

Vice and Immorality.

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An act for suppressing vice and immorality.

R. S. 595, 608.

Revision—Approved March 27, 1874.

P. L. 1854 p. 398.

" 1873, p. 138.

I. Offences prohibited.

1. That no traveling, worldly employment or business, ordinary or servile labor or work either upon land or water (works of necessity and charity excepted), nor shooting, fishing (not including fishing with a seine or net, which is hereafter provided for), sporting, hunting, gunning, racing, or frequenting of tippling-houses, or any interludes or plays, dancing, singing, fiddling or other music for the sake of merriment, nor any playing at football, fives, nine-pins, bowls, long-bullets or quoits, nor any other kind of playing, sports, pastimes, or diversions, shall be done, performed, used or practiced, by any person or persons within this state, on the Christian Sabbath, or first day of the week, commonly called Sunday; (a) and that every person, being of the age of fourteen years or upwards, offending in the premises, shall for every such offence, forfeit and pay, to the use of the poor of the township in which such offence shall be committed, the sum of one dollar; and that no person shall cry, show forth, or expose to sale, any wares, merchandise, fruit, herbs, meat, fish, goods, or chattels, upon the first day of the week, commonly called Sunday, or sell or barter the same, upon pain that every person so offending shall forfeit and pay to the use of the poor of the township where such offence shall be committed, the sum of two dollars; and if any person offending in any of the premises shall be thereof convicted before any justice of the peace for the county where the offence shall be committed, upon the view of the said justice, or confession of the party offending, or proof of any witness or witnesses upon oath or affirmation, then the said justice before whom such conviction shall be had, shall direct and send his warrant, under his hand and seal, to some constable of the county where the offence shall have been committed, commanding him to levy the said forfeitures or penalties by distress and sale of the goods and chattels of

Business and diversion prohibited on the Sabbath.

R. S. 608, § 1.

Penalty.

Exposing articles for sale.

Penalty.

How recovered.

(a) The effect of this statute is, to render void every transaction which, if performed on a week day, would be enforceable in a court of justice, *Reeves v. Butcher*, 2 Vr. 224. A promissory note made on Sunday is void, *Ibid.* An agreement for the sale of land, so made, will not be decreed to be specifically performed, *Ryno v. Darby*, 5 C. E. Gr. 231.

An agreement for the sale of a chattel, made on Sunday, is illegal, *Crocket v. Vanderveer*, Pen. \*856. The sale of beer on the Sabbath day, is unlawful, *State v. Williams*, 1 Vr. 102. A notice of argument dated on Sunday is good, *Taylor v. Thomas*, 1 Gr. Ch. 106. See *Scott v. Dow*, 2 Gr. 350.

such offenders, and to pay the money therefrom arising to the overseers of the poor of the township where the said offence or offences shall have been committed, for the use of the poor thereof; and in case no such distress can be had, then every such offender shall, by a warrant under the hand and seal of the said justice, be committed to the common jail of the said county, or to the jail of any city or town corporate within the same, for a term not exceeding ten days, to be certainly expressed in said warrant; *and further*, that if any person shall be found fishing, sporting, playing, dancing, fiddling, shooting, hunting, gunning, traveling, or going to or returning from any market or landing with carts, wagons or sleds, or behaving in a disorderly manner, on the first day of the week, called Sunday, it shall be lawful for any constable, or other citizen, to stop every person so offending, and to detain him or her till the next day, to be dealt with according to law; *provided always*, that no person going to or returning from any church or place of worship, within the distance of twenty miles, or going to call a physician, surgeon or midwife, or carrying a mail to or from any post office, or going express by order of any public officer, shall be considered as traveling within the meaning of this act; *and provided also*, that nothing in this act contained shall be construed to prohibit the dressing of victuals in private families or in lodging houses, inns and other houses of entertainment for the use of sojourners, travelers, or strangers; *and provided further*, that it shall and may be lawful for any railroad company in this state to run one passenger train each way over their roads on Sunday, for the accommodation of the citizens of this state.

