, and cotton.  
18 The line offered 12 round trips per year, and the trip averaged 22 to 25 days going  
19 east and 33 to 48 days returning to New York.<sup>36</sup> The length and cost of travel was so  
20 great that when working class people traveled from Europe to the United States on  
21 a sailing ship, they seldom returned.<sup>37</sup>

22 40. Canals also rose in prominence during this period. Robert Fulton  
23 pointed out the economic benefits of canal construction in his 1796 Treatise on the

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25 <sup>34</sup> STILGOE, COMMON LANDSCAPES OF AMERICA, *supra*, at 108-109.

26 <sup>35</sup> JOHN LAURITZ LARSON, INTERNAL IMPROVEMENT: NATIONAL PUBLIC  
WORKS AND THE PROMISE OF POPULAR GOVERNMENT IN THE EARLY UNITED  
STATES 182-184 (2001)

27 <sup>36</sup> ALEX ROLAND, W. JEFFREY BOLSTER, and ALEX KEYSSAR, WAY OF THE  
SHIP: AMERICA’S MARITIME HISTORY REENVISIONED, 1600-2000 161-162 (2008).

28 <sup>37</sup> Raymond L. Cohn, *The Transition from Sail to Steam in Immigration to the United  
States*, 65 THE JOURNAL OF ECONOMIC HISTORY 469 (2005).



1 Improvement of Canal Navigation. “Would not the lands around Fort Pitt be as  
2 valuable as those around Lancaster,” Fulton asked, “if the produce could be brought  
3 to market for the same sum?” Fulton knew that a canal would drive freight rates  
4 lower. He also had a personal stake in navigation. As an engineer avidly working on  
5 ways to improve navigation, Fulton eventually developed the first commercially  
6 viable steamboat. Many river boats at the time were “keelboats” that could be  
7 floated along the current, rowed, or pushed along the bottom with large poles. Some  
8 boats were pulled upriver by animals on a towpath. Fulton, though, was working to  
9 propel boats with steam engines. In 1807, he and Robert Livingston took their  
10 steamboat, *Clermont*, from New York City upriver to Albany and back, 300 miles,  
11 in just 62 hours. Even though travel was so fast, most riverboat men at the time  
12 dismissed the steamboat as “a mere plaything” ill-suited to carrying freight because  
13 the engines took up so much space. Few people objected when the New York  
14 legislature granted Fulton and Livingston a monopoly on Hudson River steam  
15 transport, but this was short sighted.<sup>38</sup> The application of steam power to water  
16 travel opened up new possibilities for going against the current. Advances in boat  
17 design quickly made the steamboat industry commercially viable on rivers, though  
18 not on the oceans until mid-century.<sup>39</sup> Powered by steam, riverboats plied the  
19 waters of the nation’s rivers throughout the 19th century, carrying passengers and  
20 freight in numbers and tons that would have been unimaginable in the canoes and  
21 flatboats that people had once used their muscles, as well as animals on towpaths,  
22 to propel upriver.

23 41. The steamboat transformed freight and passenger shipping along the  
24 nation’s great rivers. It also spurred urban growth in the Mississippi River Valley.  
25 From the 1820s to the 1840s, the steamboat was the second leading investment  
26 sector in the region after slaves and land. There were 17 steamboats on western

27 <sup>38</sup> MICHAEL HILTZIK, *IRON EMPIRES: ROBBER BARONS, RAILROADS, AND*  
28 *THE MAKING OF MODERN AMERICA* 4 (2020).

<sup>39</sup> ROLAND, BOLSTER, and KEYSSAR, *WAY OF THE SHIP*, *supra*, at 161-162.

1 rivers in 1817, and by 1847 that number had increased to over 700 steamboats  
2 carrying slaves, free passengers, and lots of cotton at speeds of 5 to 8 miles per  
3 hour. River cities like Cincinnati, St. Louis, and New Orleans grew up with the  
4 increase of riverboat traffic. In 1810, New Orleans, for instance, had a population of  
5 17,000. A decade later there were about 200 steamboats arriving in New Orleans.  
6 By 1860, that figure had grown to 3,500, and New Orleans contained about 170,000  
7 residents, representing a ten-fold increase over the previous 50 years. The riverboat  
8 industry, meantime, started to decline by the middle of the 19th century.  
9 Competition from railroads hurt steamboats as did the competition between river  
10 lines. Since all steamboat operators had to operate on a limited number of navigable  
11 rivers, they tried to capture passenger traffic by running their boats as fast as  
12 possible—often leading to deadly steam-engine explosions. Long distance  
13 steamboat travel declined throughout the 19th century, but short-distance steam  
14 ferries continued to thrive in many metropolitan areas.<sup>40</sup>

15 42. Ferry boats were the nation's first urban mass transit. Cities marked  
16 by a geography that facilitated shipping—places with islands, deep bays, and  
17 rivers—often faced geographic limits on residential development, making ferries  
18 necessary. Sail and human and animal-powered ferries were in use dating back to  
19 the days before the American Revolution, but steam-powered boats supplanted  
20 them and made the service more dependable and widely used. In the 1810s, Robert  
21 Fulton established steam-powered ferry service linking Manhattan with New Jersey  
22 and Brooklyn. Ferry service enabled the middle and upper middle-class people who  
23 could afford fare to move out of the city's periphery and commute to its central  
24 business district. Brooklyn, New York was the first and most significant of the  
25 modern "ferry suburbs," but water transportation was also crucial for residents of  
26 towns in New Jersey like Hoboken and Jersey City. Metro New York had the

27 \_\_\_\_\_  
28 <sup>40</sup> WALTER JOHNSON, RIVER OF DARK DREAMS: SLAVERY AND EMPIRE IN  
THE COTTON KINGDOM 5-8 (2013).



1 greatest number of ferry companies and passengers. By 1860, New York City had  
2 13 ferry companies running twenty different routes and a total annual ridership of  
3 32 million, and by 1870 there were about 50 million annual passengers. Commuters  
4 also used ferries in other metro areas to travel between Philadelphia, PA and  
5 Camden, NJ; Newport, KY and Cincinnati, OH; Pittsburgh, PA and Allegheny City,  
6 PA; Boston and Noodle’s Island and East Boston, MA; and San Francisco and  
7 Oakland, CA.<sup>41</sup>

8 43. The early history of ferry steamboat travel in the New York City  
9 region raised a critical question of the regulation of interstate commerce. By the  
10 1820s, Thomas Gibbons and his partner Cornelius Vanderbilt were challenging the  
11 monopoly by both illegal and legal means. Gibbons acquired a license to compete  
12 with Hudson River steamboat operators from the federal government, culminating  
13 in a case to determine whether the State of New York or the federal government had  
14 the power to regulate commerce.

15 44. As Robert Fulton had anticipated, water navigation and economic  
16 development in the interior of the U.S. demanded the construction of canals. The  
17 “hinge” cities of the seaboard could only gather and export as many commodities  
18 from the North American interior as were accessible by roads or rivers. The rivers  
19 that ran inland from Charleston, Baltimore, Philadelphia, and Boston all ran into  
20 mountains that could not easily be traversed. New York City’s geography, though,  
21 presented an exception. The Hudson led north to Albany where there was a pass in  
22 the mountains that extended along the Mohawk River and through low-lying land  
23 all the way west to Lake Erie. New York State legislators frustrated by  
24 Congressional wrangling—especially opposition to federally funded internal  
25 improvements—authorized the construction of a canal through this route.  
26 Constructed between 1817 and 1825, the Erie Canal was a forty-foot-wide, four-  
27 foot-deep waterway—later expanded—that stretched 363 miles from Albany on the

28 <sup>41</sup> JACKSON, CRABGRASS FRONTIER, *supra*, at 28, 32-33.

1 Hudson to Buffalo on Lake Erie. Canal boats were towed along by mules walking  
2 on the abutting towpath. At 34 different locations, the boats entered locks, which  
3 were filled or drained with water to raise or lower the canal boat as it changed  
4 elevation. Canal boats carried freight and passengers alike and paid tolls along the  
5 way. With the completion of the Erie Canal, there was a water route all the way  
6 across the western-most Great Lakes, Superior and Michigan, to New York City on  
7 the Atlantic. Now the agricultural products, timber, and minerals of the North  
8 American interior could be shipped to New York.<sup>42</sup>

9 45. Inspired by New York's Erie Canal, many states launched canal  
10 projects. Some of the most ambitious ones occurred in Midwestern states like Ohio,  
11 Indiana, and Illinois. In 1832, Ohio completed a canal between Lake Erie and the  
12 Ohio River, and its tremendous success galvanized political support for new public  
13 works projects. In 1837, the state legislature passed a Loan Law that virtually  
14 required the state to match private investment in internal improvements. Hoosiers,  
15 meanwhile, started building a "Mammoth System" of railroads, canals, and  
16 turnpikes. The State of Illinois, in turn, began building the Illinois and Michigan  
17 Canal to link Chicago on the shore of Lake Michigan to the Illinois River, which  
18 flowed into the Mississippi. These projects ground to a halt after the Panic of 1837  
19 struck, state revenues sagged, and borrowing costs soared. Indiana defaulted on its  
20 debts, having built just 281 miles of its proposed 1,289-mile transportation system.  
21 Ohio and Illinois narrowly avoided bankruptcy—and managed to complete their  
22 canal systems—because New York City investors bailed them out. It was in New  
23 Yorkers' economic interest to help funnel goods from the North American interior  
24 through Midwestern canals into the Great Lakes, across the Erie Canal, and into the  
25

26 <sup>42</sup> JOHN LAURITZ LARSON, INTERNAL IMPROVEMENT: NATIONAL PUBLIC  
27 WORKS AND THE PROMISE OF POPULAR GOVERNMENT IN THE EARLY UNITED  
28 STATES 71 (2001); JOSHUA A.T. SALZMANN, LIQUID CAPITAL; MAKING THE  
CHICAGO WATERFRONT (2018).



1 waiting arms of New York City.<sup>43</sup> By 1838, the U.S. boasted 2,700 miles of  
2 canals.<sup>44</sup>

3 46. A new economic geography began to take shape in the first half of the  
4 nineteenth century with the expansion of steamboat and canal travel. In addition to  
5 the seaport “hinge” cities importing and exporting goods to the Atlantic World, the  
6 United States developed its own national economic market between the 1820s and  
7 1850s: the cotton kingdom in the South; an agricultural empire in the West—now  
8 Midwest; and nascent industrial development with the rise of textile production in  
9 the Northeast.<sup>45</sup> New York City—with an Atlantic seaport, industry, and water  
10 connection to the interior—became the nation’s “primate city.” Its population rose  
11 from 33,000 in 1790 to 813,000 by 1860. Philadelphia grew from 28,000 to  
12 565,000 in the same years, and Baltimore and Boston increased to more than  
13 265,000. In addition to the growth of the seaport cities, two new networks of cities  
14 blossomed across the nation’s key interior waterways. Along the Ohio and  
15 Mississippi River, cities like Pittsburgh, Louisville, Cincinnati, Saint Louis, and  
16 New Orleans became important regional shipping, marketing, and manufacturing  
17 centers. On the Great Lakes, meantime, Buffalo, Cleveland, Detroit, Milwaukee,  
18 and especially Chicago became centers of trade in agricultural commodities.<sup>46</sup> The  
19 growing prosperity of farmers in rural America created demand for new types of  
20 industrial production—and with it a new type of city.<sup>47</sup>

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24 <sup>43</sup> SALZMANN, LIQUID CAPITAL, *supra*, at 18-19.

25 <sup>44</sup> STILGOE, COMMON LANDSCAPES OF AMERICA, *supra*, at 115.

26 <sup>45</sup> WALTER LICHT, INDUSTRIALIZING AMERICA: THE NINETEENTH  
CENTURY (1995); SVEN BECKERT, EMPIRE OF COTTON: A GLOBAL HISTORY (2015).

27 <sup>46</sup> MOHL AND BILES, THE MAKING OF URBAN AMERICA, *supra*, at 121.

28 <sup>47</sup> DAVID R. MEYER, THE ROOTS OF AMERICAN INDUSTRIALIZATION (2003);  
WILLIAM CRONON, NATURE’S METROPOLIS: CHICAGO AND THE GREAT WEST  
(1991).

1 **III. The Industrial Railroad City Era, 1840s to 1920s**

2 A. Railroads

3 47. Few technologies were more critical to industrial production, and to  
4 life in the industrial city, than the railroad.<sup>48</sup> The astonishing speed of railroad travel  
5 had both pitfalls and potential. On the morning of November 8, 1833, the steamboat  
6 magnate Cornelius Vanderbilt and former president John Quincy Adams boarded  
7 the Camden and Amboy Railroad on a route that linked New York and Philadelphia.  
8 The railroad was one of the nation's first. A technology pioneered in the English  
9 mining industry during the 18th century, railroads were just starting to be used for  
10 freight and passenger transport in the U.S. Vanderbilt and 23 other passengers  
11 careened across the landscape at the fantastic speed of 25 miles per hour when the  
12 train's axle broke and its passengers went slid down an embankment. Two died, and  
13 almost all were terribly injured. It was "the most dreadful catastrophe that ever my  
14 eyes beheld" wrote Adams. "Men, women, and a child, scattered along the road,  
15 bleeding, mangled, groaning, writhing in torture and dying, was a trial of feeling to  
16 which I had never before been called." Vanderbilt who suffered from a broken leg,  
17 broken ribs, and a punctured lung swore he would never ride the rails again. Yet, he  
18 could not resist investing in and shaping the nation's next great, rapid transportation  
19 technology and went on to establish an empire of railroads in the Northeast,  
20 centered around his Grand Central Depot on 42nd Street in New York City.<sup>49</sup>

21 48. Vanderbilt and other observers recognized the train's possibilities for  
22 liberating human travelers from the constraints of nature. Trains did not have to  
23 follow water routes. They could run year-round. And, most of all, they were much  
24 faster. No longer was speed constrained by how fast humans and animals could  
25 convert food into energy. Stoked with wood and later coal, steam engines made

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27 <sup>48</sup> MOHL and BILES, THE MAKING OF URBAN AMERICA, *supra*, at 11.

28 <sup>49</sup> MICHAEL HILTZIK, IRON EMPIRES: ROBBER BARONS, RAILROADS, AND  
THE MAKING OF MODERN AMERICA 4-5 (2020).



1 travel speeds much greater and more consistent.<sup>50</sup> A trip on a mule-drawn Erie  
2 Canal boat from Albany to Buffalo took up to four days, for instance. By the mid-  
3 19th century, trains covered the same route in under five hours.<sup>51</sup>

4 49. Through the 19th century, railroad operators collaborated with Wall  
5 Street investors, states, and the federal government to construct a massive network  
6 of passenger and freight railroads. State governments often wanted railroads but  
7 were leery of incurring the enormous costs of building them, especially after canal  
8 costs had destroyed so many state budgets. They addressed this problem through  
9 chartered railroad corporations. A charter often granted special privileges, like  
10 rights of way, in exchange for construction funded by private investors. Railroads  
11 raised money from investors by selling subscriptions and/or by issuing stocks and  
12 bonds to Wall Street investors.<sup>52</sup>

13 50. The nation's massive railroad network had a distinctive geography  
14 connected to the political economy of each region. In 1860, cotton from the south  
15 accounted for over half of the exports of the United States. The crop flowed from  
16 plantations along turnpikes, rivers, and the 9,800 miles of track built before the  
17 Civil War. The North had 20,800 miles of track, including Vanderbilt's Erie  
18 Railroad system, which stitched together the seaport cities with the agricultural  
19 processing centers and manufacturing hubs of the Great Lakes, stretching west to  
20 Chicago.<sup>53</sup> By 1860, Chicago was the western railroad hub of the United States.  
21 Most of the nation's western roads extended from the city into the agricultural  
22 hinterland of the Mississippi and Missouri River valleys. Northwest of the city, the  
23 Chicago and Northwestern Railroad spread over a vast expanse of territory in

24 \_\_\_\_\_  
25 <sup>50</sup> CRONON, NATURE'S METROPOLIS, *supra*, at 80; MELOSI, COPING WITH  
ABUNDANCE, *supra*, at 20-22.

26 <sup>51</sup> HILTZIK, IRON EMPIRES, *supra*, at 10.

27 <sup>52</sup> CRONON, NATURE'S METROPOLIS, *supra*, at 67; HERBERT HOVENKAMP,  
ENTERPRISE AND AMERICAN LAW, 1836-1937 (1991); RICHARD WHITE,  
RAILROADED: THE TRANSCONTINENTALS AND THE MAKING OF MODERN  
28 AMERICA (2011).

<sup>53</sup> HILTZIK, IRON EMPIRES, *supra*, at 13.

1 Illinois and Wisconsin. The Chicago and Rock Island ran due west to the  
2 Mississippi River and, after becoming the first to bridge the river in 1856, extended  
3 into Iowa. The Chicago, Burlington, and Quincy; the Chicago and Alton; and the  
4 Illinois Central extended southwest and due south from the city to points along the  
5 Mississippi River. All of these railroads, in turn, brought wheat, corn, cattle, and  
6 hogs to Chicago for processing and transshipment to eastern markets.<sup>54</sup>

7 51. The rapid construction of railroads across the nation in the pre-Civil  
8 War era led to a revolution in travel times. In 1830, when road and canal travel  
9 predominated, it took a traveler from New York City one day to reach Albany and  
10 Philadelphia; 2 days to reach Baltimore and Boston, 6 days to reach Charleston, 1  
11 week to reach Cleveland, and 2 weeks to reach Chicago. By 1857, that same  
12 traveler could go from New York City to Boston, Albany, Philadelphia, Baltimore,  
13 Pittsburgh, and Cleveland in one day. It took three days to reach Chicago,  
14 Charleston or Saint Louis. The trans-Mississippi West, though, was harder to reach  
15 from the East Coast until the late 19th century.<sup>55</sup>

16 52. While most railroads were designed for intercity travel, a few railroad  
17 companies established commuter services in and around the nation's largest cities.  
18 In 1837, the New York and Harlem Railroad—which Cornelius Vanderbilt later  
19 took over—began steam railroad service from lower Manhattan to 125th Street. By  
20 the 1840s, it extended that line into Westchester County, spurring suburban  
21 development. The Long Island Railroad and the Flushing Railroad soon enabled  
22 Manhattanites to commute to the east. In New Jersey, meantime, the route from  
23 Newark to Jersey City became one of the busiest in the world. By 1859, residents of  
24 metro Philadelphia could take one of more than 40 trains making commuter stops in  
25 the northwest suburb of Germantown, PA, and the Chicago suburb of Evanston was  
26 growing quickly because of service provided by the Chicago and Milwaukee

27 \_\_\_\_\_  
<sup>54</sup> CRONON, NATURE'S METROPOLIS, *supra*, at 68.

28 <sup>55</sup> *Ibid.* at 77.



1 Railroad. No city has a greater proportion of railroad commuters than Boston,  
2 where, from the 1830s, passengers could ride the train to Brookline. Within a  
3 decade, there was service to Lowell, Lynn, and Somerville, Medford, and Woburn,  
4 among other towns. These steam railroads were supported by well-to-do commuters  
5 who paid annual rates that wage-workers could not afford. Boston to Lynn in the  
6 early 1840s cost \$62 per year, for example, and the New York to Bronxville annual  
7 fee in 1853 was \$45. One effect of these services was to fuel a suburban real estate  
8 boom. In 1855, an English observer in New York remarked that suburbs were  
9 “springing up like mushrooms on spots which five years ago were part of the dense  
10 and tangled forest....”<sup>56</sup>

11 53. Just as the expansion of railroads facilitated the settlement of the  
12 suburbs, it spurred movement to the trans-Mississippi West. Between 1865 and  
13 1895, the federal government subsidized the construction of transcontinental  
14 railroads that stretched to western lands without populations capable of sustaining  
15 business—at least at the start of construction. The subsidies came in the form of  
16 millions of acres of land grants and the federal government guaranteed the credit of  
17 major railroads. In 1862, Congress passed the Pacific Railway Act authorizing the  
18 construction of a transcontinental railroad. In 1869, the Central Pacific and the  
19 Union Pacific linked their tracks at Promontory Point, UT. By 1900, there were four  
20 additional transcontinental railroads. The penetration of railroads into the far West  
21 increased travel speeds and safety, and it made possible the shipment of timber and  
22 minerals from the West to the east. It also opened up western settlement. The  
23 comparison to the Oregon Trail is illustrative. Between 1840 and 1860, up to  
24 400,000 people made the 2,000-mile trip from Independence Missouri to  
25 destinations in northern California, the Willamette Valley in Oregon, and the Puget  
26 Sound region in wagons that covered between 10 and 20 miles per day.<sup>57</sup> That

27 <sup>56</sup> Baxter quoted in JACKSON, CRABGRASS FRONTIER, *supra*, at 35-37.

28 <sup>57</sup> William L. Lang, Oregon Trail in OREGON ENCYCLOPEDIA (Ulrich Hardt, Jeff  
LaLande & Linda Tamura eds., 2008), [https://www.oregonencyclopedia.org/articles/oregon\\_trail/](https://www.oregonencyclopedia.org/articles/oregon_trail/).

1 dangerous, costly journey took up to six months. In 1870, by contrast, a passenger  
2 could travel by rail from New York to San Francisco in just 7 days for \$65 on a  
3 bench in third class, \$110 for second class accommodations, and \$136 for a spot on  
4 a first-class Pullman sleeping car.<sup>58</sup>

5 54. The railroad was not only quicker, though. It thoroughly transformed  
6 the travel experience by shielding people from harsh aspects of nature. People who  
7 traveled on foot, hoof, boat, and wagon constantly worried about dwindling  
8 daylight, ice in lakes and rivers, or a coming storm. The railroad changed nature  
9 from a force to be reckoned with to a scene to behold. “When one boarded a train,”  
10 notes environmental historian William Cronon, “one entered a world separated from  
11 the outside by its own peculiar environment and sense of time. Train  
12 passengers...became spectators who could enjoy watching the world go by instead  
13 of working their way across it on foot or horseback.”<sup>59</sup> While they watched the  
14 world go by, train passengers even enjoyed a number of amenities. First-class  
15 travelers at the end of the 19<sup>th</sup> century could expect access to good food, a library,  
16 and a barber shop, and, they could spend the journey rubbing elbows with the  
17 nation’s business and social elite.<sup>60</sup>

18 55. The advent of railroad travel radically altered the size and shape of  
19 cities in indirect and direct ways. Indirectly, the railroad transformed the way that  
20 industries were organized across space and led to growing demand for laborers in  
21 cities. The Chicago Union Stockyards offers a case in point. Before the stockyards  
22 opened, animal slaughter was a local affair. From the opening of the stockyards in  
23 1865 on, it became a continental project. The Chicago stockyards included a  
24 massive collection of holding pens, abutting railroad tracks, and a number of huge

25 <sup>58</sup> The Gilder Lehrman Institute of American History, Transcontinental Railroad Fact  
26 Sheet at GILDER LEHRMAN.ORG (2014),  
[https://www.gilderlehrman.org/sites/default/files/inline-](https://www.gilderlehrman.org/sites/default/files/inline-pdfs/Transcontinental%20Railroad%20Fact%20Sheet.pdf)  
27 [pdfs/Transcontinental%20Railroad%20Fact%20Sheet.pdf](https://www.gilderlehrman.org/sites/default/files/inline-pdfs/Transcontinental%20Railroad%20Fact%20Sheet.pdf).

<sup>59</sup> CRONON, NATURE’S METROPOLIS, *supra*, at 78.

28 <sup>60</sup> DAVID C. NICE, AMTRAK: THE HISTORY AND POLITICS OF A NATIONAL  
RAILROAD 1 (1998).



1 slaughterhouses. Texas longhorns herded up the Chisholm Trail by cowboys were  
2 loaded onto train cars in Abilene, KS, and shipped to Chicago, where immigrant  
3 workers dissected thousands of animals each day on a disassembly line (Henry  
4 Ford’s inspiration for his Model T assembly line) in one of the city’s great meat  
5 packing houses.<sup>61</sup> Workers then loaded the cuts of meat onto railroad cars for  
6 shipment to consumers in every city with a railroad link to Chicago. Thus, the  
7 railroads allowed for meat production—and production of many other goods—to be  
8 concentrated in a single city. In effect, manufacturers harnessed economies of scale  
9 to create products like meat with greater speed and at lower cost than ever before.

10 56. These new models of production required a massive pool of urban  
11 laborers. Industrial cities were enormous compared to the commercial metropolises  
12 of the early part of the 19th century. New York grew from 813,000 in 1860 to more  
13 than five million by 1920, and Chicago increased from 100,000 to nearly three  
14 million in the same period. Explosive urban growth also happened in smaller places  
15 like the port city of Duluth, MN, which grew tenfold in the 1880s from 3,300 to  
16 more than 33,000, and the steel-producing town of Birmingham, AL, which rose  
17 from 3,000 to more than 26,000. Commentators remarked on the migration of  
18 people from rural areas in the U.S. and Europe to cities. “We cannot all live in  
19 cities,” said newspaperman Horace Greeley in 1867, “yet nearly all seem  
20 determined to do so.”<sup>62</sup>

21 B. City Streets and Omnibuses

22 57. In addition to facilitating processes of production that required large,  
23 urban labor forces, trains made it possible—and necessary—for people to construct  
24 cities across greater geographic expanses. Whereas pre-industrial cities had long  
25 been marked by the blending of workspace and homes, industrial production  
26 demanded differentiation of sites of residential life and production. The masses of  
27

28 <sup>61</sup> HENRY FORD, MY LIFE AND WORK 81 (1922).

<sup>62</sup> MOHL AND BILES, THE MAKING OF URBAN AMERICA, *supra*, at 83-84.

1 urban workers had to commute from across the city to their jobs, and the railroad  
2 made that possible. The streets of industrial cities were cluttered with people using  
3 older modes of travel—wagons, horseback, and walking—as well as those were  
4 using new technologies like the railroad, cable car, and electric trolley.

5 58. The streets of 19<sup>th</sup>-century American cities were rough and often  
6 unevenly built. Before the 1880s, many city governments often built streets and  
7 sidewalks using a method of “special assessment,” or a tax on the people and  
8 businesses whose property abutted the improvements. The method was essentially  
9 the local solution to the national internal improvements dilemma where people did  
10 not want to be taxed for infrastructure that would be used by people in other  
11 places.<sup>63</sup> Streets consisted of different forms, including wooden planking, dirt,  
12 crushed rocks, cobble stones, limestone, and wood block surfaces called “Nicholson  
13 paving.” In addition to the roadway and sidewalks themselves, city streets were  
14 increasingly cluttered with new types of infrastructure, including gas lines, electric  
15 wires, and telegraph and telephone poles.<sup>64</sup>

16 59. City Councils heavily regulated the use of city streets. There were  
17 long-standing, pre-industrial traditions of local regulation of health, safety, and  
18 public morals that affected how people used the streets. One of Chicago’s first  
19 municipal laws, in 1837, reflected this tradition of protecting what legal scholar  
20 William Novak calls “the people’s welfare.” It read: “No dung, dead animal or  
21 putrid meats and fish or decayed vegetables [were] to be deposited in any city  
22 street, avenue, lane or public square.” The law was meant to curb pollution, but the  
23 city also took steps to facilitate travel by conscripting able bodied men into street

24 \_\_\_\_\_  
25 <sup>63</sup> ROBIN EINHORN, PROPERTY RULES: POLITICAL ECONOMY IN CHICAGO, 1833-1872 (1991).

26 <sup>64</sup> PERRY R. DUIS, CHALLENGING CHICAGO: COPING WITH EVERYDAY LIFE, 1837-1920 7-8 (1998). On urban gas and electrical and telephone infrastructure see, MARK H.  
27 ROSE, CITIES OF HEAT AND LIGHT: DOMESTICATING GAS AND ELECTRICITY IN  
28 URBAN AMERICA (1995); HAROLD L. PLATT, ELECTRIC CITY: ENERGY AND THE  
GROWTH OF THE CHICAGO AREA, 1880-1930 (1991); and RICHARD R. JOHN,  
NETWORK NATION: INVENTING AMERICAN TELECOMMUNICATIONS (2015).



1 repair, and, as the city grew bigger, enacting speed limits on horses and wagons,  
2 and imposing new traffic rules to smooth passage through intersections and over  
3 bridges. City lawmakers' regulation of the streets in Chicago and elsewhere was not  
4 novel, but the growth of cities and the advent of new transportation technologies  
5 made the question more pressing. As historian Perry Duis put it, "the use of new  
6 technologies to get more quickly from one place to another tended to force citizens  
7 to rethink how they used the roadways."<sup>65</sup>

8         60. City streets were reshaped by new commuting technologies. Well-to-  
9 do people had long hired horse-drawn stagecoaches for long-distance trips and  
10 cabs, called "taxis" or "hackneys," to take them between cities or just across town.  
11 In 1826, an innovation developed in Nantes, France called the omnibus helped  
12 make such travel more accessible by creating an economy of scale. The omnibus  
13 was a large, horse-drawn car that anyone could board for a fare, usually about 10  
14 cents. It carried about 12 passengers who sat on wooden seats as it bumped along  
15 the streets. In the United States, city governments issued franchises to operate  
16 coaches along a specific street. New York City's first omnibus appeared on  
17 Broadway in 1828, and by 1833 it counted 80 lines, 255 by 1846, and 683 by 1853.  
18 There were about 20 firms operating New York's omnibuses, and passengers on the  
19 busiest streets had to wait just two minutes on average to catch a coach. While New  
20 York led the United States in omnibuses, they spread to many other cities. By of the  
21 1840s, omnibuses were running in Boston, Baltimore, and Philadelphia, for  
22 example. The omnibus, though, was plagued by crowding, and it offered an  
23 uncomfortable and slow ride at about 5 miles per hour. Given these drawbacks, it  
24 was supplanted by more energy-efficient alternatives.<sup>66</sup>

25 \_\_\_\_\_  
26 <sup>65</sup> DUIS, CHALLENGING CHICAGO, *supra*, at 4-5, 11; WILLIAM NOVAK, THE  
27 PEOPLE'S WELFARE: LAW AND REGULATION IN NINETEENTH-CENTURY AMERICA  
28 3-6 (1996).

<sup>66</sup> JACKSON, CRABGRASS FRONTIER, *supra*, at 33-34 (1985); BRIAN J. CUDAHY,  
CASH, TOKENS, AND TRANSFERS: A HISTORY OF URBAN MASS TRANSIT IN NORTH  
AMERICA 9-10 (1990).

1 C. Horse Cars, Cable Cars, and Streetcars

2 61. Transit companies soon replaced omnibuses with “horsecars.” Starting  
3 in the 1830s and 1840s, many U.S. cities authorized private companies to run  
4 horse-drawn cars on rails through the streets, a far smoother and a more efficient  
5 use of horse power. One horse could pull a 30-to-40 passenger vehicle at speeds of  
6 6 to 8 miles per hour. Consequently, the cars could hold more people, and transit  
7 companies dropped the fares from 12 cents on the omnibus to about 10 cents a  
8 ride.<sup>67</sup> By the middle of the 1850s, horsecars were replacing omnibuses in the major  
9 thoroughfares of New York, Brooklyn, Boston, Philadelphia, Baltimore, Chicago,  
10 Pittsburgh, Cincinnati, and New Orleans. Many other cities added service in  
11 subsequent decades. At its peak in the 1880s, the horsecar industry consisted of 415  
12 firms, 30,000 workers, 18,000 cars, 3,000 miles of track, and 1.2 billion annual  
13 riders.<sup>68</sup>

14 62. The growth of industrial cities and the advent of railroads resulted in  
15 more, not less reliance on horse power. Omnibus and horsecar companies had to  
16 maintain huge stables of horses and set up places to switch out their teams along the  
17 routes. There were, meantime, many horses engaged in pulling various private and  
18 commercial wagons. Private carriages came in many shapes and sizes, and there  
19 were taxis for hire in the form of “hansoms” and “herdics.” Teamsters hauled  
20 freight, often to and from railroad depots, and many other businesses employed  
21 specially-adapted horse-drawn wagons. The “baker’s wagon,” for instance, had  
22 double paned glass to keep the goods warm and “ice wagons” were equipped with  
23 insulated compartments. Police wagons had fast horses, warning bells, and irons to  
24 detail prisoners.<sup>69</sup> Wagons and horses were omnipresent in cities until after the  
25 1920s. At the start of the 20th century, for example, the City of Saint Louis had a  
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27 <sup>67</sup> JACKSON, CRABGRASS FRONTIER, *supra*, at 39.

<sup>68</sup> CUDAHY, CASH, TOKENS, AND TRANSFERS, *supra*, at 12-13.

<sup>69</sup> DUIS, CHALLENGING CHICAGO, *supra*, at 27 (1998).