2. No person shall on the first day of the week, called Sunday, cast, draw, or make use of any seine or net, for the purpose of catching fish in any pond, lake, stream or river, within the territorial limits or jurisdiction of this state, or be aiding or assisting therein; and every person offending in the premises shall, on being thereof convicted before any justice of the peace for the county where the offence shall be committed, upon the view of the said justice, or confession of the party offending, or proof of any witness or witnesses upon oath or affirmation, forfeit and pay the sum of fourteen dollars for every such offence; and in case of non-payment of the said forfeiture, then the said justice before whom such conviction shall be had, shall direct and send his warrant, under his hand and seal, to some constable of the county in which the offence shall have been committed, commanding him to levy the said forfeiture or penalty by distress and sale of the goods and chattels of such offender, and to pay the money therefrom arising to the overseers of the poor of the township where the said offence shall have been committed, for the use of the poor thereof; and for want of goods and chattels whereby to make such distress, to convey the body of the said offender to the common jail of the county, or the jail of any city or town corporate within the same, there to remain in safe custody until the said forfeiture, with the costs of prosecution, shall be fully paid, or until such offender shall be delivered by due course of law.

3. If any stage or stages shall be driven through any part of this state on the first day of the week, called Sunday, except sufficient reason shall be offered to show that it be done in cases of necessity or mercy, or in case of carrying the mail to or from any post-office, the driver or drivers, proprietor or proprietors of such stage or stages, shall, on being thereof convicted before any justice of the peace for the county where the offence shall be committed, upon the view of the said justice, or confession of the party offending, or testimony of any witness or witnesses, forfeit and pay the sum of eight dollars for every such offence; and in case of non-payment of the said forfeiture or penalty, then the same shall be levied, recovered, and applied in the manner and form prescribed in and by the second section of this act; and every justice of the peace in this state is hereby empowered and required, upon his personal knowledge or view, or other due information, of any stage or stages being driven or run through any part of this state as aforesaid, to stop and detain the same, or order and direct the same to be stopped and detained, at the cost and expense of the proprietor or proprietors of such stage or stages, until the following day, and then to be dealt with as hereinbefore is directed.

Defendant imprisoned.

Other things prohibited.

Proviso.

Railroad companies may run passenger trains on Sunday.  
P. L. 1873, p. 138.

Fishing prohibited on the Sabbath.  
R. S. 608, § 2.

Forfeit and how collected.

Or defendant imprisoned.

Penalty for driving stage on Sunday.  
Ib. § 5.

Duty of justices.

4. No wagoner, carter, drayman, drover, butcher, or any of his or their servants, shall ply or travel with his or their wagons, carts or drays, or shall load or unload any goods, wares, merchandise, or produce, or drive cattle, sheep or swine, in any part of this state, on the first day of the week, called Sunday, under the penalty of two dollars for every offence, to be levied, recovered, and applied, in the manner and form prescribed in the second section of this act.

Driving wagons,  
etc.  
Ib. § 6.

5. No person or persons, upon the first day of the week, commonly called Sunday, shall serve or execute, or cause to be served or executed, any writ, process, warrant, order, judgment or decree (except in criminal cases or for breach of the peace), but that the service of every such writ, process, warrant, order, judgment, or decree, shall be void to all intents and purposes whatsoever; and the person or persons so serving or executing the same, shall be as liable to the suit of the party grieved, and to answer damages to him for doing thereof, as if he or they had done the same without any writ, process, warrant, order, judgment, or decree.

Civil process not  
served on Sun-  
day.  
Ib. § 7.

6. If any person or persons shall, at any time or times hereafter, profanely swear and curse, and be thereof convicted, by the confession of the party offending, or on the testimony of any one or more witness or witnesses, or in the manner hereinafter mentioned, before any justice of the peace for any county in the state, every person so offending shall, for every such offence, forfeit and pay to the use of the poor of the township, where such offence or offences shall be committed, the sum of one-half of a dollar.(a)

Swearing or curs-  
ing punished.  
Ib. § 8.

7. If any person shall become intoxicated or drunk by the excessive use of spirituous, vinous or other strong liquor, and thereof shall be convicted before any justice of the peace for the county wherein such offence shall be committed, either upon the view of such justice, or upon the confession of the party offending, or testimony of any one or more witness or witnesses, every person so offending shall forfeit and pay, for every such offence, one dollar, to the use of the poor of the township wherein such offence shall be committed; and in case any person, who shall be convicted of drunkenness as aforesaid, shall not immediately pay down the sum so forfeited, with the charges of such conviction, or give security to the satisfaction of the justice before whom such conviction is had, for the payment thereof, within three days, every such offender shall, by warrant under the hand and seal of such justice, be sent to the common jail of the county or to the jail of any city or town corporate within the same, there to be and stand committed for any space of time, to be certainly expressed in the said warrant, not exceeding four days.

Drunkenness  
punished.  
Ib. § 11.

8. WHEREAS, public shows and exhibitions of divers kinds have of late become very frequent and common within this state, whereby many strangers and worthless persons have unjustly gained and taken to themselves considerable sums of money, and it being found, on experience, that such shows and exhibitions tend to no good or useful purpose in society, but, on the contrary, to collect together great numbers of idle and unwary spectators, as well as children and servants, to gratify vain and useless curiosity, loosen and corrupt the morals of youth, and straighten and impoverish many poor families—if any person or persons whatsoever shall, for any price, gain or reward, show forth, exhibit, act, represent or perform, or cause to be shown forth, exhibited, acted, represented or performed, on any public stage, or in any public house or other place whatever, any interludes, farces or plays of any kind, or any games, tricks, juggling, sleight of hand or feats of uncommon dexterity and agility of body, or any bear-baiting, or bull-baiting, or any such like shows or exhibitions whatsoever, every person so offending and being thereof convicted, before any justice of the peace of the county where the offence shall be committed, upon the view or personal knowledge of the said justice, or confession of the offender, or proof of any witness or witnesses upon oath or affirmation, shall, for every such offence, forfeit and pay to

Exhibition of  
shows and plays  
prohibited.  
Ib. § 12.

(a) An information and conviction for swearing the same profane oath, several times on the same day, need not complain or convict of each offence separately. The charge in the precise words spoken, is sufficiently specific, *Johnson v. Barclay*, 1 Harr. 1. One conviction for several profane

oaths on the same day, is lawful. It is sufficient for that conviction to set forth the township where the offence was committed, although it is not named in the information, *Ibid.* No state of demand need be filed in such cases, *Ibid.*

- the use of the poor of the township where such offence shall be committed the sum of sixteen dollars, to be levied, recovered and applied in the manner and form prescribed in the second section of this act; *provided always*, that nothing in this section contained shall be deemed or construed to prevent the show or exhibition of any natural curiosity or any invention or improvement in the mechanic arts; *and provided also, and be it further enacted*, that if in the opinion of any three justices of the peace of any county, city or town corporate where any interlude, farce or play is proposed to be performed, it shall be deemed that such interlude, farce or play is innocent, or may probably tend to answer any reasonable or useful end, it shall and may be lawful for them, at their discretion, on application for that purpose, to give license in writing for such interlude, farce or play to be performed, anything hereinbefore contained to the contrary notwithstanding.
9. If any person or persons whatsoever, either on the first day of the week, called Sunday, or on any other day or time shall wilfully and of purpose, disquiet, interrupt or disturb any assembly of people met for religious worship, either by making a noise or by rude or indecent behavior or profane discourse, whether within their place of worship or out of it, so near the same as to disturb the order and solemnity of the meeting, then every person so offending, and being thereof legally convicted before any justice of the peace of the county where the offence shall be committed, upon the view or personal knowledge of the said justice, or confession of the offender, or proof of any witness or witnesses upon oath or affirmation, shall, for every such offence, forfeit and pay, to the use of the poor of the township where such offence shall be committed, the sum of ten dollars, to be levied, recovered and applied in the manner and form prescribed in the first section of this act; and in case no distress can be had whereby to levy the said forfeitures, as in the said section is prescribed, then every such offender shall, by a warrant under the hand and seal of the said justice, be committed to the common jail of said county, where the offence shall be committed, or to the jail of any city or town corporate within the same, to be certainly expressed in said warrant, for a term not exceeding ten days.
10. From and after the passing of this act, it shall not be lawful for any person or persons to erect, place or have any booth, stall, tent, carriage, boat or vessel or other place, for the purpose or use of selling, giving, or otherwise disposing of any kind of articles of traffic, spirituous liquors, wine, porter, beer, cider, or any other fermented, mixed, or strong drink (excepting as hereinafter excepted) within three miles of any place of religious worship, in this state during the time of holding any meeting for religious worship at such place. (a)
11. If any person or persons shall or do violate this act, by erecting, fixing, or having any booth, stall, tent, carriage, boat or vessel, or other place, for the purpose or use aforesaid, or by selling, bartering, giving, or otherwise disposing of any kinds of articles of traffic, spirituous liquors, wine, porter, beer, cider, or other fermented, mixed, or strong drink, in, at, or about any such booth, stall, tent, carriage, boat or vessel, or other place, prepared or used for the purposes aforesaid, within three miles of any place of religious worship, during the time of holding any meeting for religious worship at such place, the person or persons so offending shall first be informed of his, her, or their violation of this act, and shall be warned by any justice of the peace, constable, or two freeholders of the county where the offence is or shall have been committed, to desist from such offence, and to remove such booth, stall, tent, carriage, boat or vessel, together with all such articles of traffic, spirituous liquors, wine, porter, beer, cider, or other strong drink, belonging to, or in the possession of the person or persons so offending; and if such person or persons, on receiving such information and warning, shall forthwith cease to offend against this act, and shall remove as aforesaid, at least three miles from such place of religious worship, then no further proceeding under this act shall be had against such person or persons; but if such person or persons