1 human population of over half a million, between 15,000 and 20,000 wagons, and  
2 about 30,000 horses.<sup>70</sup>

3 63. The drawbacks of horse power were significant, however, and urban  
4 transit companies replaced the horse-drawn omnibuses as new technologies  
5 emerged. It was expensive to maintain stables, feed horses, and replace old stock.  
6 Some drivers and teamsters abused animals, moreover, which sparked anti-cruelty  
7 campaigns, which resulted in some animal protection laws. Horses wrought havoc  
8 on the urban environment by filling the streets with poop that turned to dust in dry  
9 weather and to mud in the rain. Horses also got sick sometimes. During the “Great  
10 Epizootic of 1872,” so many North American horses succumbed to an equine flu  
11 that it shut down omnibus and horsecar lines, halted the U.S. mail and military  
12 operations against western Indians, and made it impossible to unload freight from  
13 ships and trains.<sup>71</sup>

14 64. One of the first technologies to help break city dwellers’ dependence  
15 on horse power was the cable car. San Francisco’s Andrew Hallidie opened the first  
16 line on Clay Street as a response to another limitation of horse-drawn vehicles:  
17 Horses could not get good footing on the steep, hilly streets. The cable car, driven  
18 by a “steel rope” or cable embedded in the street, moved along at a steady speed,  
19 using a system of pulleys powered by steam engines. The operator controlled  
20 movement with two levers, one used to “grip” the rope or let it go, and another to  
21 apply breaks to the wheels. Starting in 1882, Chicago transit companies built the  
22 biggest cable car system in the U.S. at the great cost of \$100,000 per track mile. At  
23 their peak in 1890, cable cars were running in 23 cities on 300 miles of track and  
24 carrying 373 million passengers per year.<sup>72</sup>

25 <sup>70</sup> CLAY MCSHANE, DOWN THE ASPHALT PATH: THE AUTOMOBILE AND THE  
26 AMERICAN CITY 191 (1994).

27 <sup>71</sup> CLAY MCSHANE AND JOEL TARR, THE HORSE IN THE CITY: LIVING  
28 MACHINES IN THE NINETEENTH CENTURY (2011).

<sup>72</sup> JACKSON, CRABGRASS FRONTIER, *supra*, at 104; CUDAHY, CASH, TOKENS,  
AND TRANSFERS, *supra*, at 27-33.

1           65. The cable car persists as a mode of transportation technology to this  
2 day, but its heyday in the United States lasted only between the 1880s and the  
3 1910s. By 1913, only 20 miles of track were still in use.<sup>73</sup> Their shortcomings were  
4 many. The system was centralized, so when a cable broke the entire line ground to a  
5 halt. The weight of rush hour traffic could strain the cables, and snow and ice made  
6 them hard for the cars to grip in wintry conditions. Another flaw: cable cars could  
7 only travel at a uniform speed.<sup>74</sup>

8           66. These problems could be avoided by using the electric streetcar  
9 developed in the 1880s by several inventors. Also called a trolley, electric streetcars  
10 soon became the dominant form of urban public transportation. They were powered  
11 by electricity coursing through wires elevated above the route, often the old  
12 horsecar lines. Streetcars could carry more weight and the cars coupled together to  
13 accommodate more passengers. They also traveled much faster than previous forms  
14 of transport available to the public. Consequently, they killed more pedestrians than  
15 wagons, horsecars, and omnibuses. That fact, along with fear of the wires falling  
16 down and electrocuting people, gave some citizens and lawmakers pause about  
17 adopting streetcars in congested spaces. Ultimately, however, the practicality of the  
18 streetcar won out, and many cities across the United States began replacing their  
19 remaining horse-drawn and cable car systems with streetcars starting in the 1890s.  
20 By 1912, there were more than 70,000 streetcars shuttling passengers across 370  
21 U.S. cities.<sup>75</sup>

22           67. The introduction of intracity railroads transformed social class  
23 relations and the geographic scope of 19th-century cities. One effect was the  
24 proliferation of “streetcar” or “railroad” suburbs. Instead of living in the dense,  
25 class-mixed city, wealthier people could self-segregate by moving further away

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27 <sup>73</sup> ROBERT C. POST, URBAN MASS TRANSIT: THE LIFE STORY OF A  
TECHNOLOGY 31 (2010).

<sup>74</sup> JACKSON, CRABGRASS FRONTIER, *supra*, at 105.

<sup>75</sup> POST, URBAN MASS TRANSIT, *supra*, at 31.



1 from central business districts and commuting to the city. To be sure, this  
2 phenomenon was not exclusive to rail travel. In the 1830s, ferry lines were  
3 regularly shuttling residents of Brooklyn and Queens (not part of New York City at  
4 the time) into Manhattan for work. The railroad, though, freed commuters from  
5 waterways and led to a vast expansion of the geographic scope of metro regions. In  
6 1852, Alexander Jackson Davis, for instance, designed Llewellyn Park in New  
7 Jersey, and the suburbs of Villanova, and Bryn Mawr cropped up along the Main  
8 Line—extending from Philadelphia. In 1869, Frederick Law Olmsted designed  
9 Riverside outside of Chicago. These suburbs—and many others—enabled many  
10 people of means to escape the pollution, congestion, and crime concentrated in  
11 cities and occupy a new, middle landscape where they had connection to lawns,  
12 nature and domestic tranquility.<sup>76</sup>

13 D. Elevated “El” Trains and Subways

14 68. Through the late 19th and early 20th centuries, four U.S. metropolitan  
15 areas developed electric railway systems designed to handle a heavy volume of  
16 local traffic: New York City (1904), Chicago (1892), Boston (1894), and  
17 Philadelphia (1907). These “heavy rail” systems comprise street grade railways,  
18 subterranean (subway) lines, and “El” or elevated lines, but the terms “subway” and  
19 “El” have become a shorthand for these systems. Unlike the earlier transit systems  
20 described above, which were generally built and operated by private persons or  
21 entities, these new El and subway systems were built and operated by a  
22 combination of private and public institutions as a means to facilitate commuting  
23 through crowded urban landscapes. These four systems therefore eventually  
24 became the first true public transportation systems in the history of the United  
25 States.

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<sup>76</sup> JACKSON, CRABGRASS FRONTIER, *supra*, at 73-86.



1           **PART TWO: HISTORICAL RESTRICTIONS ON THE CONCEALED**  
2           **CARRYING OF FIREARMS ON TRANSIT SYSTEMS**

3           69.     While there is an extensive historical literature on the evolution of  
4 transportation in the United States, there has been little written about the question  
5 of taking firearms on various forms of transit. To better understand the practices  
6 surrounding carrying or not carrying firearms on transportation, I consulted more  
7 than seventy railroad company rule books and timetables. Starting in the middle of  
8 the 19th century, railroad companies created extensive rule books for personnel and  
9 sometimes passengers. They also published timetables for passengers. Railroad rule  
10 books detailed various operating procedures ranging from track signaling practices  
11 to the decorum of employees. Timetables, meanwhile, included train schedules as  
12 well as—sometimes—references to railroad procedures. Not all of these rule books  
13 and timetables survive, but many digital as well as brick and mortar archives  
14 contain some historic railroad rule books and timetables. Moreover, given the  
15 difficulty of locating historic railroad rule books and the time constraints of this  
16 case, I was not able to perform an exhaustive search and analysis of all historic  
17 railroad rule books that are still in existence today. However, from the documents  
18 that I was able to consult, I am able to make the following observations.

19           70.     First, many rule books and timetables do not mention firearms at all. I  
20 examined approximately seventy documents, in both online and brick and mortar  
21 archives, dating from the middle of the 19th century to the late 20th century, and I  
22 found mentions of firearms in approximately fifteen percent of those books. One  
23 possible explanation for this is that municipal and state laws, not railroad policies,  
24 dealt with the question of concealed carry.

25           71.     Second, some railroads made references to the practice of transporting  
26 guns as luggage stowed on baggage cars, and they noted proper safety procedures  
27 for transporting guns. There were no instances in which I saw reference to  
28 passengers or employees—other than railroad police—being allowed to take loaded



1 weapons on train cars. The 1880 timetable for the Union Pacific Railroad, for  
2 example, stated that “Dogs and Guns will be transported in baggage car, by special  
3 arrangement of owner with train baggageman, the rate charged on the former never  
4 to exceed one-half cent per mile, for distances over 50 miles, and on the latter, 25  
5 cents for each passenger division.”<sup>77</sup> Similarly, in its 1894 rule book, the Chicago,  
6 Milwaukee & Saint Paul Railway Company stipulated that “Dogs and guns of  
7 passengers will be carried in baggage cars free of charge, provided the total weight  
8 of the baggage, including dogs and guns, does not exceed 150 pounds for each  
9 passenger.”<sup>78</sup> The Burlington and Missouri Railroad’s 1894 timetable noted that  
10 “Invalid and Steamer Chairs, Saddles and Guns belonging to passengers on the  
11 train, will be carried at OWNER’S RISK in baggage car free of charge when there  
12 is room to do so without interfering with regular business.”<sup>79</sup>

13 72. Several railroads rule books—including those of the Illinois Central  
14 (1897), Southern Pacific (1908), and the Michigan Central (1923)—made  
15 references to the fact that baggage handling employees were expected to use the  
16 abbreviation “G. C.” for a gun case, indicating that passengers commonly put  
17 firearms in cases and checked them in the baggage car.<sup>80</sup>

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19  
20 <sup>77</sup> UNION CENTRAL PACIFIC RAIL ROAD LINE, “The Great American Over-Land  
Route,” (1880), <https://unionpacific.canto.com/s/HIJI7?viewIndex=2>.

21 <sup>78</sup> CHICAGO, MILWAUKEE & SAINT PAUL RAILWAY COMPANY, “Rules and  
Instructions,” 52 (1894),  
22 [https://books.google.com/books?id=xov3sYzwJvUC&newbks=0&printsec=frontcover&pg=PP7  
&dq=Chicago,+Milwaukee+%26+Saint+Paul+Railway+Company,+%E2%80%9CRules+and+In  
structions,%E2%80%9D+July+1,+1894&hl=en#v=onepage&q=Chicago%2C%20Milwaukee%20%26%20Saint%20Paul%20Railway%20Company%2C%20%E2%80%9CRules%20and%20Inst  
ructions%2C%20%E2%80%9D%20July%201%2C%201894&f=false](https://books.google.com/books?id=xov3sYzwJvUC&newbks=0&printsec=frontcover&pg=PP7&dq=Chicago,+Milwaukee+%26+Saint+Paul+Railway+Company,+%E2%80%9CRules+and+Instructions,%E2%80%9D+July+1,+1894&hl=en#v=onepage&q=Chicago%2C%20Milwaukee%20%26%20Saint%20Paul%20Railway%20Company%2C%20%E2%80%9CRules%20and%20Instructions%2C%20%E2%80%9D%20July%201%2C%201894&f=false).

23  
24 <sup>79</sup> BURLINGTON AND MISSOURI RIVER RAILROAD, “Local Time Tables,” 31  
(1894), [https://wx4.org/to/foam/maps/2Wx4/003/1894-06-  
01Burlington%26MissouriRiver\\_LocalPTT.pdf](https://wx4.org/to/foam/maps/2Wx4/003/1894-06-01Burlington%26MissouriRiver_LocalPTT.pdf).

25  
26 <sup>80</sup> ILLINOIS CENTRAL RAILROAD COMPANY, “General Instructions,” 153 (1897);  
SOUTHERN PACIFIC COMPANY, “Instructions to Station Baggage Man and Train  
27 Baggage Men,” 59 (1908), [https://wx4.org/to/foam/maps/1rule/books/SP/1908-12-  
01SP\\_INSTRUCTIONS\\_TO\\_BAGGAGEMEN.pdf](https://wx4.org/to/foam/maps/1rule/books/SP/1908-12-01SP_INSTRUCTIONS_TO_BAGGAGEMEN.pdf); MICHIGAN CENTRAL RAILROAD,  
28 “General Rules and Regulations for Handling Freight and Passenger Traffic,” 190 (1923),  
<https://babel.hathitrust.org/cgi/pt?id=mdp.39015071563640&view=1up&seq=1&q1=gun>.

1           73. Third, some railroads imposed explicit restrictions on employees  
2 and/or passengers carrying loaded and/or uncased weapons. The Central Pacific  
3 Railroad, for instance, made several mentions of its firearm policies in its 1883  
4 baggage policy book. Those rules were:

- 5           a. “Prohibited articles—Guns, umbrellas, walking sticks, baby-wagons,  
6 saddles, jewelry-boxes, lunch-baskets, and parrots are not baggage,  
7 and must not, under any circumstances, be checked.”  
8           b. “Guns, in cases and not loaded, and canary birds, in cages, not  
9 exceeding one cage to each passenger, may be carried in day or  
10 sleeping cars without charge.”  
11           c. “In all other cases, guns and saddles must be put in the care of the T.  
12 B. M., who is allowed to collect, for carrying each one any distance  
13 on his route, twenty-five cents each.” (T. B. M. refers to “Train  
14 Baggage man,” according to abbreviations on p. 2).  
15           d. “The fees for carrying dogs, monkeys, parrots, guns, baby-wagons,  
16 and saddles are for the personal compensation of the T. B. M. for the  
17 extra work and responsibility they cause him.”<sup>81</sup>

18           74. The Union Pacific’s 1887 timetable noted that firearms may be carried  
19 on passenger cars only if in cases and that uncased guns must be carried in the  
20 baggage car. It read: “Guns in cases may be carried by passengers in coaches  
21 without charge, or they will be checked free by baggage agents as part of the usual  
22 baggage allowance. Guns uncased will be carried in baggage car only.”<sup>82</sup> The  
23 Chicago Burlington and Quincy noted in 1903 that “Guns in cases may be checked  
24 as baggage” but it prohibited assembled, loaded weapons from being taken in  
25

26           <sup>81</sup> CENTRAL PACIFIC RAILROAD AND LEASED LINES, “Rules for the Government  
27 of the Baggage Department,” 7, 17-18 (1883), <https://californiarevealed.org/do/81e21b0d-dc24-4280-b87d-180adc5352fc>.

28           <sup>82</sup> UNION PACIFIC ROUTE, “The Shortest, Quickest, Safest and the Favorite  
Transcontinental Line,” (1887), <https://unionpacific.canto.com/s/HIJI7?viewIndex=2>.



1 passenger cars: “When put together ready for use, they may not be carried in  
2 passenger cars, but will be cared for in baggage car free of charge at owner’s  
3 risk.”<sup>83</sup>

4 75. The Northern Pacific Railroad likewise prohibited carrying uncased  
5 guns in railroad cars. Its 1909 timetable stated: “Guns in cases and unloaded may be  
6 checked as baggage. When put together ready for use they must not be carried in  
7 passenger cars but will be cared for in baggage car free of charge at owner’s risk.”<sup>84</sup>

8 76. In addition to these prohibitions on the carrying of uncased or loaded  
9 guns in passenger cars, a number of other railroads established policies against  
10 carrying guns for employees and/or passengers. For example, in 1922, the Dallas  
11 Railway Company “prohibited...carrying concealed weapons while on duty or  
12 about the company’s property.”<sup>85</sup> And, in 1943, Santa Fe Railroad stipulated that  
13 “Passengers, except military or peace officers in performance of their duties, are not  
14 permitted to take guns into passenger cars unless they are disconnected.”<sup>86</sup>

15 77. The historical evidence I have consulted indicates that railroad  
16 companies sometimes included discussions of safe transport of guns—usually  
17 checked in a case—and sometimes specified that passengers and/or employees not  
18 carry concealed and/or uncased weapons on train cars.

19 78. In light of the fact that many railroad rule books and timetables did  
20 not make any comment on the matter of guns on trains, it is also necessary to  
21 consider state and municipal laws that would have applied to travelers to  
22 understand the rules about carrying guns on mass transit. There was no “public  
23 transit” in 19<sup>th</sup> century America, but there were laws that would have applied to

24 <sup>83</sup> BURLINGTON ROUTES, “Time Tables,” 7 (1903),

25 [https://wx4.org/to/foam/maps/2Wx4/006/1903-09-06CB%26Q\\_systemPTT.pdf](https://wx4.org/to/foam/maps/2Wx4/006/1903-09-06CB%26Q_systemPTT.pdf).

26 <sup>84</sup> NORTHERN PACIFIC YELLOWSTONE PARK LINE, “Timetables” 62 (1909),  
27 [https://wx4.org/to/foam/maps/2Wx4/004-/1909-07-03NP\\_systemPTT.pdf](https://wx4.org/to/foam/maps/2Wx4/004-/1909-07-03NP_systemPTT.pdf).

28 <sup>85</sup> DALLAS RAILWAY COMPANY, “Rules and Regulations for the Government of  
Employees,” 10 (1922), [https://wx4.org/to/foam/maps/2-seabass/001/1922-10-15DallasRy\\_rules-seabass.pdf](https://wx4.org/to/foam/maps/2-seabass/001/1922-10-15DallasRy_rules-seabass.pdf).

<sup>86</sup> SANTA FE RAILROAD, “Instructions for Trainmen,” 7 (1943), [https://sfrhms.org/wp-content/uploads/2019/08/Circ-33-S\\_InstPassTransport.pdf](https://sfrhms.org/wp-content/uploads/2019/08/Circ-33-S_InstPassTransport.pdf).

1 riders—as well as everyone else—in cities with significant transportation  
2 infrastructure. Chicago, for instance, was the fifth largest U.S. city in 1870, and it  
3 was a national leader in the development of intracity and intercity transportation  
4 systems. In August of 1871, the Chicago Common Council passed a law prohibiting  
5 concealed carry of deadly weapons, including firearms. Section 1 read: “That all  
6 persons within the limits of the city of Chicago are hereby prohibited from carrying  
7 or wearing under their clothes, or concealed about their persons, any pistols, or  
8 Colt, or slungshot, or cross knuckles, or knuckles of lead, brass or other metal, or  
9 bowie knife, or dirk-knife, or dirk, or dagger or any other dangerous or deadly  
10 weapon.”<sup>87</sup>

11 79. The law is instructive in four key respects. First, it is important to note  
12 that many of the municipal restrictions against the carrying of firearms that date to  
13 the nineteenth century are hard to find. They are on paper documents and not  
14 necessarily available in digital databases. Second, the language used in the Chicago  
15 law mirrors that used in laws enacted in other states and cities<sup>88</sup>, suggesting these  
16 prohibitions were common. Third, the concealed carry prohibition would have  
17 applied to passengers riding an omnibus or streetcar across town. Fourth, police  
18 records from the 1870s show that Chicago police did arrest people for violation of  
19 the concealed carry law. We know therefore that it was enforced. According to  
20 annual reports of the Chicago Police Department, the number of arrests for  
21 violation of the city’s concealed carry law was: 153 in 1875, 184 in 1876, 336 in  
22 1877, 309 in 1878, and 328 in 1879. All of these facts indicate there are compelling  
23 reasons to find that there was a past practice of prohibiting the concealed carry of  
24 weapons in urban spaces—inclusive of, but not limited to, transportation  
25 infrastructure.

26 \_\_\_\_\_  
27 <sup>87</sup> CHICAGO CITY COUNCIL, *PROCEEDINGS OF THE COMMON COUNCIL* 271  
(1871) (Exhibit 2).

28 <sup>88</sup> See, generally, Defendants’ compendium of historical analogues filed  
concurrently herewith.



**SUMMARY OF OPINIONS**

1  
2           80.    The first public transit systems as we understand them today emerged  
3 in the United States during the first half of the 20th century. Prior to that time,  
4 transportation services were provided exclusively by private entities that usually  
5 received a charter or license to operate from a state or local government. Starting in  
6 the early twentieth century, public outcry over poor service and mounting financial  
7 pressures on transit companies forced a change. Several big cities replaced their  
8 private transportation companies with publicly-run systems. Those cities included  
9 San Francisco (1909), New York (1940), and Chicago (1947), with many more  
10 following in the middle of the twentieth century. Thus, public transit systems, as we  
11 know them today, date to the most recent chapter of American transportation  
12 history.

13           81.    The Preindustrial Era of United States transportation history spans the  
14 period from the 1600s to 1800. During that time, travel was powered by wind, foot,  
15 and/or hoof. The population was largely centered on the eastern seaboard where  
16 cities like Philadelphia, New York, and Boston served as import/export hubs for  
17 agricultural commodities and European manufactures. The seas and rivers were the  
18 most efficient pathways. Manmade infrastructure was limited to a fragmented  
19 network of rough roads constructed, in various turns, by individuals, corporations,  
20 and local governments. Travelers walked, rode horses, or less commonly, took their  
21 own wagons. A traveler with the means to do so could, alternatively, pay a  
22 privately-owned stagecoach, ship, or ferry boat line to take them to their  
23 destination. Travel was uncomfortable, time consuming, and costly.

24           82.    The Canal and Early Steamboat Era began in 1800 and lasted until the  
25 1830s. State-financed canal projects like the Erie Canal helped open the North  
26 American interior for settlement and trade, leading to the expansion of domestic  
27 markets. At the same time, a remarkable new technology—the steamboat—helped  
28 free people from the constraints of wind and human-and-animal-supplied energy.



1 Steamboat travel made it possible to move people and freight over inland waters  
2 with relative ease, speed, and regularity. Steamboat travel spurred the growth of  
3 river cities like New Orleans, St. Louis, and Cincinnati, and, for the first time,  
4 permitted the well-to-do to make routine ferry trips from suburban settlements like  
5 Brooklyn and towns in northern New Jersey to commercial centers like New York  
6 City.

7 83. The Industrial Railroad City Era began in the 1840s and lasted until  
8 the 1920s. The railroad freed travelers from the limits of wind, human, and animal  
9 power as well as from having to follow watercourses. It became possible to go  
10 anywhere track could be laid, and the steam engine—fueled by wood and coal—  
11 propelled people and goods at shocking speeds. The railroad fostered a new  
12 economic geography where people and goods were routinely shipped across the  
13 continent to big cities like Chicago, Cleveland, and New York where masses of  
14 urban laborers formed them into products for a national consumer market. At the  
15 same time, the railroad also drove the physical expansion of American cities, as  
16 privately-owned commuter rail systems whisked people back and forth from  
17 factories, commercial centers, and increasingly far-flung residential districts.

18 84. The economic and physical geography of the United States has been  
19 transformed by powerful forces between the first period of English colonization in  
20 the 1600s and the 2020s. Those transformative, historical forces include: new  
21 energy and transportation technologies, massive corporations, and the policies of  
22 state, local, and federal officials. To analogize between these distinctive periods in  
23 U.S. transportation history—especially between contemporary public transportation  
24 systems and the private turnpikes, ships, ferries, and stagecoaches of the  
25 preindustrial era—would be to ignore the transformative power of these historical  
26 forces and deny the economic dynamism of the United States. Thus, it is improper  
27 and unhelpful to analogize the turnpikes, stage coaches, streets, roads, wagons,  
28 ferries, and shops of early America to the transit systems of today.



# Exhibit 1



**Joshua Salzman, Ph.D.**

Associate Professor ▪ Department of History ▪ Northeastern Illinois University  
5500 N. Saint Louis Ave. ▪ Chicago, IL 60625  
773-442-5632 ▪ [J-Salzman@neiu.edu](mailto:J-Salzman@neiu.edu)

**EDUCATION**

|                                                                          |      |
|--------------------------------------------------------------------------|------|
| University of Illinois at Chicago<br><i>Ph.D., United States History</i> | 2008 |
| University of Illinois at Chicago<br><i>M.A., United States History</i>  | 2003 |
| Evergreen State College, Olympia, WA<br><i>B.A., Liberal Arts</i>        | 2000 |

**ACADEMIC APPOINTMENTS**

|                                                                                        |              |
|----------------------------------------------------------------------------------------|--------------|
| Associate Professor, Department of History, Northeastern Illinois University           | 2017-present |
| Assistant Professor, Department of History, Northeastern Illinois University           | 2012-2017    |
| Visiting Assistant Professor, Department of History, University of Illinois at Chicago | 2010-2012    |
| Lecturer, Department of History, University of Illinois at Chicago                     | 2008-2009    |

**PUBLICATIONS**

**Book**

*Liquid Capital: Making the Chicago Waterfront* (Philadelphia: University of Pennsylvania Press, 2018).

Winner of 2018 "Superior Achievement Award," Illinois State Historical Society

Honorable Mention in 2019 Jon Gjerde Prize competition, Midwest History Association

**Peer-Reviewed Articles and Book Chapters**

"Blood on the Tracks: Accidental Death and the Built Environment," in *City of Lake and Prairie: Chicago's Environmental History*, eds. William C. Barnett, Kathleen A. Brosnan, and Ann Durkin Keating (University of Pittsburgh Press, 2020).

"Bionic Ballplayers: Risk, Profit, and the Body as Commodity, 1964-2007," (co-authored with Sarah Rose) *LABOR: Studies in the Working-Class History of the Americas* 11 (Spring 2014): 47-75.

Winner of 2016 biennial "Best Article Prize," Labor and Working Class History Association

"The Creative Destruction of the Chicago River Harbor: Spatial and Environmental Dimensions of Industrial Capitalism, 1881-1909," *Enterprise and Society: The International Journal of Business History* 13 (June 2012): 235-275.

"The Lakefront's Last Frontier: The Turnerian Mythology of Streeterville, 1886-1961," *The Journal of Illinois History* 9 (Fall 2006): 201-214.

**Journalism**

Joshua Salzmann

“How the Midwest will make America great. Again.” (co-authored with Theo Anderson) *Crain’s Chicago Business*, December 11, 2018.

“How Chicago Transformed from a Midwest Outpost Town to a Towering City,” *Smithsonian Magazine*, October 12, 2018.

“The Super Bowl’s Violence is America’s Violence,” (co-authored with Theo Anderson) *In These Times*, January 30, 2015.

“Our Nation of Bionic Workers,” (co-authored with Sarah Rose) *Chicago Tribune*, September 25, 2013, section 1, p. 23.

### **Book Reviews**

Harold L. Platt, “Sinking Chicago: Climate Change and the Remaking of a Flood-Prone Environment,” *American Historical Review* 124 (June, 2019): 1096-1097.

“Nature in the Urban Jungle: Leisure and Identity Formation in Chicago,” a review of Colin Fisher, “Urban Green: Nature, Recreation, and the Working Class in Industrial Chicago,” *Journal of the Gilded Age and Progressive Era* 15 (April 2016): 236-237.

Paul Ryscavage, “Norman B. Ream: Forgotten Master of Markets,” *Journal of Illinois History* 17 (Spring 2014): 69-70.

Justin Kaplan, “When the Astors Owned New York: Blue Bloods and Grand Hotels in a Gilded Age,” *Enterprise and Society: The International Journal of Business History* 8 (January 2007): 207-208.

Andrew Wender Cohen, “The Racketeer’s Progress: Chicago and the Struggle for the Modern American Economy, 1900-1940,” *Michigan Historical Review* 31 (Fall 2005): 159-161.

### **Encyclopedia Articles**

“The Hepburn Act,” in *The Oxford Encyclopedia of American Business, Labor, and Economic History*, ed. Melvyn Dubofsky (New York: Oxford University Press, 2013): 326-327.

“The Hepburn Act,” in *The Oxford Encyclopedia of American Political and Legal History*, Vol. 1, eds. Donald T. Critchlow and Philip R. VanderMeer (New York: Oxford University Press, 2012): 438-439.

“Stephen Johnson Field,” *Encyclopedia of United States Political History*, Vol. 4, ed. Robert Johnston (New York: CQ Press, 2010): 149-151.

“Melville Weston Fuller,” *Encyclopedia of United States Political History*, Vol. 4, ed. Robert Johnston (New York: CQ Press, 2010): 151-154.

### **TEACHING**

#### **Undergraduate Courses**



Joshua Salzmann

Crime and Violence in the U.S., American Environmental History, Urban Environmental History, The City in American History, Chicago History-First Year Experience, Business, Technology, and the State, Sport in American Culture, United States History from 1600 to 1877, United States History Since 1877, Historical Research and Writing Methods, Capstone Research Seminar, Arts and Urban Life

### **Graduate Courses**

Readings in 20<sup>th</sup> Century U.S. History, Research Seminar in 20<sup>th</sup> Century U.S. History, Readings in 20<sup>th</sup> Century American Social History, Readings in American Cultural and Intellectual History

### **Thesis Direction**

Rene Delgado, "Protecting the Body Politic: The Politics of Chicago's Department of Public Health," (M.A. History, Northeastern Illinois University, 2017).

Edward Byrd, "The Politics of the Policy Game: Race, Power, and Gambling in Chicago's Bronzeville, 1890-1952," (M.A. History, Northeastern Illinois University, 2014).

Molly Webber, "Menominee Indian Medical Self-Determination," (B.A. Honors Thesis, History, University of Illinois at Chicago, 2012).

### **FELLOWSHIPS**

|                                                                             |           |
|-----------------------------------------------------------------------------|-----------|
| Summer Research Stipend, National Endowment for the Humanities              | 2020      |
| Summer Research Stipend, Northeastern Illinois University                   | 2020      |
| Faculty Excellence Award for Research, Northeastern Illinois University     | 2019      |
| Summer Research Stipend, Northeastern Illinois University                   | 2016      |
| Newcomen Dissertation Colloquium Honorarium, Business History Conference    | 2008      |
| Marion S. Miller Dissertation Fellowship, University of Illinois at Chicago | 2006-2007 |
| King V. Hostick Award, Illinois Historic Preservation Agency                | 2006      |
| Marion S. Miller Dissertation Fellowship, University of Illinois at Chicago | 2005-2006 |
| History Doctoral Award, University of Illinois at Chicago                   | 2001-2005 |

### **GRANT WRITING & ADMINISTRATION**

Co-author (with Dave Green) and Principal Investigator, "Unlocking Chicago's History: A Guide to Research in City Government Records," \$4,999, awarded to the Ronald Williams Library at Northeastern Illinois University by the Consortium of Academic and Research Libraries in Illinois, 2015-2017.

### **MEDIA APPEARANCES**

Commentator on election buttons exhibit, "Chicago Tonight," WTTW Channel 11 Chicago, aired November 6, 2018

Commentator on early Chicago laws, "Curious City," WBEZ 91.5 Chicago, aired May 3, 2018



Joshua Salzmann

**PRESENTATIONS**

“Teaching the History of Crime and Violence,” (workshop) Professional Development Seminar for High School Teachers, Chicago, IL, February, 2020

“Telling a Story with Historical Sources,” (workshop) Chicago Metropolitan History Fair, Chicago, IL, January, 2020

“The Creative Destruction of the Chicago River,” (invited lecture) Chicago Maritime Museum, Chicago, IL, January 18, 2019

“The Making of *Liquid Capital*,” Phi Alpha Theda induction ceremony, Chicago, IL, April 2018

“Analyzing Primary Sources,” (workshop) Chicago Metropolitan History Fair, Chicago, IL, February 2018

“Blood on the Tracks: Death and the Built Environment,” (edited volume contributors’ workshop) American Society for Environmental History Meeting, Chicago, IL, March 2017

“The Commodification of Civic Beauty: Daniel Burnham and Chicago’s Municipal (Navy) Pier,” Conference on Illinois History, Springfield, IL, November 2015

“‘Beauty Pays Better than any other Commodity:’ Industry, Leisure, and Port Development in Daniel Burnham’s Chicago,” Social Science History Association Meeting, Chicago, IL, November 2013

“‘Beauty Pays Better than any other Commodity:’ Industry, Leisure, and Port Development in Daniel Burnham’s Chicago,” (invited lecture) American Public Works Association Congress, Chicago, IL, August 2013

“Bionic Ballplayers: The Political Economy of Bodily Management in Major League Baseball, 1964-2007,” (co-authored with Sarah Rose), Newberry Library Labor History Seminar, Chicago, IL, October 2011

“Bionic Ballplayers: The Contractual Construction of Fitness in Major League Baseball, 1964-2005,” (co-authored with Sarah Rose), Business History Conference, Saint Louis, MO, April 2011

“Bigger, Stronger, Softer: The Contractual Construction of Fitness in Major League Baseball, 1964-2003,” (co-authored with Sarah Rose), Labor and Working Class History Association Conference, Chicago, IL, May 2009

“Bionic Ballplayers: Medicine and the Business of Baseball, 1964-2005,” (co-authored with Sarah Rose), American Association for the History of Medicine Conference, Cleveland, OH, April 2009

Joshua Salzmann

“Justice Stephen Field’s Instrumentalist Understanding of the Public Trust Doctrine,” Policy History Conference, Saint Louis, MO, May 2008

“The Creative Destruction of the Chicago River Harbor, 1867-1925,” Business History Conference, Cleveland, OH, June 2007

“The Geography of Jurisprudence: Public Lands for Private Profits, *Illinois Central v. Illinois* [1892],” Business History Conference, Toronto, ON, June 2006

“The Chicago Lakefront’s Last Frontier: Streeterville, 1886-1921,” Conference on Illinois History, Springfield, IL, October 2005

“The Tides of Liberalism: The 1889 Washington State Constitutional Convention’s Tidelands Debate,” Missouri Valley History Conference, Omaha, NE, March 2003

### **PROFESSIONAL SERVICE**

|                                                                              |              |
|------------------------------------------------------------------------------|--------------|
| Faculty Senator, Northeastern Illinois University                            | 2019-present |
| Steering Committee, Faculty Senate                                           | 2020-present |
| Steering Committee, Chicago Gun Violence Research Collaborative              | 2019-present |
| Chair, Assessment Committee, NEIU Department of History                      | 2017-present |
| Undergraduate Adviser, NEIU Department of History                            | 2016-present |
| Brommel Doctoral Scholarship Committee, NEIU                                 | 2020         |
| Co-founder and Co-chair of History of Capitalism Seminar, Newberry Library   | 2012-2018    |
| Chair, Fiscal Affairs Committee, NEIU Department of History                  | 2013-2017    |
| Scholarship Committee, NEIU Department of History                            | 2014-2017    |
| Faculty Hiring Committee, NEIU Department of History                         | 2018         |
| Local Arrangements Committee, American Society for Environmental History     | 2016-2017    |
| College of Arts and Sciences Curriculum Committee, NEIU                      | 2016-2017    |
| Assessment Committee, NEIU Department of History                             | 2015-2017    |
| Fiscal Affairs Committee, NEIU Department of History                         | 2012-2013    |
| Judge, Chicago Metropolitan History Fair                                     | 2006, 2011   |
| Referee, <i>Urban Geography</i>                                              | 2008         |
| Coordinator, University of Illinois at Chicago History Dissertation Workshop | 2005-2006    |
| Local Arrangements Committee Staff, AHA Conference, Chicago, IL              | 2003         |

# Exhibit 2



Aug. 17,

271

[1871.