(a) The prohibition to sell is not confined to the sale of spirituous liquors; but forbids the sale of any article of trade or traffic, within three miles of the place of such meeting, during the time of worship, subject to the exceptions contained in the next section of the act, *Rogers v. Brown, Spen. 119.*

shall refuse or neglect immediately to remove, as aforesaid, when informed and warned as aforesaid, then all the said articles of traffic, spirituous liquors, wine, porter, beer, cider, and other fermented, mixed, and strong drink, and all the vessels, chests, and other things containing the same, together with such booth, stall, tent, carriage, boat or vessel, or other place, prepared or used for the purpose aforesaid, shall be and are hereby declared to be forfeited; and it shall be lawful for any justice of the peace and constable, with two freeholders of the county, to seize and take possession of all or any part of the said forfeited articles and liquors, together with such booth, stall, tent, carriage, boat or vessel, and at any time within ten days after, to advertise and sell the same; and after deducting and paying the necessary and lawful expenses of such seizure and sale, the residue of the proceeds of such sale or sales shall be paid to the overseers of the poor of the township, for the use of the poor of the county, where the support of the poor is a county charge, and where it is a township charge, to the poor of the township where such offence shall have been committed.(a)

12. Nothing in this act contained shall be taken or construed so as to affect any licensed tavern keeper, in his or her ordinary and lawful business, at his or her usual place of residence, specified in his or her license, nor shall it be so taken and construed, as to affect any merchant, shop keeper, farmer, mechanic, or other person, in the usual and lawful transaction of his, her, or their ordinary concerns and business, in their usual places of doing such business; neither shall it be so taken or construed as to affect any person or persons attending any religious meeting, or their property; nor shall it be so taken, construed, or understood, as to affect any person or persons who shall have a permit in writing from the person or persons having the oversight, charge and management of any such meeting, to sell bread and other necessary articles of food for man and beast; *provided*, the conduct of persons attending such meeting shall accord with the lawful rules and regulations of such meeting, and the property of such persons attending such religious meeting be not of the description forbidden by this act.

Whom it shall not affect. Ib. § 3.

13. No transportation of freight, excepting milk, on any public highway, railroad or canal, shall be done or allowed by any person or persons within this state, on the first day of the week, commonly called the christian Sabbath; *provided*, that nothing in this act contained shall be construed so as to prevent the transportation of the United States' mail by railroad or on the public highways, or to the regular trips of ferry boats within the state or between this and another state.

No freighting except of milk on Sunday. P. L. 1854, p. 398.