Also,

The engrossed order authorizing the Comptroller to pay to L. H. Boldenweck the sum of two thousand eight hundred dollars on City Hall account.

Ald. McGrath moved that the order be passed.

The motion prevailed by the following vote:

*Ayes*—Knickerbocker, Dixon, Otis, Montgomery, Coey, McAvoy, Thompson, Whitaker, Daggy, Tracey, Schmitz, Hickey, W. S. Powell, Bailey, George Powell, Bateham, Walsh, Glade, Witbeck, Shell, Gill, McGrath, Buehler, Tyler, Schmidt, Schintz, Schaffner, McCaffrey, McCauley, Clarke, Devine, Busse, Mr. President—33.

*Noes*—None.

The following is the order as passed:

*Ordered* That the City Comptroller be and is hereby authorized and instructed to pay to Louis H. Boldenweck the sum of two thousand and thirty-eight dollars and seventy-five cents (\$2,038.75), and charge the same to the City Hall account.

Also,

An engrossed ordinance concerning the carrying of concealed weapons and the confiscation of such weapons.

Ald. McAvoy moved the passage of the ordinance.

The motion prevailed by the following vote:

*Ayes*—Dixon, Otis, Coey, McAvoy, Whitaker, Daggy, Tracey, Schmitz, Hickey, W. S. Powell, Bailey, George Powell, Bateham, Walsh, Glade, Witbeck, Shell, Gill, Buehler, Tyler, Schmidt, Schintz, Schaffner, McCaffrey, McCauley, Clarke, Devine, Busse, Mr. President—29.

*Noes*—Knickerbocker, Montgomery, Thompson, McGrath—4.

The following is the ordinance as passed:

## AN ORDINANCE

Concerning the carrying of concealed weapons and the confiscation of such weapons.

*Be it ordained by the Common Council of the City of Chicago:*

**SECTION 1.** That all persons within the limits of the city of Chicago are hereby prohibited from carrying or wearing under their clothes, or concealed about their persons, any pistols, or Colt, or slung shot, or cross knuckles, or knuckles of lead, brass or other metal, or bowie-knife, or dirk-knife, or dirk, or dagger or any other dangerous or deadly weapon.

**Sec. 2.** Any such weapon or weapons duly adjudged by any police magistrate, or justice of the peace of said city to have been worn or carried by any person in violation of section one of this ordinance, shall be forfeited or confiscated to the said city of Chicago.

**Sec. 3.** Any policeman of the city of Chicago may, within the limits of said city, without a warrant, arrest any person or persons whom such policeman may find in the act of carrying or wearing under their clothes, or concealed about their persons any pistol, or C. I., or slung-shot, or cross knuckles, or knuckles of lead, brass, or other metal, or bowie knife, or dirk-knife, or dirk, or dagger, or any other dangerous or deadly weapon, and detain him, her or them in the City Jail or Armory until a summons or warrant can be procured on complaint made (under oath or affirmation) for the trial of such person or persons, and for the seizure and confiscation of such of the weapons above referred to as such person or persons may be found in the act of carrying or wearing under their clothes, or concealed about their persons.

**Sec. 4.** Upon complaint made under oath or affirmation to any magistrate or justice of the peace in said city, that any person has been guilty of violating any of the provisions of section one of this ordinance, a summons or warrant shall issue for the summoning or arrest of the offender or offenders—returnable forthwith; upon the return of such summons or warrant, such magistrate or justice shall proceed to the hearing and determination of the matter, and if it shall be adjudged that such person or persons has incurred any of the penalties fixed by this ordinance, such magistrate or justice of the peace shall order that the weapon or weapons, concerning the carrying or wearing of which such penalty shall have been incurred, shall be kept and detained until it shall be adjudged whether or not such weapon or weapons shall be confiscated to the city of Chicago.

**Sec. 5.** Upon any judgment having been rendered for a violation of any of the provisions of section one of this ordinance, or upon complaint made under oath or affirmation that any such weapon or weapons has been worn or carried, or is being worn or carried, by any person or persons in violation of section one of this ordinance, the

magistrate or justice of the peace acting as a police justice, or other officer authorized by law to receive such complaint shall render the cause on his docket as follows:

The City of Chicago vs.—  
(here describe the weapon or weapons by general description) and shall thereupon issue a writ which shall be in form, as nearly as may be, as follows, viz:

State of Illinois, Cook county, ss.

The city of Chicago vs. (here describe the weapon or weapons by general description).

To (— here name the person accused, or who shall have been convicted as aforesaid) and all other persons interested.

You are hereby commanded to appear before me, at my office in Chicago, No. — street (which day shall not be less than ten nor more than thirty days from the date of such writ), at the hour of — a. m. or p. m., and show cause, if any you have, why the weapon described in the caption hereof shall not be confiscated to the city of Chicago, in accordance with the provisions of an ordinance concerning the carrying of concealed weapons, and the confiscation of such weapons, ———, constable, or any other constable of said county, is hereby commanded to cause due service of this writ to be made, copies thereof to be duly posted, and to make due return of this writ as required by law; and also to seize and hold the said weapons until it shall be adjudged whether or not the same shall be confiscated to the said city of Chicago. Given under my hand and seal this — day of —, A. D. —

**Sec. 6.** The officer receiving said writ shall cause one copy of said writ to be posted, for at least five days prior to the day therein mentioned for the hearing, at the Court House door of said city, one copy at the office of the justice or officer issuing said writ, and a like copy at two other public places in said city. He shall serve the person in such writ named, by leaving one copy thereof with such person or persons, and reading the same to such person or persons at least five days before the day fixed for such hearing, and shall make due return of such writ.

**Sec. 7.** Upon the return of any such writ, duly served in accordance with the preceding section, the officer issuing the same shall proceed, at the time designated in said writ, to the hearing of the cause, and shall hear all persons who may desire to be heard, touching the matter; and if, upon such hearing, such magistrate or justice of the peace shall find that such weapon or weapons shall have been worn or carried in violation of section one of this ordinance, he shall enter an order that the same be confiscated to the city of Chicago, and that the same be delivered to the officer known as the custodian of stolen property for safe keeping.

**Sec. 8.** Any person who shall be adjudged to have violated any of the provisions of section one of this ordinance shall pay a fine not exceeding one hundred dollars, or be imprisoned in the House of Correction for a term not exceeding six months, or both, in the discretion of the magistrate or court before whom such conviction shall be had.

**Sec. 9.** The prohibitions of this ordinance shall not apply to the officers or members of the police force of said city, when on duty.

**Sec. 10.** This ordinance shall be in force from and after its passage and due publication.

Also,

An engrossed ordinance concerning the Mutual Gas Light Company.

Ald. G. Powell moved that the ordinance be passed.

Ald. Daggy moved to amend the ordinance by striking out all after the enacting clause, and insert sections one, two, three, four, five, six, and seven of the ordinance recommended by the minority of the Committee on Gas Lights, as found on pages 267 and 268 of the printed Council proceedings.

Ald. Schintz moved as an amendment to the amendment the following:

*Provided*, however, that said corporation furnish gas to the city of Chicago and to its inhabitants at a rate at least 50 cents less per cubic feet than the present rates charged by the present gas companies.

After debate,

Ald. Tracey called for the previous question, and the call was sustained.

The question being on the amendment offered by Ald. Daggy, the ayes and noes were called, and the amendment lost by the following vote:

1 ROB BONTA  
 Attorney General of California  
 2 MATTHEW WISE  
 MARK R. BECKINGTON  
 3 Supervising Deputy Attorneys General  
 TODD GRABARSKY  
 4 JANE REILLEY  
 LISA PLANK  
 5 ROBERT L. MEYERHOFF  
 Deputy Attorneys General  
 6 State Bar No. 298196  
 300 South Spring Street, Suite 1702  
 7 Los Angeles, CA 90013-1230  
 Telephone: (213) 269-6177  
 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 **RENO MAY, an individual, et al.,**  
 14  
 Plaintiffs,  
 15  
 v.  
 16  
**ROBERT BONTA, in his official  
 17 capacity as Attorney General of the  
 State of California, and Does 1-10,**  
 18  
 Defendants.  
 19

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

**DECLARATION OF ZACHARY  
 SCHRAG 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

21 **MARCO ANTONIO CARRALERO, an  
 22 individual, et al.,**  
 23  
 Plaintiffs,  
 24  
 v.  
 25  
**ROBERT BONTA, in his official  
 26 capacity as Attorney General of  
 California,**  
 27  
 Defendant.  
 28

## DECLARATION OF ZACHARY SCHRAG

Pursuant to 28 U.S.C. § 1746, I, Zachary Schrag, declare under penalty of perjury that the following is true and correct:

1. I am a professor of history at George Mason University. I have personal knowledge of the facts set forth in this declaration, and if called upon as a witness, I could and would testify competently as to those facts.

2. I have been retained by the California Department of Justice to render expert opinions in this case. I am being compensated for my work on this declaration at a rate of \$75 per hour. My compensation is not contingent on the results of my analysis or the substance of any testimony.

### Background and Qualifications

3. In 2002 I earned my PhD in history at Columbia University. Since then I have been employed full-time as a history professor. In 2004 I joined the history faculty at George Mason University, where I now serve as a professor of history. A true and correct copy of my curriculum vitae is attached as **Exhibit 1** to this declaration.

4. I am the author of three books on the history of the United States: *The Great Society Subway: A History of the Washington Metro* (The Johns Hopkins University Press, 2006), *Ethical Imperialism: Institutional Review Boards and the Social Sciences, 1965-2009* (The Johns Hopkins University Press, 2010), and *The Fires of Philadelphia: Citizen-Soldiers, Nativists, and the 1844 Riots over the Soul of a Nation* (Pegasus Books, 2021), as well as multiple journal articles, book chapters, essays, and other publications on history.

5. I am also the author of *The Princeton Guide to Historical Research* (Princeton University Press, 2021), a peer-reviewed work that explains the methods used by historians to understand the past. To write that book, I examined other historians' practices, as well as drawing on my decades of experience conducting



1 my own research, teaching undergraduate and graduate courses on research  
2 methods, and supervising doctoral dissertations.

### 3 **The Historian's Role**

4 6. In his majority opinion in *New York State Rifle & Pistol Association,*  
5 *Inc. v. Bruen*,<sup>1</sup> Justice Thomas declares that in order to justify a firearms regulation,  
6 “the government must demonstrate that the regulation is consistent with this  
7 Nation’s historical tradition of firearm regulation. Only if a firearm regulation is  
8 consistent with this Nation’s historical tradition may a court conclude that the  
9 individual’s conduct falls outside the Second Amendment’s ‘unqualified  
10 command.’”<sup>2</sup> In his dissent, Justice Breyer asks how this is to be determined. While  
11 judges are experienced in weighing a laws objectives against its methods, he  
12 argues, they are “far less accustomed to resolving difficult historical questions.  
13 Courts are, after all, staffed by lawyers, not historians.” “I am not a historian,” he  
14 continues, “and neither is the Court.”

15 7. Conversely, I am neither a lawyer nor a judge, but I am a historian. As  
16 one who has taught and written about the process of historical research, I have been  
17 asked by the California Department of Justice to explain the work required to  
18 answer the difficult historical questions to which Justice Breyer alludes. It is not my  
19 purpose in this declaration to determine the “Nation’s historical tradition” of  
20 firearms regulation or even to scope out in detail the tasks that might be required to  
21 fairly describe that tradition. Rather, I seek to explain in general the process of  
22 historical research, and the reasons that it is unpredictable, labor-intensive, and  
23 time-consuming.

### 24 **Questions**

25 8. The *Bruen* opinion presents us with a general topic: the “Nation’s  
26 historical tradition” of firearms regulation, including “historical analogies.”

27 \_\_\_\_\_  
28 <sup>1</sup> 597 U.S. \_\_\_, 142 S. Ct. 2111, 2126 (2022).

<sup>2</sup> *Bruen*, 142 S. Ct. at 2177 (Breyer, J., dissenting).

1 Translating such a *topic* into a research *question* is the historian’s most  
2 consequential task, and one of the most difficult.

3 9. A first task is to determine the geographical scope of a historical  
4 question. Historians work at every level, telling some stories of individual buildings  
5 and others of planetary change. *Bruen*’s reference to the “Nation’s historical  
6 tradition” suggest an emphasis on the history of the United States. But *Heller*’s  
7 references to English history led many to think that the court was interested in that  
8 subject as well, leading to the participation of historians of Britain in an amicus  
9 brief by professors of history and law.<sup>3</sup> Similarly, any plan for historical research in  
10 response to post-*Bruen* litigation will need to determine the relevance of events  
11 outside of North America. Even within one continent, historians must make choices  
12 about geographical scope, for firearms have been at times regulated by local,  
13 colonial, state, federal, and Tribal bodies, and they have been controlled by non-  
14 state actors as well.

15 10. A second major task is to determine the chronological scope of an  
16 investigation. We can see hints of a periodization debate in Justice Barrett’s  
17 concurrence to *Bruen*, in which she notes that “the Court avoids another ‘ongoing  
18 scholarly debate on whether courts should primarily rely on the prevailing  
19 understanding of an individual right when the Fourteenth Amendment was ratified  
20 in 1868’ or when the Bill of Rights was ratified in 1791.”<sup>4</sup> As part of any historical  
21 investigation of California’s current laws, historians and lawyers would need to  
22 decide what periods of history they would like to explore.

23 11. The third and most important scoping choice concerns people. For  
24 centuries, most historical research posed questions about powerful men with official  
25 positions: monarchs, generals, and cabinet ministers. But generations of historians  
26 have worked to expand our understanding of the past by including other groups:

27 <sup>3</sup> Brief for Professors of History and Law as Amici Curiae in Support of  
28 Respondents, *Bruen*, 141 S. Ct. 2111 (No. 20-843).

<sup>4</sup> *Bruen*, 141 S. Ct. at 2163 (Barrett, J., concurring).

1 artists and intellectuals, business leaders and engineers, women, workers, members  
2 of minority groups, and so forth. Conceivably, a history of firearms regulation  
3 could embrace not only the stories of legislators and jurists, but also firearms  
4 manufacturers, users, victims, advocates, and opponents.

### 5 Sources

6 12. Once historians have defined the questions they wish to answer, they  
7 must identify the sources they will use to do so.

8 13. The first step is to read existing scholarship, also known as secondary  
9 sources. Historians use a range of tools to determine what others have written.

10 Bibliographic databases, published book reviews, and databases with the full text of  
11 journal articles are good places to start. Historians will often seek help at this stage  
12 from other scholars, including librarians. They will also read the footnotes of any  
13 scholarship they consult, leading to a lengthening chain of citation.<sup>5</sup> Existing  
14 scholarship will answer many questions, refine others, and pose new ones. In order  
15 to expand our understanding of the past, historians go beyond that scholarship and  
16 explore primary sources: documents or other material created by participants in or  
17 witnesses to the events one wishes to study.