**II. Proceedings against offenders.**

14. In case any person shall profanely swear or curse, in the presence and hearing of any justice of the peace for any county, while in the execution of his office, every such justice of the peace shall, and is hereby authorized and required to convict every such offender of such offence, without any other proof whatsoever.

Swearing or cursing in presence of justice. R. s. 608, § 9.

15. In case any person, who shall be convicted of profanely swearing or cursing, shall not immediately pay down the respective sums so forfeited, with the charges of such conviction, or give security to the satisfaction of the justice before whom such conviction is had, for the payment thereof within six days, then every such offender, being above the age of fourteen years, shall, by warrant under the hand and seal of such justice, be sent to the common jail of the county, or to the jail of any city or town corporate within the same, there to be and stand committed for any space of time, to be certainly expressed in the said warrant, not exceeding four days; but if the offender shall not be above the age of fourteen years, and shall not forthwith pay the said forfeiture, or give security for payment thereof, the parent or master shall pay the same, to be recovered by distress and sale of the goods and chattels of such parent or master. *And whereas*, it may so happen that persons from a distance,

Offender may be imprisoned. Ib. § 10.

If under 14, parent or master to pay fine.

Preamble.

(b) A joint process, complaint and conviction cannot be maintained against three persons, for separate and distinct offences, *Handlin ads. State, 1 Harr. 96.* Form of proceedings, *Ibid.*

or from another county or state, may disturb or interrupt a religious meeting, and no magistrate being at hand to issue, or no constable to serve a warrant for his or their apprehension, the offender or offenders may escape punishment—

Any person may apprehend disturbers of religious meetings.  
Ib. § 14.

16. Any member of any church or religious society which may be disturbed or interrupted in their meetings, or any other person or persons, being citizens of this state and freeholders within the same, shall be and are hereby authorized to apprehend any and every such person so disturbing and interrupting them, immediately, and take him or them before a magistrate as soon as conveniently may be, in order that he or they so offending may be dealt with according to law, and every such member or citizen as aforesaid, who may hereafter perform this service, shall be entitled to the same assistance and protection, and shall be under the same restrictions and liabilities, as a constable would be on the same occasion.

If on Sunday, may be kept till next day.  
Ib. § 15.

17. If any person or persons shall disturb or interrupt any religious meeting, as aforesaid, on the first day of the week, called Sunday, it shall be lawful for any constable or member of the meeting, and a citizen or freeholder as aforesaid, to apprehend such person or persons immediately, and detain him or them until the next day, then to be dealt with according to law, unless said offender or offenders shall give sufficient security before some magistrate, to appear at any time and place that he may direct, to answer the charge preferred against him or them, in which case it shall be lawful for said magistrate to discharge such offender or offenders.

Duty of justices.  
Ib. § 16.

18. Every justice of the peace shall immediately, on information given upon oath or affirmation of any constable or peace officer, or of any other person whatsoever, cause the offender and offenders against this act to appear before him, and upon such information being proved as aforesaid, shall convict such offender and offenders in such manner as in and by this act is prescribed.

Conviction.  
Ib. § 17.

19. Every justice of the peace, before whom any person or persons shall be, by virtue of this act, convicted of any of the offences aforesaid, shall cause such conviction to be drawn up in the form, or to the effect following:

Form of.

Hunterdon county, (or other county, as the case may require), to wit: Be it remembered, that on the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand \_\_\_\_\_, A. B. was convicted before me, C. D., one of the justices of the peace of the said county, of crying, (or showing forth, or exposing for sale), one (or two, or more, specifying the number, quantity and kind of goods) on a Sunday, in the township of \_\_\_\_\_, in the said county of \_\_\_\_\_, (or of traveling, or doing ordinary or servile labor or work, or of shooting, fishing, sporting, playing, hunting, gunning, or frequenting tippling-houses, or using some unlawful exercise or pastime, on Sunday, or of swearing one or two, or more, profane oath or oaths, or of cursing one or two, or more, profane curse or curses, or of having been drunk, at the township of \_\_\_\_\_, in the said county, as the case may require). Given under my hand and seal the day and year above said.

No certiorari but appeal to sessions.

And such conviction shall not be liable to be removed by certiorari into the supreme court; but if the person offending shall think himself aggrieved by any such conviction, it shall and may be lawful for such person to appeal to the next court of general quarter sessions of the peace of the county where such conviction is had; which court shall, in a summary way, hear and determine such appeal, and confirm such conviction, with costs, or reverse the same, as to them shall seem right and proper; *provided*, that no person shall be entitled to an appeal, unless such person shall first pay down to the justice the penalty and costs of prosecution awarded against him, to be returned to such person, in case, upon the appeal, the conviction thereof had shall be reversed.

Offenders to pay costs.  
Ib. § 18.

20. All charges of the information and conviction of any such offender shall be borne and paid by the party offending, if able, over and above the penalties inflicted by this act.

To whom to be paid.  
Ib. § 19.

21. It shall and may be lawful for every such offender to pay the said forfeitures and charges to the justice before whom such conviction is had;

and such justice shall receive the same, and as soon as conveniently may be, pay the same forfeitures to the overseers of the poor of the township, where such offence was committed, for the use of the poor thereof.

22. All and every justice and justices of the peace for the county wherein any such offence shall be committed, may, and they are hereby respectively authorized and required, to put this act into execution against any person or persons within their respective jurisdictions, although such justice shall be rated and pay to the relief of the poor of the township where any offence, contrary to the true intent and meaning of this act, shall be committed.

Justices to put this act in execution. *Ib.* § 20.

23. No person shall be prosecuted or troubled for any offence against this act, unless the same be proved or prosecuted within thirty days after the commission of such offence.

Prosecutions to be in 30 days. *Ib.* § 21.

24. If any suit or action shall be commenced or brought against any justice of the peace, constable, or other officer or person whatsoever, for doing, or causing to be done, anything in pursuance of this act, concerning any of the said offences, the defendant in such action or suit may plead the general issue, and give the special matter in evidence; and if, in any such action or suit, a verdict shall be given for the defendant, or the plaintiff become nonsuit, or discontinue his action, then the defendant shall have treble costs.

How officers prosecuted may plead, etc. *Ib.* § 22.

25. In every complaint or information which shall be made or brought before any justice of the peace, under and by virtue of this act, it shall and may be lawful for the person charged in such complaint or information, after he has appeared thereto, and before the said justice has proceeded to inquire into the merits of the said complaint or information, to demand a trial by jury; and thereupon a venire shall be issued to summon a jury of six men to try whether the said person so charged is guilty or not guilty of the offence charged against him in said complaint or information; and it shall be the duty of the said justice to issue the said venire, and to direct a return thereof to be to him made, and to proceed therein as in other cases of trials by jury; *provided*, that the costs of the justice and constable upon the said venire, and costs of the said jury, and of swearing and attending the same, shall in all cases be paid by the person demanding the said jury; *and provided also*, that this act shall not extend to any case in which any justice of the peace is authorized by this act to convict upon his own view or personal knowledge.

Accused may demand jury. *Ib.* § 23.

Proviso.

26. The mayor, recorder and aldermen of every city or town corporate within this state shall and may, for the purposes of this act, be vested with all the power and authority of justices of the peace, within the bounds of their respective cities or towns corporate, and shall execute therein all the duties imposed by this act on justices of the peace.

Mayor, etc., justices ex officio. *Ib.* § 24.

27. Nothing in this act contained shall be construed to authorize the committing of any person to the jail of any city or town corporate, for any offence not committed within such city or town corporate. (See *ante*, *Sec.* 12).

When not to be committed to city jail. *Ib.* § 25.

28. If any suit or action shall be brought against any person or persons for doing or causing to be done anything in pursuance of this act according to the provisions thereof, the defendant or defendants may plead the general issue and give the special matter, under this act, in evidence; and if in such suit or action, a verdict and judgment shall be given for the defendant or defendants, or the plaintiff shall become non-suit, or discontinue his action, the defendant or defendants shall have and recover double costs of suit.

How offenders prosecuted may plead. *R. S.* 595, § 4.