18 14. Legal historians and courts are appropriately interested in statutory and  
19 case law. An act of legislation or a court order records a decision, but not  
20 necessarily the reasoning behind that decision. To be sure, legislative debates,  
21 accompanying reports, and court opinions sometimes help us understand the reason  
22 for a decision, but we often must look to unofficial sources as well. For example, to  
23 understand how New York and Massachusetts developed their immigration policy  
24 in the 1850s (then mostly a state, rather than federal, responsibility), Hidetaka  
25 Hirota considers not only the actions of courts and legislatures, but also the actions  
26 of immigration officials, shipmasters, immigration officials, guardians of the poor,

27  
28 <sup>5</sup> Alexandra Chassanoff, “Historians and the Use of Primary Source  
Materials in the Digital Age,” *American Archivist* 76 (September 2013): 460.



1 foreign consuls and immigrants themselves. To do so, he consulted many published  
2 statutes and court opinions from various years and states, which he then  
3 contextualized using official reports, newspapers, and some archival papers, such as  
4 the records of the mayor of New York City.<sup>6</sup> All of this helps us understand why  
5 the legislatures passed the statutes they did.

6 15. Even then, we must do more to understand the effect of those statutes  
7 on the lives of Americans, and their enforcement not only by agents of the state but  
8 also by community norms. Historians have demonstrated that both state and federal  
9 governments have relied on voluntary compliance or coercion, and the aid of non-  
10 state actors, to achieve their ends. To understand how, for example, conscription  
11 functioned in the world wars, we must look beyond the statute books and published  
12 regulations to newspapers, journals, institutional histories, soldiers' letters, and  
13 even the lyrics of popular songs.<sup>7</sup> In my own work, I cite two examples of firearms  
14 regulation that took place not in the statehouse, but on the street. On May 7, 1844,  
15 the day after a lethal riot, the mayor of Philadelphia noticed a man at a rally sitting  
16 on a double-barreled gun and ordered a police officer to confiscate it, though it was  
17 later returned. Two months later, the sheriff of Philadelphia County led a search of  
18 a Catholic church, during which he confiscated a great many more arms of various  
19 types.<sup>8</sup> These events eventually featured in criminal cases that were reported in  
20 newspapers, months after the confiscations, suggesting the need to look beyond the  
21 statutes to understand how Americans understood state police power.<sup>9</sup>

22 <sup>6</sup> Hidetaka Hirota, *Expelling the Poor: Atlantic Seaboard States and the*  
23 *Nineteenth-Century Origins of American Immigration Policy* (Oxford University  
24 Press, 2017), chapter 3.

24 <sup>7</sup> Christopher Capozzola, *Uncle Sam Wants You: World War I and the*  
25 *Making of the Modern American Citizen*, 1 edition (New York; Oxford: Oxford  
26 University Press, 2010), chapter 4; James T. Sparrow, *Warfare State: World War II*  
27 *Americans and the Age of Big Government* (New York: Oxford University Press,  
28 2011), chapter 6.

26 <sup>8</sup> Zachary M. Schrag, *The Fires of Philadelphia: Citizen-Soldiers, Nativists,*  
27 *and the 1844 Riots over the Soul of a Nation* (New York: Pegasus, 2021), 114, 207.

27 <sup>9</sup> Alexander Elkins, "‘At Once Judge, Jury, and Executioner’: Rioting and  
28 Policing in Philadelphia, 1838-1964," *Bulletin of the German Historical Institute* 54  
(continued...)

1           16. The digitization of primary sources has sped up research a good deal,  
2 but the process is still time-consuming. To explore nineteenth-century newspapers  
3 from a single state, one may need to consult multiple commercial databases, each of  
4 which offers different holdings, and requires different query formats for a search.  
5 For example, to study antebellum Pennsylvania, I consulted digitized Pennsylvania  
6 newspapers in at least seven databases.<sup>10</sup> For each, one may need to enter multiple,  
7 related terms. For instance, a search for “shotguns” in one decade might not turn up  
8 any, if people of that period referred to such weapons as “fowling pieces.” Having  
9 found that term in one database, one might return to search for it in all the others.

10           17. These digital databases rely on computerized, optical character  
11 recognition, usually performed not on original print copies but rather on often  
12 blotchy microfilm. Because of the small typefaces and cramped layouts of  
13 eighteenth- and nineteenth-century texts, this is a highly unreliable process; a  
14 historian searching for a particular keyword may get fewer than half of the relevant  
15 results. As Tim Hitchcock has written of one digitized collection of eighteenth-  
16 century newspapers, “52 per cent of the Burney Collection and a similar proportion  
17 of other resources are entirely unfindable, and as importantly it will always be the  
18 same 52 per cent, determined by typeface, layout, bleed through and a host of other  
19 factors no one has thoroughly investigated. If you want to use these materials to  
20 trace tabular data, or advertisements that include graphical elements, or any text  
21 normally represented in italics, you are largely out of luck.” A historian must spend  
22 time comparing results to page images in order to understand what results are and  
23 are not showing up, and to devise search strategies to compensate.

24 

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(Spring 2014): 67–90; Gary Gerstle, *Liberty and Coercion: The Paradox of*  
25 *American Government from the Founding to the Present* (Princeton University  
Press, 2017), chapter 2.

26 <sup>10</sup> This includes America’s Historical Newspapers, Chronicling America,  
GenealogyBank.com, Newspapers.com, Nineteenth Century U.S. Newspapers,  
27 Pennsylvania Historic Newspapers, and the Villanova Digital Library. Additional  
titles do not existing in digital form, so I consulted them on microfilm or in the  
28 original print. And titles from other states and countries required additional  
database searches.





1           21. And digitized sources represent only a small fraction of the available  
2 evidence. While digitization projects, such as Google Books and HathiTrust, have  
3 made it easier than ever to access texts published before 1923, they do not cover all  
4 publications, and they typically offer only glimpses of works that may still be  
5 protected by copyright. And they do not sweep in the bulk of non-textual sources,  
6 such as maps, artworks, and photographs, though other databases may reproduce  
7 these.

8           22. The most time-consuming form of historical research is archival  
9 research, which refers to the examination of original documents preserved by  
10 specialized institutions. As noted above, Hirota explored city, state, and federal  
11 archives (as well as some in the United Kingdom) to document official actions and  
12 deliberations not recorded in published sources. Other historians use official  
13 archives to demonstrate how a law operated in practice. To show how white  
14 assailants of Black victims “could act beyond the law,” Adam Malka cites a pardon  
15 record in the Maryland State Archives.<sup>12</sup> On a larger scale, our current  
16 understanding of Reconstruction depends in part on the letters to Southern  
17 governors that Eric Foner first read in the 1970s. As he has explained, those letters  
18 had been stuffed in boxes for a century, and many of them were “total junk.” But  
19 scattered among the total junk were accounts of the actual operations of  
20 Reconstruction governments.<sup>13</sup>

21           23. Unpublished unofficial sources also show us how previous generations  
22 of Americans, including those without official positions, understood the rules—  
23 official or not—that governed their lives. For example, Rosemarie Zagarri  
24 combines both unpublished and published personal letters to understand women’s  
25

26           <sup>12</sup> Adam Malka, *The Men of Mobtown: Policing Baltimore in the Age of*  
27 *Slavery and Emancipation*, Illustrated edition (University of North Carolina Press,  
28 2018), 170.

<sup>13</sup> Eric Foner, “Black History and the Reconstruction Era,” *Souls* 8 (2006):  
198.

1 roles in the politics of the early republic.<sup>14</sup> Lisa Tolbert relies on letters and  
2 diaries—as well as the testimony given in a murder trial—to understand how white  
3 women, white men, and enslaved Black men navigated similar urban spaces very  
4 differently, and gives us a far more complete understanding than would print  
5 sources created by and for white men alone.<sup>15</sup> My own understanding of the  
6 antebellum militia benefited greatly from reading the unpublished diary of Colonel  
7 Augustus Pleasonton, preserved by the Historical Society of Pennsylvania.  
8 Elizabeth Kelly Gray recently described how she and her students are transcribing  
9 *Memoirs of a Thief*, a manuscript written about 1800, which could give new insight  
10 to the working of criminal justice in the years after the passage of the Bill of  
11 Rights.<sup>16</sup>

12 24. Just locating archival sources is a task in itself, for archival sources  
13 often reside in unexpected places. For example, one might expect the work of a  
14 federal body to be preserved in the U.S. National Archives, an institution  
15 specifically created to preserve materials created by the federal government. In fact,  
16 as the Archives explains, it only preserves between 1 and 3 percent of those  
17 materials, so historians must often look elsewhere to trace even a federal story.<sup>17</sup> To  
18 understand the work of the National Commission for the Protection of Human  
19 Subjects of Biomedical and Behavioral Research, for example, I had to spend long  
20 hours at the Bioethics Research Library at Georgetown University, which preserves  
21 materials prepared for the commission’s meetings. I also traveled to the Graduate  
22 Theological Union in California to review additional materials deposited their by

23 <sup>14</sup> Rosemarie Zagari, *Revolutionary Backlash: Women and Politics in the*  
24 *Early American Republic* (University of Pennsylvania Press, 2011).

25 <sup>15</sup> Lisa C. Tolbert, *Constructing Townscapes: Space and Society in*  
*Antebellum Tennessee* (Chapel Hill: The University of North Carolina Press, 1999),  
26 chapters 4-6.

27 <sup>16</sup> “Lesson Plan: Primary Documents as Material Culture: Encouraging  
28 Students to See a Source from All Sides,” *The Panorama* (blog), August 17, 2022,  
<http://thepanorama.shear.org/2022/08/17/lesson-plan-primary-documents-as-material-culture-encouraging-students-to-see-a-source-from-all-sides/>.

<sup>17</sup> “What Is the National Archives and Records Administration?,” National  
Archives, August 15, 2016, <https://www.archives.gov/about>.

1 one of the commission members. In both cases, private institutions are preserving  
2 public records. While this example concerns a federal body, I have faced the same  
3 challenges at the state and local level.

4 25. As the above example suggests, relevant materials on a single topic  
5 may be scattered from coast to coast. Thanks to the work of countless archivists and  
6 networks, such as OCLC, Inc., identifying relevant collections may now be easier  
7 than ever before, though finding the right search terms remains an iterative process.  
8 But accessing archival materials is not simple. These materials do not circulate, so a  
9 researcher must travel to the archive, or hire a local assistant. Many reading rooms  
10 are open for limited hours. The Library of Virginia, for example, which holds the  
11 official records of the Commonwealth, has an Archives Research Room that is open  
12 only twenty-six hours most weeks.<sup>18</sup>

13 26. Most significantly, archival research often resembles panning for  
14 gold—seeking the glint of treasure amid much larger volumes of worthless dirt. A  
15 box of documents may have a single page of relevant material, or none at all, or  
16 duplicates of material one has already seen, which can be even worse than finding  
17 nothing since they consume the time needed to check that they are, in fact,  
18 duplicates. Handwriting may be hard to decipher. Bound volumes may be missing  
19 pages, or runs of serials may be missing issues. Historians try to work around such  
20 gaps by finding comparable information elsewhere, but this takes additional time.

21 27. In some cases, historians make copies of the materials they find—  
22 downloading electronic versions, or scanning or photographing printed materials.  
23 For collaborative work, citation-management systems such as Zotero can help  
24 groups share resources. But this is still preliminary to the more important work of  
25 reading and analyzing the material they have gathered.

26  
27  
28 <sup>18</sup> “Library of Virginia Visitors Guide,” accessed August 3, 2022,  
<https://www.lva.virginia.gov/about/visit.asp>.



## Findings

1  
2           28. Having gained access to the sources one will consult, the next step is  
3 to read them (or, in the case of non-textual sources, to view, listen to, or otherwise  
4 extract information from them). And while historians are experimenting with  
5 computer-aided methods of analysis, to a large extent they still rely on the time-  
6 consuming work of thorough reading.<sup>19</sup>

7           29. A major challenge in this process is to identify patterns that emerge  
8 from the evidence, and to devise interpretations that best fit the available facts.  
9 Historians seek to understand complexity, considering both the major trends of a  
10 period and important exceptions. We know, for instance, that in the eighteenth and  
11 nineteenth centuries, the vast majority of long-term romantic relationships that  
12 received community approval involved heterosexual, cisgender couples. But  
13 historians have also documented exceptions involving people who today would  
14 likely be understood as queer or transgender.<sup>20</sup> Good history requires the ability to  
15 acknowledge such anomalies as anomalies while still appreciating their significance  
16 to our understanding of the past.

17           30. Another key task is to read evidence critically, rather than taking  
18 sources at face value. Historians understand that people create sources with an  
19 agenda, whether they are trying to win votes, sell a product or service, persuade  
20 loved ones to act in a certain way, gather information, or craft an artistic rendering  
21 of the world around them. To divine such agendas, historians consider the intended  
22 audience, and the explicit or implicit messages a source conveys. They consider a  
23 source's credibility, its stylistic nuances, and the context in which it was created.

24  
25  
26 <sup>19</sup> Mats Fridlund, Mila Oiva, and Petri Paju, eds., *Digital Histories: Emergent*  
*Approaches within the New Digital History* (Helsinki University Press, 2020);  
27 Robert A. Caro, *Working* (Knopf Doubleday Publishing Group, 2019), 11.

28 <sup>20</sup> Rachel Hope Cleves, *Charity and Sylvia: A Same-Sex Marriage in Early*  
*America* (New York: Oxford University Press, 2014); Jen Manion, *Female*  
*Husbands: A Trans History* (New York: Cambridge University Press, 2020).

1 And they compare sources to one another, especially looking for evidence of  
2 change or continuity over time.

3 31. Historians take pride in their role as storytellers, and they will aim to  
4 choose vivid examples, striking quotations, and perhaps even intriguing characters  
5 to craft narratives that answer the questions they have posed. And they will offer  
6 interpretive thesis statements, explaining why one interpretation of events helps us  
7 understand the evidence better than alternatives. The best history writing marries  
8 storytelling and analysis, making the two complementary.

9 32. All of this takes time, and collaborative work only adds to the burden,  
10 since it requires the coordination of efforts, the sharing of drafts, and eventually the  
11 compilation of multiple documents into a single, coherent format. Since an  
12 investigation of the relevant historical traditions of firearms regulation will likely  
13 require collaboration of multiple scholars with distinct approaches and expertise,  
14 we can expect any report to go through multiple iterations before it is ready to be  
15 shared with a court.

### 16 **Timing**

17 33. As Justice Breyer's dissent in *Bruen* notes, historians have worked  
18 hard to provide amicus briefs for cases headed to the Supreme Court, but the *Bruen*  
19 majority imposes novel tasks on lower courts and litigants and, by extension, the  
20 historians who might assist them.

21 34. To answer the questions raised by the *Bruen* majority will require  
22 attention to a wider range of sources than those typically found in legal databases.  
23 Again, a historian would start with the existing scholarship, to learn what other  
24 historians have already found about a given topic and what sources they used to  
25 develop those findings. To build on that work, they would dive into primary  
26 sources, including print and digital sources, and perhaps archival manuscript  
27 sources as well. And the entire process is iterative. Just as a footnote in a scholarly  
28 source can lead one to a primary source, so might reading a primary source spark

1 questions—Who is this person? What is the event being referred to here?—that are  
2 best answered by a return to published scholarship.

3 35. I estimate that I write roughly 100 - 125 words of finished product per  
4 hour of research and writing, so that each thousand words of finished research (not  
5 including footnotes) would require between eight and ten hours. Thus, a 7,500-  
6 word essay (comparable to an amicus brief) might be expected to take about 75  
7 hours to write, possibly parceled out among a team of historians. That estimate  
8 (which does not include preliminary work to identify source materials), is  
9 complicated by the possible need to conduct a different kind of historical research  
10 to meet the new approach suggested by the *Bruen* majority, which could require  
11 more primary-source research than is typical in party and amicus briefs, and which  
12 generally takes longer to complete than research using secondary sources.

13 36. On top of this, most historians with PhDs work as professors, whose  
14 schedules are determined by their teaching duties.<sup>21</sup> The best time for them to be  
15 able to contribute their expertise would be between semesters: December, January,  
16 and the summer months. A deadline in the middle of a fall or spring semester risks  
17 depriving the court of their most comprehensive work.

### 18 **Conclusion**

19 37. History is for everyone. Asking what choices in the past led to our  
20 present circumstances is a basic human characteristic, and we all share stories of  
21 ourselves, our families, our communities, and our countries. At the same time, the  
22 most reliable histories require methodical investigation of the sort taught most  
23 frequently in graduate programs in history. Historians must craft worthy research  
24 questions that they will refine as they proceed, assess existing scholarship on a  
25 subject, identify and access primary sources that can help answer their questions,  
26 read those sources with care and curiosity, and report their findings in clear prose.