29. Every person being of the age of fourteen years or upwards, offending in the premises, shall for every such offence forfeit and pay, to the use of the public schools of the township where such offence shall be committed, the sum of twenty dollars; and if any person offending in any of the premises shall be thereof convicted before any justice of the peace for the county where the offence shall be committed, upon the view of the said justice, or confession of the party offending, or proof of any witness or witnesses, on oath or affirmation, then the said justice before whom the said conviction shall be had, shall direct and send his warrant, under his hand and seal, to some constable of the county where the offence shall

Forfeit for offending. *P. L.* 1854, p. 398, § 2.

How collected. have been committed, commanding him to levy the said penalty or penalties, by distress and sale of the goods and chattels of such offender, and to pay the money therefrom arising to the collector of the township where the said offence or offences shall have been committed, for the use of the public schools thereof.

Commitment to jail. 30. In case no such distress can be had, then every such offender shall, by a warrant under the hand and seal of the said justice, be committed to the common jail of the said county, city, or town corporate, within the same, for a term not exceeding ten days, to be certainly expressed in said warrant.

Justice to stop freight cars, etc. 31. Every justice of the peace in this state is hereby empowered and required, upon his personal knowledge or view, or other due information, of any canal boat, or railroad car, transporting freight through any part of this state, as aforesaid, he shall be authorized and required to stop and detain the same, or order the same to be stopped and detained, at the cost and expense of the proprietor or proprietors of such canal boat or railroad car, until the following day, and then to be dealt with as hereinbefore is directed.

Cattle, etc. 32. This shall apply also to cattle, sheep and hogs being driven to market on the Sabbath day.

### III. Persons exempted from prosecution.

Exemption of those who keep seventh day. 33. Every inhabitant of this state, who religiously observes the seventh day of the week as the Sabbath, shall be exempt from answering to any process, in law or equity, either as defendant, witness, or juror, except in criminal cases; likewise from executing, on the said day, the duties of any post or office to which he may be appointed or commissioned, except when the interest of the state may absolutely require it, and shall also be exempt from working on the highways, and doing any militia duty on that day, except when in actual service.

Such not liable to fine. 34. If any person, charged with having labored or worked on the first day of the week, commonly called Sunday, shall be brought before a justice of the peace to answer the information and charge thereof, and shall then and there prove, to the satisfaction of the said justice, that he or she uniformly keeps the seventh day of the week as the Sabbath, and habitually abstains from following his or her usual occupation or business, and from all recreation, and devotes the day to the exercise of religious worship, then such defendant shall be discharged; *provided always*, that the work or labor, for which such person is informed against, was done and performed in his or her dwelling-house or work-shop, or on his or her premises or plantation, and that such work or labor has not disturbed other persons in the observance of the first day of the week as the Sabbath; *and provided also*, that nothing in this section contained shall be construed to allow any such person to openly expose to sale any goods, wares, merchandise, or other article or thing whatsoever in the line of his or her business or occupation.

Proviso.

### IV. Preservation of peace at camp meetings.

#### An act for the better preservation of the peace upon the premises of camp meeting associations.

P. L. 1876, p. 601.

Approved April 21, 1876.

Governor empowered to appoint peace officers for keeping order on camp grounds, &c.

35. SEC. 1. That it shall be lawful for the governor, on the application in writing of the board of trustees of any camp meeting association duly incorporated under the laws of this state, or of any other incorporated association for the maintenance of public worship, in the open air, to commission one or more persons whom such trustees shall designate and request, not exceeding six in number, as peace officers, for the purpose of keeping order on the camp grounds and premises of such incorporated association aforesaid, which officers shall have, when on duty, the same power, authority and immunities which constables and other peace officers under the laws of this state possess and enjoy, and shall hold their said offices from year to year; they shall also have power to enforce obedience on said grounds and premises, to any rule or regulation of said trustees for the preservation of quiet and good order, and also to enforce all the



provisions of "An act for suppressing vice and immorality," and to arrest for the commission of any crime in all respects.

36. SEC. 2. That one of the said officers so designated, shall be specially commissioned as aforesaid for each or any one of said associations, so as to possess within the limits of its property aforesaid, all the powers and jurisdiction in criminal cases which police justices now are or hereafter may be authorized to exercise within any town or city in this state, or for the enforcement of the act in the preceding section mentioned, or of any other act tending to the preservation of order.