27 <sup>21</sup> Emily Swafford and Dylan Ruediger, “Every Historian Counts,” *Perspectives on*  
28 *History*, September 2019.



1 Each step takes patience, deliberation, and a willingness to go down paths that may  
2 turn out to be dead ends. To do their best work, historians cannot be rushed.

3 I declare under penalty of perjury under the laws of the United States of  
4 America that the foregoing is true and correct.

5 Executed on October 31, 2023, at Arlington, Virginia.

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10 Zachary M. Schrag

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12 October 31, 2023  
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# Exhibit 1

**ZACHARY M. SCHRAG**

Professor of History • George Mason University  
MSN 3G1, 4400 University Drive, Fairfax, VA 22030  
703/594-1844 • zschrag@gmu.edu  
@zacharyschrag.bsky.social  
ORCID: 0000-0003-1420-551X  
zacharyschrag.com • historyprofessor.org

**Education**

Columbia University. Ph.D. (History), 2002. M. Phil., 1999. M.A., 1997.  
Harvard University. A.B. *magna cum laude* (Social Studies), 1992.

**Employment**

George Mason University. Department of History and Art History.  
Professor, 2012 to present.  
Associate Professor, 2009-2012. Assistant Professor, 2004-2009.  
Columbia University. Department of History.  
Assistant Professor (term appointment). 2003-2004.  
Baruch College, City University of New York. Department of History.  
Substitute Assistant Professor. 2002-2003.

**Books**

- 2021 *The Princeton Guide to Historical Research*.  
Princeton: Princeton University Press.  
• American Historical Association. James Harvey Robinson Prize.
- 2021 *The Fires of Philadelphia: Citizen-Soldiers, Nativists, and the 1844 Riots Over the Soul of a Nation*. New York: Pegasus Books.
- 2010 *Ethical Imperialism: Institutional Review Boards and the Social Sciences, 1965-2009*.  
Baltimore: Johns Hopkins University Press.  
• Korean translation by Panmun Co. Ltd, 2014.  
• Chinese translation by Wu-Nan Book Inc., 2016.  
• Paperback edition, Johns Hopkins University Press, 2017.
- 2006 *The Great Society Subway: A History of the Washington Metro*.  
Baltimore: Johns Hopkins University Press.  
• Paperback edition, with new preface, Johns Hopkins University Press, 2014.

**Refereed Journal Articles**

- 2021 Scott W. Berg and Zachary M. Schrag, "It Takes Two: Combining English and History to Team Teach Narrative Writing," *Journal of American History* 107, no. 4 (March 2021): 968–73.
- 2020 "Interviewing Everyman: William Sheridan Allen, Theodore Rosengarten, and the Allure of Pseudonymous History," *Rethinking History* 24 (2020): 69–93.



2009 “How Talking Became Human Subjects Research: The Federal Regulation of the Social Sciences, 1965-1991.” *Journal of Policy History* 21 (Winter 2009): 3-37. [Material later incorporated into *Ethical Imperialism*.]

• Journal of Policy History. Ellis Hawley Prize.

2000 “‘The Bus is Young and Honest’: Transportation Politics, Technical Choice, and the Motorization of Manhattan Surface Transit, 1919-1936,” *Technology and Culture* 41 (January 2000): 51-79.

### Invited Journal Articles and Book Chapters

2022 “‘Things That Should Look Permanent Forever’: The Challenges of Preserving the Washington Metro.” *APT Bulletin: The Journal of Preservation Technology* 53, no. 1 (2022), 21-29.

2019 “Vexed Again: Social Scientists and the Revision of the Common Rule, 2011-2018.” *Journal of Law, Medicine & Ethics* 47 (2019): 254-263.

2016 “Ethical Pluralism: Scholarly Societies and the Regulation of Research Ethics,” in *The Ethics Rupture: Exploring Alternatives to Formal Research-Ethics Review*, edited by Will C. van den Hoonaard and Ann Hamilton. Toronto: University of Toronto Press, 2016.

2014 “What Is This Thing Called Research?” in *Human Subjects Research Regulation: Perspectives on the Future*, edited by I. Glenn Cohen and Holly Fernandez Lynch. Cambridge: MIT Press, 2014.

2013 “‘Rather Strong Advisory’: William Walton’s Commission and the Challenge of the FBI Building,” in *Civic Art: A Centennial History of the U.S. Commission of Fine Arts*, edited by Thomas Luebke. University of Massachusetts Press, 2013.

2012 “Transportation and the Uniting of the Nation,” in *To Promote the National Welfare: The Case for Big Government*, edited by Steve Conn. New York: Oxford University Press, 2012.

2011 “The Case Against Ethics Review in the Social Sciences.” *Research Ethics* 7 (2011): 120–131.

2009 “The Making of an Auto-Dependent Edge City: The Case of Fairfax County, Virginia,” in *Redefining Suburban Studies: Searching for New Paradigms*, edited by Daniel Rubey. Hempstead, New York: Center for Suburban Studies at Hofstra University, 2009. [Adapted from *The Great Society Subway*, chapter 9.]

2004 “The Freeway Fight in Washington, D.C.: The Three Sisters Bridge in Three Administrations,” *Journal of Urban History* 30 (July 2004): 648-673. [Material later incorporated into *The Great Society Subway*, chapter 5.]

2001 “Mapping Metro, 1955-1968: Urban, Suburban, and Metropolitan Alternatives,” *Washington History* 13 (Spring/Summer 2001): 4-23, 90-92. [Material later incorporated into *The Great Society Subway*.]

### Reports, Essays, and Journalism

2021 “Martyrs to the Nation,” *Slate Magazine*, September 1, 2021.

“Autobiography with Scholarly Trimmings,” *Perspectives Daily* (blog), July 13, 2021.

“When Philadelphia Became a Battlefield, Its Surgeons Bore Witness,” *Nursing Clio* (blog), June 22, 2021, nursingclio.org

- "In 1844, Nativist Protestants Burned Churches in the Name of Religious Liberty," *History News Network*, May 30, 2021, hnn.us
- "Tucker Carlson's Cries about Immigrants Have a Disturbing 19th-Century Parallel," *Washington Post: Made by History* (blog), May 17, 2021.
- "5 Paragraphs in Defense of 5 Paragraphs," *Inside Higher Ed*, April 28, 2021.
- 2018 "Lewis Levin Wasn't Nice," *Tablet Magazine*, October 22, 2018.
- "Subway Stories: DC Metro and the Problem of Maintenance," *AHA Today*, January 4, 2018.
- 2016 "How Congress Undercut Its Own City's Subway System," *POLITICO Magazine*, March 16, 2016.
- 2015 "Will the Federal Government Finally Deregulate Oral History?," *American Historian*, November 2015, 20-22.
- 2014 "You Can't Ask That." *Washington Monthly*, September/October 2014.
- 2012 "Regulation of Research on Human Subjects: Academic Freedom and the Institutional Review Board." Report of a subcommittee of the American Association of University Professors Committee A on Academic Freedom and Tenure. With Judith Jarvis Thomson, Catherine Elgin, David A. Hyman, Jonathan Knight, and B. Robert Kreiser. Published, September 2012. Final version, March 2013.
- 2012 "The Ethical Imperialism of Moral Science," *Bioethics Forum*, January 4, 2012.
- 2011 "Virginia's History Textbooks Still Aren't Accurate—The Publishers Need to Get Historians Involved," *History News Network*, October 3, 2011.
- "Obama's Impossible Request," *Bioethics Forum*, January 19, 2011.
- 2010 "Milestone: Peter S. Craig," *Washington History* 22 (2010): 97-98.
- "Belmont's Ethical Malpractice," *Bioethics Forum*, November 30, 2010.
- 2009 "UIC IRB Asserts Power Over Oral History," *Illinois Academe*, Spring 2009.
- 2007 "Thinking Big: Lessons from the Washington Metro," *TR News* 249 (March-April 2007): 18-20.
- "Ethical Training for Oral Historians," *Perspectives: Newsletter of the American Historical Association*, March 2007.
- 2006 "How Metro Shapes D.C.," *Washington Post*, May 7, 2006.

#### **Awards and Grants**

- 2022 American Historical Association. James Harvey Robinson Prize.
- 2022 George Mason University. Rick Holt Active Transportation Advocate Award.
- 2010 *Journal of Policy History*. Ellis Hawley Prize.
- 2009 Library of Congress. Kluge Fellowship.
- 2008 George Mason University. Mathy Junior Faculty Award.
- 2003 Society for American City and Regional Planning History. John Reps Prize.

2001 National Science Foundation, Program in Science and Technology Studies. Dissertation Grant.

Gerald R. Ford Foundation. Travel Grant to Gerald R. Ford Library.

2000 Columbia University. Public Policy Fellowship.

1997 Columbia University. President's Fellowship.

1996 Columbia University. Richard Hofstadter Fellowship.

### Editorial Positions

2013 *Journal of Empirical Research on Human Research Ethics*. Appointed to advisory board, July 2013

2011 *Journal of Policy History*. Guest editor of volume 23, issue 1 (January 2011). Special issue on human subjects regulations in several countries.

2009 Historical Society of Washington, D.C. Editor, *Washington History*, volumes 21 and 22 (2009 and 2010). Editorial board member, 2005-2014.

2008 *Journal of Urban History*. Editorial board member. 2008-2013.

### New Media

2011 HistoryProfessor.Org: Zachary Schrag's Guidelines for History Students.

2006 Institutional Review Blog, <http://institutionalreviewblog.com/>. Active 2006-2017.

2005 The Mason Historiographiki, <http://chnm.gmu.edu/courses/schrag/wiki/>. Active 2005-2022.

2001 "Building the Washington Metro: An Online Exhibit." Center for History & New Media, George Mason University, <http://chnm.gmu.edu/metro>.

### Reference Entries

2014 "Subways." *Oxford Encyclopedia of the History of Science, Medicine, and Technology in America*, edited by Hugh Richard Slotten. New York: Oxford University Press, 2014.

2013 "Nativist Riots of 1844," *Encyclopedia of Greater Philadelphia*, <http://philadelphiaencyclopedia.org/archive/nativist-riots-of-1844/>.

2008 "Designing the Washington Metro," in *Architecture: Celebrating the Past, Designing for the Future*, edited by Nancy B. Solomon. New York: Visual Reference, 2008.

2002 "Washington, D.C.," in *Dictionary of American History*, 3rd edition, edited by Stanley I. Kutler. New York: Charles Scribner's Sons Reference Books, 2002.

"Urban Mass Transit in the U.S.," in *EH.Net Encyclopedia*, edited by Robert Whaples, <http://www.eh.net/encyclopedia/contents/schrag.mass.transit.us.php>.

"Harry Weese," in *The Scribner Encyclopedia of American Lives*, vol. 5, edited by Kenneth T. Jackson. New York: Charles Scribner's Sons Reference Books, 2002.

2001 "Metrorail System (Metro)," in *Capital IA: Industrial Archeology of Washington, D.C.*, edited by Sara Amy Leach. Washington: Society for Industrial Archeology, Montgomery C. Meigs Original Chapter, 2001.



1999 "Stephen D. Bechtel," in *The Scribner Encyclopedia of American Lives*, vol. 2, edited by Kenneth T. Jackson. New York: Charles Scribner's Sons Reference Books, 1999.

### Reviews

- 2020 "Outsourcing Ethics," review of *Regulating Human Research: IRBs from Peer Review to Compliance Bureaucracy* by Sarah Babb. *Academe*, Fall 2020, 55-58.  
*Last Subway: The Long Wait for the Next Train in New York City*, by Philip Mark Plotch. *Transport Reviews* 40 (2020): 810-811.
- 2018 *Privacy and the Past: Research, Law, Archives, Ethics*, by Susan C. Lawrence. *Journal of the History of Medicine and Allied Sciences* 73 (January 2018): 118-120.
- 2017 *Balanced Ethics Review: A Guide for Institutional Review Board Members*, by Simon N. Whitney. *Oral History Review* 44 (Summer/Fall 2017): 433-435.
- 2015 *The Ethics Police?: The Struggle to Make Human Research Safe*, by Robert L. Klitzman. *Society* 52 (2015): 503-506.
- 2012 *Behind Closed Doors: IRBs and the Making of Ethical Research*, by Laura Stark. *American Journal of Sociology* 118 (September 2012): 494-496.  
*The Seduction of Ethics: Transforming the Social Sciences*, by Will C. van den Hoonaard. *Contemporary Sociology: A Journal of Reviews* 41 (September 2012): 678-679.
- 2011 *Urban Mass Transit: The Life Story of a Technology*, by Robert C. Post *Transfers: New Mobility Studies* 1 (Spring 2011): 155-157.
- 2008 *Generation on Fire: Voices of Protest from the 1960s: An Oral History*, by Jeff Kiseloff. *Oral History Review* 35 (Summer-Fall 2008): 229-231.  
*The Pentagon: A History*, by Steve Vogel. *Virginia Magazine of History and Biography* 116 (2008): 205-207.
- 2007 *Transport of Delight: The Mythical Conception of Rail Transit in Los Angeles*, by Jonathan Richmond. *Journal of Transport History* 28 (September 2007): 328-330.  
*The Merchant of Power: Sam Insull, Thomas Edison, and the Creation of the Modern Metropolis*, by John F. Wasik. *Technology and Culture* 48 (January 2007): 218-219.
- 2006 *Capital Drawings: Architectural Designs for Washington, D.C., from the Library of Congress*, by C. Ford Peatross, ed. H-DC, H-Net Reviews, August 2006.  
"America on the Move," permanent exhibit, Smithsonian Institution, National Museum of American History, Behring Center, *CRM: The Journal of Heritage Stewardship* 3 (Winter 2006): 116-117.
- 2005 *The Electric Vehicle: Technology and Expectations in the Automobile Age*, by Gijs Mom. *Enterprise and Society* 6 (December 2005): 710-712.  
Washington as It Was: Photographs by Theodor Horydczak, 1923-1959  
<<http://memory.loc.gov/ammem/thhtml/thhome.html>>, created and maintained by the Prints and Photographs Division, Library of Congress, Washington, D.C, *Journal of American History* 92 (September 2005): 710-711.  
"The L'Enfant Plan Artistically Considered" (reviews of Iris Miller, *Washington in Maps*, James M. Goode and Laura Burd Schiavo, *Washington Images*, and Joseph R.

- Passonneau, *Washington through Two Centuries*). *Journal of Planning History* 4 (August 2005): 280-285.
- Neon Metropolis: How Las Vegas Started the Twenty-First Century*, by Hal Rothman. *American Studies* 46 (Summer 2005): 208-209.
- 2004 *From Warfare to Welfare: Defense Intellectuals and Urban Problems in Cold War America*, by Jennifer S. Light. *Technology and Culture* 45 (October 2004): 885-886.
- Places of Their Own: African American Suburbanization in the Twentieth Century*, by Andrew Wiese. *Journal of Economic History* 64 (September 2004): 903-905.
- 2003 *Tunneling to the Future: The Story of the Great Subway Expansion That Saved New York*, by Peter Derrick. *Urban History* 30 (May 2003): 155-157.
- The Human Tradition in Urban America*, by Roger Biles, ed. H-Urban, H-Net Reviews, May 2003.
- The Notebook of an Amateur Politician: And How He Began the D.C. Subway*, by Gilbert Hahn, Jr. H-DC, H-Net Reviews, February 2003.
- Concrete and Clay: Reworking Nature in New York City*, by Matthew Gandy. *Technology and Culture* 44 (January 2003): 211-12.
- 2002 *The Bulldozer in the Countryside: Suburban Sprawl and the Rise of American Environmentalism*, by Adam Rome. *Technology and Culture* 43 (October 2002): 802-803.
- Capital Transit: Washington's Street Cars, The Final Era 1933-1962*, by Peter C. Kohler H-DC, H-Net Reviews, June 2002.
- Montgomery C, Meigs and the Building of the Nation's Capital*, by William C. Dickinson, Dean A. Herrin, and Donald R. Kennon, eds. H-DC, H-Net Reviews, April 2002.
- 2000 *Chicago Transit: An Illustrated History*, by David Young. *Technology and Culture* 41 (July 2000): 638-640.
- The American Cities and Technology Reader: Wilderness to Wired City*, by Gerrylynn K. Roberts, ed. H-Urban, H-Net Reviews, March 2000.
- 1998 *Subway City: Riding the Trains, Reading New York*, by Michael W. Brooks. H-Urban, H-Net Reviews, January 1998.

### Invited Lectures

- 2022 Eastern State Penitentiary, Philadelphia. "Immigration, Violence, and the Search for Justice."
- 2021 Association for Preservation Technology International, College of Fellows keynote. "‘Things That Should Look Permanent Forever’: The Challenges of Preserving the Washington Metro." Online.
- American Catholic Historical Society, Philadelphia. Annual Fall Lecture. "The Fires of Philadelphia."
- George Washington University Museum, D.C. Mondays. "A History of the Washington Metro." Online.
- 2019 Alexandria Historical Society. "Thinking Big: Lessons from the Washington Metro."
- 2016 Electric Railroaders Association. "Thinking Big: Lessons from the Washington Metro."

- Anacostia Community Museum. "The Home Rule Subway."
- 2014 D.C. Public Library. "Thinking Big: Lessons from the Washington Metro."  
Federal Transit Administration. "Thinking Big: Lessons from the Washington Metro."
- 2014 University of Utah, Symposium on Field Research and US Institutional Review Board Policy, Keynote address: "'The Freedoms We Are Committed to Protect': Political Science, Academic Freedom, and Institutional Review Boards in Historical Perspective."
- 2013 Washington Metropolitan Area Transit Authority. "How to Repeat the Past: Learning from Metro's Founding Generations."  
Brigham Young University Department of Anthropology. "Ignorance Is Strength: Pseudo-Expertise and the Regulation of Human Subjects Research."
- 2012 National Institutes of Health, Inter-Institute Bioethics Interest Group. "Blunder at Belmont: The 1970s Origins of IRB Mission Creep."  
University of Michigan, Center for Bioethics and Social Sciences in Medicine. "Ethical Imperialism."
- 2011 Virginia Tech Science and Technology in Society (STS), "Outside Authority," graduate student conference. Keynote address: "Ignorance Is Strength: Pseudo-Expertise and the Regulation of Human Subjects Research."  
Northwestern University, Feinberg School of Medicine, Medical Humanities and Bioethics Program. "Blunder at Belmont: The 1970s Origins of IRB Mission Creep."
- 2010 National Building Museum, Power, Architecture, and Politics: The Design of Washington and the U.S. Commission of Fine Arts Symposium. "'Rather Strong Advisory': The 1960s and the Challenge of the FBI Building."  
George Mason University, Vision Series. "Fire and Be Damned: The Militia in Nineteenth Century Riots."
- 2009 Library of Congress. Kluge Center. "Militias and Mobs in Antebellum America."
- 2008 University of Connecticut. Geography Colloquium. "Thinking Big: Lessons from the Washington Metro."  
Virginia Tech Urban Affairs and Planning Program, New Metropolis Lecture Series. "Thinking Big: Lessons from the Washington Metro."
- 2006 New York Transit Museum. "The Great Society Subway."  
National Building Museum. "Metro's Many Creators."  
Woodrow Wilson International Center for Scholars. "The Great Society Subway."
- 2005 Chicago Historical Society, Urban History Seminar. "Mr. Weese Goes to Washington: A Chicago Architect Designs the Great Society Subway."  
Catholic University of America, School of Architecture and Planning. "Grid to Diagrid: A Vision for Transforming the Metro in the Virginia Landscape." With John di Domenico and Laura Heim.
- 2004 University of Virginia. Science, Technology, and Society Colloquium. "Engineering the Great Society: Experts, Citizens, and the Building of the Washington Metro."
- 2003 University of California Transportation Center, Berkeley. Transportation History Lecture. "Reading Between the Lines: Planning the Washington Metro, 1955-1968."



- 2002 National Capital Transportation Agency Reunion, Washington, D.C..  
 “In Praise of Fanaticism: The Legacy of Darwin Stolzenbach.”  
 Latrobe Chapter, Society of Architectural Historians, Washington, D.C.  
 “How Metro Got Its Vaults: Federal Modernism, Harry Weese, and Rapid Transit in Washington, D.C.”
- 2001 Historical Society of Washington, D.C.  
 “Jackson Graham and the Building of the Washington Metro.”

### **Conference Participation**

- 2023 Society for the History of Technology, Los Angeles, California. Organized panel: “Is Prometheus OK? Postmodern Infrastructure after 1970.” Paper: “Not your Father’s Metrorail: The Dulles Corridor Metrorail Project and the Burden of History.”
- 2023 Women’s issues in Transportation (WliT) Witness Seminar. Université Gustave Eiffel/ Université Paris 1/George Mason University. Moderator.
- 2023 American Historical Association. Philadelphia. Panelist: “Turning the Page: Improving Reading Skills in the History Classroom.”
- 2022 American Historical Association. Online. Panelist and organizer: “Taking Notes and Teaching Note-Taking in the 21st Century.”
- 2019 Society for American City and Regional Planning History, Arlington, Virginia. Chair and comment: “Land Use and the Built Environment.”
- 2018 Reimagining Human Subject Protection for the 21st Century: A Critical Assessment of the Revised Common Rule. Seton Hall Law School.
- 2017 Eleventh Annual Virginia IRB Consortium Conference, Fairfax. Panelist, Social and Behavioral Education Research.  
 Society for Historians of the Early American Republic, Philadelphia. “Waving the Yellow Handkerchief: Philadelphia’s Nativist Riots in Transnational Perspective.”
- 2016 Urban History Association, Chicago. Chair and comment, “Capital Cities as National Projects: A Comparative Perspective.”  
 St. John’s College, University of Oxford. What’s in a Name? Should We Anonymise Identities? “Interviewing Everyman: William Sheridan Allen, Theodore Rosengarten, and the Allure of Pseudonymous History.”  
 Participant, “Exploring American Democracy, with Alexis de Tocqueville as Guide,” NEH Summer Seminar, University of Virginia.
- 2015 Annual Conference on D.C. Historical Studies. Moderator for session: “D.C.’s Home Rule Decade: Context, Policy and Politics in the Campaign for Local Autonomy.”  
 Revising and Expanding the Scope of the Common Rule. CTSA Consortium Coordinating Center, Evanston, Illinois. Invited presentation: “Exclusions, Exemptions, and Determination Process.”
- 2014 Annual Conference on D.C. Historical Studies. Commentator for Plenary Session: “Washington D.C.: From Company Town to Global Business Center.”  
 Historical Society of Pennsylvania, Philadelphia. Participant on panel, “Leaving the Emerald Isle: Trials and Tribulations of Irish Immigrants in 19th Century Philadelphia.”

- Urban History Association, Philadelphia. "Three Men in a Riot: Telling the Story of Philadelphia in 1844" and chair and comment on panel, "Airports and the Metropolitan Landscape."
- New America Foundation, Washington, D.C. "America's Worst Colleges." Panelist.
- National Capital Planning Commission, Washington, D.C. "Residents to Presidents: Pennsylvania Avenue's Role in the 21st Century." Moderator.
- American Historical Association. Washington, D.C. Comment on panel, "Riotous Democracy and American Political Culture in the Nineteenth Century."
- 2013 Society for American City and Regional Planning History. Toronto. Chair of panel, "Trials and Tribulations of Airport Planning in Late Twentieth Century North America."
- 2012 Ethics Rupture: An Invitational Summit about Alternatives to Research-Ethics Review. Fredericton, New Brunswick. "Ethical Pluralism: Scholarly Societies and the Regulation of Research Ethics."
- The Future of Human Subjects Research Regulation. Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics at Harvard Law School. "What Is This Thing Called Research?"
- American Historical Association. Chicago. "'They Are Not Your Brothers': Divided Loyalties and the Pennsylvania National Guard in the Summer of 1877."
- 2011 Society for American City and Regional Planning History. Baltimore. Comment on panel, "The Impact of Transportation on Urban Form."
- New England Library Association. Burlington. Panel participant, "Who's Monitoring Your Research?"
- Association for Practical and Professional Ethics. Cincinnati. "*Ethical Imperialism*: Author Meets Critics." Respondent.
- 2010 Urban History Association. Las Vegas. Chair and comment on panel, "Contests over Public Space." Chair of panel, "Ways and Means of Transportation."
- Policy History Conference. Columbus, Ohio. "No Passive Obedience: Militia Loyalties and Civil Disorder in Early America, 1747-1812."
- Organization of American Historians. Washington, D.C. "Fire and Be Damned: The Militia in Nineteenth Century Riots."
- 2008 Urban History Association. Houston. "'Poison the Women Gently': The Social Meanings of Tear Gas, 1915-1940."
- American Association for the Advancement of Science. Washington, D.C. Invited participant in topical meeting on IRB's, Qualitative Research, and Scientific Freedom & Responsibility.
- Organization of American Historians. New York City. "How Talking Became Human Subjects Research: Charles McCarthy and the Regulation of the Social Sciences."
- 2007 Oral History Association. Oakland, California. "Expedited Review: The Federal Regulation of Survey and Interview Research, 1966-1981."
- Society for the History of Technology. Washington, D.C. "'To Punish Them Without Loss of Life': Gilded-Age Efforts at Non-Lethal Riot Control, 1877-1910."

- Transportation Research Board. Washington, D.C. "History of the Washington, D.C., Metro System"
- 2006 University of Maryland. Colloquium in the History of Technology. "Silent Gatlings and Blank Cartridges: Gilded Age Attempts at Non-Lethal Riot Control."
- Organization of American Historians. Washington, D.C. Comment on panel, "Capital, Community and Contest: Washington, D.C., in the Modern Era."
- American Historical Association. Philadelphia. Participant in roundtable discussion: "Oral History and Institutional Review Boards: What Historians Need to Know Before Doing It."
- 2005 Society for the History of Technology. Minneapolis. Comment on panel, "Everyday Technology in Transition: Subways, Bicycles and Railroads, 1870-1960."
- Society for American City and Regional Planning History. Miami. Comment on panel, "Highways."
- Business History Conference. Minneapolis. Comment on panel, "Restructuring Transport and Cities in the 20th-Century United States."
- 2004 Columbia University Public Policy Consortium. Symposium on Public Policy and the Academy. "Who Cares About Transportation History?"
- Transportation Research Board. Washington, D.C. Comment on panel, "Technological Determinism or Social Choice: Moments in the History of Transportation."
- 2003 Business History Conference. Lowell, Massachusetts. Comment on panel, "Metropolitan Economies."
- 2002 Urban History Association. Pittsburgh. "The Dienbienphu of the Freeway Fight: The Case of the Three Sisters Bridge."
- 2001 American Studies Association. Washington, D.C. "The Ten-Billion Dollar Map: The Washington Metro and the Cartography of Local Identity."
- Society for American City and Regional Planning History. Philadelphia. "A New Renewal? The Transit-Oriented Redevelopment of Washington's Mid-City."
- Society for the History of Technology. San Jose, California. "The Ordeal of Jackson Graham: Engineers, Citizens, and the Building of the Washington Metro, 1967-1976."
- Hofstra University. Redefining Suburban Studies conference. "Sprawl or Corridor? The Politics of Land Use Planning around Washington Metro Stations, 1967-2000."
- 2000 Washington, D.C., Historical Studies Conference. Washington, D.C. "The Evolution of Metro Architecture."
- 1997 Northeast Popular Culture Association. Boston. "Mayor Hylan's War Against the Streetcar: New York City, 1919-1924."
- Princeton University. Graduate History Conference. "The Bus is Young and Honest: Transportation Politics, Technical Choice, and the Motorization of Manhattan Surface Transit, 1919-1924."

### Dissertations Supervised

- 2021 Jordan Patty, "Transit, Labor, and the Transition to Public Ownership in Atlanta and Oakland."



- Richard Hardesty, "Magic in 'a Tragic City': The Orioles and the Redevelopment of Baltimore, 1954-1992."
- 2020 Alan S. Brody, "Peculiar Capitalism: Fast-Food Franchising and Entrepreneurship in Postwar America."
- Roger Connor, "Rooftops to Rice Paddies: Aerial Utopianism, Helicopters, and the Creation of the National Security State."
- 2018 Alan Capps, "The Antecedents of the U.S. Border Patrol, 1812-1940."
- 2017 Ray Clark, "A Public Airport for the District of Columbia: The History of Washington Dulles International Airport."
- 2014 Mary Sullivan Linhart, "Up to Date and Progressive: Winchester and Frederick County, Virginia, 1870-1980."

### Selected Press Appearances

- 2021 Thomas Koenig, "The Narrow Path That We're Walking," *Philadelphia Citizen*, July 7, 2021, [thephiladelphiacitizen.org](http://thephiladelphiacitizen.org)
- John Turner, "Fires of Philadelphia: Religion and Mob Violence, 1844," *Anxious Bench* (blog), June 10, 2021, [www.patheos.com/blogs/anxiousbench/](http://www.patheos.com/blogs/anxiousbench/)
- Jeff Nilsson, "America's Long Tradition of Rioting," *Saturday Evening Post*, June 7, 2021, [www.saturdayeveningpost.com](http://www.saturdayeveningpost.com)
- 2019 "Debunking the Georgetown Metro Myth" Kojo Nnamdi Show, WAMU-FM, 15 August 2019.
- 2016 WAMU, *Metropocalypse* (podcast). Multiple episodes, including Episode 18: Full Throttle into the Past with Zachary Schrag. 10 October 2016.
- 2014 "Old Wounds & Oral History: The Aftermath of the Belfast Project." Kojo Nnamdi Show, WAMU-FM, 7 July 2014.
- Duggan, Paul. "The Silver Line Story: A New Route Is Born after Decades of Faulty Planning, Political Paralysis." *Washington Post*, 23 June 2014.
- "The Architecture of Metro." Kojo Nnamdi Show, WAMU-FM, 13 January 2014.
- 2011 "Rethinking the 'Common Rule': The Ethics of Research with Human Subjects." Kojo Nnamdi Show, WAMU-FM. 21 November 2011.
- Robert B. Townsend, "Ethical Imperialism: A Conversation with Zachary Schrag," *Perspectives on History*, April 2011, 20-22.
- 2010 "Historian and Watchdog Says Congress Should Exempt Social Science from IRBs," *Report on Research Compliance*, November 2010.
- Dave Hoffman, "Bright Ideas: Zach Schrag's Ethical Imperialism," *Concurring Opinions*, 28 September 2010, [www.concurringopinions.com](http://www.concurringopinions.com)
- 2009 Arlington Virginia Network, "Arlington's Smart Growth Journey," first aired April 2009.
- 2008 "'History Behind the Headlines': Expanding and Maintaining Metro." Kojo Nnamdi Show, WAMU-FM. 25 June 2008.
- 2007 Paul D. Thacker, "Reviewing the Reviewers," *Inside Higher Ed*, 19 January 2007.
- 2006 Joanne Collings, "Critical Mass of Civility," *Washington D.C. Examiner*, 23 April 2006.

Vicki Hallett, "Station Agent," *Washington Post Express*, 31 March 2006.

"Washington Metro at Thirty." Kojo Nnamdi Show, WAMU-FM. 23 March 2006.

### Professional Service

- National History Day. Judge, District of Columbia, New York City, Northern Virginia, and national levels, 2000-2005, 2012, 2022, 2023. Administered or assisted with Virginia District 5 competition, 2005-2011.
- 2016 Organization of American Historians. Ellis Hawley Book Prize committee.
- 2011 American Association of University Professors. Subcommittee on Academic Freedom and the Institutional Review Board. Appointed, October 2011.
- 2007 Urban History Association. Board member (elected), 2007-2010.
- 2006 Society for the History of Technology. Brooke Hindle Post-Doctoral Fellowship Committee. Member, 2006-2008; chair, 2007.
- 2005 Society for American City and Regional Planning History. Chair of the 2005 John Reys Prize committee.
- 2001 H-Business. E-mail list on business history. Senior editor, 2003-2004. List editor, 2001-2003.
- 2000 H-DC. E-mail list on the history of Washington, D.C. Advisory board member, 2000-present. List editor, 2004-present.

### Peer Review

Book manuscript and proposal reviewer for Bedford/St. Martin's, Blackwell Publishing, Columbia University Press, Georgetown University Press, Harvard University Press, Houghton-Mifflin, Johns Hopkins University Press, Ohio State University Press, Oxford University Press, Rutgers University Press, Temple University Press, University of California Press, University of Chicago Press, University of Pennsylvania Press.

Article and paper reviewer for *Accountability in Research, Administration & Society*, *Bulletin of the History of Medicine*, *Contexts*, *History of the Human Sciences*, *International Journal of Social Research Methodology*, *Journal of Ethnic and Migration Studies*, *Journal of Planning History*, *Journal of Policy History*, *Journal of Transport History*, *Journal of Urban History*, *Kennedy Institute of Ethics Journal*, *Research Ethics*, *Library & Information Science Research*, *Science as Culture*, *Sociological Forum*, *Technology and Culture*, and the Transportation Research Board.

Grant and award reviewer for the National Endowment for the Humanities, the National Science Foundation, Smithsonian Institution, and the Swiss National Science Foundation.