Special commission to issue to one of said officers.

37. SEC. 3. That such peace officers shall be entitled to have, for their services, such fees as constables and police justices are entitled to receive for like services by them performed.

Compensation.

38. SEC. 4. That such peace officers specially commissioned as aforesaid to exercise the jurisdiction of police justices as aforesaid, shall have the right to take recognizances from all persons brought before them, both to keep the peace, and also to appear before the court of general quarter sessions of the peace of the county wherein such premises lie, to answer to any criminal charge against them, and such recognizances shall be forthwith sent to the court aforesaid of the county wherein such premises shall lie, and all proceedings before such officers shall be duly by them recorded, kept and disposed of as required of justices of the peace.

Powers of peace officers specially commissioned.

## Waste.

1. Guardian not to make or suffer.
2. Tenant not to make or suffer.
3. Who liable to action of.
4. Proceedings on default.

5. Between parceners, etc.
6. Heir may have action.
7. Tenant who lets estate, liable.
8. Not lie for damage by fire.

### Act for the prevention of waste.

Rev. 208.

Passed March 17, 1795.

R. S. 122.

1. That no guardian shall make or suffer any waste, sale or destruction of the inheritance of his ward, or of those things that he hath or may have in his custody; but shall safely keep the same inheritance to the use of the said heir, and keep and sustain the houses, gardens and other things pertaining to the same lands, by and with the issues and profits thereof, and shall deliver the same to his ward, when he comes to his full age, in as good order and condition at least as such guardian received the same, and shall answer to such heir for the residue of such issues and profits of the same inheritance by a lawful account, saving to the guardian his reasonable charges and expenses; and if any guardian shall make or suffer any waste, sale or destruction, of the inheritance of his ward, he shall lose the same custody, and shall recompense the ward thrice as much as the damages shall be assessed at by the jury.

A guardian not to suffer or make waste of the inheritance of his ward.

2. That no tenant for life or years, or for any other term, shall, during the term, make or suffer any waste, sale or destruction of houses, gardens, orchards, lands or woods, or anything belonging to the tenements demised, without special license in writing, making mention that he may do it. (a)

If guardian suffer or make waste, the ward shall recover treble damages.

Tenant shall not commit or suffer waste.

(a) An action on the case in the nature of waste, will lie against a tenant for years, for permissive waste, *Moore* ads. *Townshend*, 4 Vr. 284, 305. So, tenants at will, are also liable *Freeman v. Headley*, 4 Vr. 523, 536. Also, tenants for life, as a widow after dower assigned, *Haulenbeck v. Cronkright*, 3 C. E. Gr. 407. Neither a husband nor his lessees may commit waste upon lands in which he has only an estate by the curtesy, *Porch v. Fries*, 3 C. E. Gr. 204. Heirs at law, being entitled to the reversion, have such privity of estate as will enable them to call the life tenant and his lessees to account for wood and timber cut, as well during the life, as after the death, of the infant, *Ibid.* Whether an estate be an estate tail, or a contingent fee, the power of the devisee over it is precisely the same; he has no power to commit waste to destroy the inheritance, *Wallington v. Taylor*, Sax. 314. An action on the case in the nature of waste, is an action founded on the act for the prevention of waste,

which is substantially the same as the statutes of Marlbridge and Gloucester, and may be maintained, although the act complained of might be the subject of an action for the breach of an express covenant contained in the instrument of demise, or of a promise implied by law, *Moore* ads. *Townshend*, 4 Vr. 284. On application of the widow, rules may be granted to stay waste by cutting and removing timber from lands in which she claims dower, *Harker v. Christy*, 2 South. \*717. The rule in chancery that a complainant must set out his title, does not apply to applications at law for rules to stay waste, *Den v. Kinney*, 2 South. \*552. As owners of the reversion, infants are entitled to an action for an injury of a permanent nature amounting to waste, *Jackson v. Todd*, 1 Dutch. 121, case reversed, 2 Dutch. 525. It is not necessary in a verdict of guilty to describe by metes and bounds the place wasted; a general designation of it is sufficient, *Morehouse v. Cotheal*, 2 Zab. 521.