

No. 127201

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	On Appeal from the Circuit
)	Court of the Second Judicial
Plaintiff-Appellant,)	Circuit, White County,
)	Illinois, No. 17-CM-60
v.)	
)	
VIVIAN CLAUDINE BROWN,)	The Honorable
)	T. Scott Webb,
Defendant-Appellee.)	Judge Presiding.

**BRIEF AND APPENDIX OF *AMICUS CURIAE* EVERYTOWN FOR GUN SAFETY IN
SUPPORT OF PLAINTIFF-APPELLANT PEOPLE OF THE STATE OF ILLINOIS**

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INTEREST OF THE *AMICUS CURIAE*

Amicus curiae Everytown for Gun Safety (formally known as Everytown for Gun Safety Action Fund) (“Everytown”) is the nation’s largest gun-violence-prevention organization, with nearly six million supporters across the country, including over 300,000 in Illinois. Everytown was founded in 2014 as the combined effort of Mayors Against Illegal Guns, a national, bipartisan coalition of mayors combating illegal guns and gun trafficking, and Moms Demand Action for Gun Sense in America, an organization formed after a 20-year-old gunman murdered twenty children and six adults at an elementary school in Newtown, Connecticut. The mayors of 28 Illinois cities are members of Mayors Against Illegal Guns. Everytown also includes a large network of gun-violence survivors who are empowered to share their stories and advocate for responsible gun laws, as well as a national movement of high-school and college students working to end gun violence.

Everytown’s mission includes defending common-sense gun safety laws through filing amicus briefs that provide historical context and doctrinal analysis that might otherwise be overlooked. Everytown has filed such briefs in numerous Second Amendment cases. *See, e.g., White v. Illinois State Police*, No. 19-2797 (7th Cir.); *Culp v. Madigan*, No. 15-2728 (7th Cir.); *Young v. Hawaii*, No. 12-17808 (9th Cir.) (en banc); *Hirschfeld v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, No. 19-2250 (4th Cir.). Several courts have also cited and expressly relied on Everytown’s amicus briefs in deciding Second Amendment and other gun cases. *See, e.g., Ass’n of N.J. Rifle & Pistol Clubs, Inc. v. Att’y Gen. N.J.*, 910 F.3d 106, 112 n.8 (3d Cir. 2018); *Rupp v. Becerra*, 401 F. Supp. 3d 978, 991-92 & n.11 (C.D. Cal. 2019), *appeal docketed*, No. 19-56004 (9th Cir. Aug. 28,

2019); *see also Rehaif v. United States*, 139 S. Ct. 2191, 2210-11, nn.4 & 7 (2019) (Alito, J., dissenting).¹

INTRODUCTION

Defendant-Appellee Vivian Brown (“Defendant”) challenges under the Second Amendment the licensing and fee requirements laid out in the Illinois Firearm Owner’s Identification Card Act (“FOID Card Act”), specifically as applied to individuals without prior criminal convictions or other disqualifiers who possess firearms within their own homes for self-defense. The circuit court erroneously held that these requirements are unconstitutional, asserting first that there is no historical basis for imposing any licensing requirements on law-abiding citizens, and second that the law does not further the State’s interest in public safety. *See Order on Defendant’s Motion to Find Statute Unconstitutional (“Order”)* 7-9, 13-16 (Apr. 26, 2021).

In *District of Columbia v. Heller*, 554 U.S. 580 (2008), the Supreme Court announced that the Second Amendment protects an individual right, rather than a militia-based right, and struck down a D.C. law that prohibited keeping an operable handgun in the home for self-defense. *See id.* at 636. The Court stressed, however, that “the right secured by the Second Amendment is not unlimited,” and identified examples of “presumptively lawful regulatory measures” that do not impinge on that right. *Id.* at 626-27, 627 n.26. These include “longstanding prohibitions on the possession of firearms by

¹ No party’s counsel authored this brief in whole or part and, apart from Everytown and its counsel, no person contributed money to fund its preparation or submission.

felons and the mentally ill” and “laws imposing conditions and qualifications on the commercial sale of arms.” *Id.* at 626-27.²

To implement *Heller*, the Illinois Supreme Court, like the Seventh Circuit and every other federal circuit court to have considered the issue,³ applies a two-step approach in Second Amendment cases. First, courts conduct a “textual and historical inquiry to determine whether the challenged law imposes a burden on conduct that was understood to be within the scope of the Second Amendment’s protection.” *People v. Mosley*, 2015 IL 115872, ¶ 34; *see also Horsley v. Trame*, 808 F.3d 1126, 1130 (7th Cir. 2015). If a court finds that a law regulates conduct falling outside the Second Amendment’s scope at the first step, then the inquiry ends—the regulated activity “is categorically unprotected.” *Mosley*, 2015 IL 115872, ¶ 34. If, however, the law does fall within the Second Amendment’s scope, then the court proceeds to step two and applies “the appropriate level of heightened means-end scrutiny.” *Id.*; *see also Horsley*, 808 F.3d at 1131.

In ruling that the challenged FOID Card Act requirements are unconstitutional, the circuit court invoked the appropriate two-step framework to assess the Second Amendment claim. *See Order* at 4-5. However, its application of that framework contained multiple,

² The circuit court showed substantial hostility to the limitations *Heller* articulated. First, the court was willing only to “presume, for argument’s sake, that the government has the ability to strip someone of their Second Amendment rights based upon ... a felony conviction or mental health disability,” *Order* at 8, even though *Heller expressly* deemed prohibitions on people in precisely those two categories to be presumptively lawful and later referred to those prohibitions as “exceptions” to the Second Amendment right, *see* 554 U.S. at 626, 635. Second, the court announced that there should be “no burden on the citizenry to enjoy” the right to bear arms, *Order* at 9 (emphasis added), even though the exceptions *Heller* announced for “laws imposing conditions and qualifications on the commercial sale of arms” and laws forbidding guns in “sensitive places,” 554 U.S. at 626-27, are manifestly *some* burden on the right.

³ *See, e.g., Kolbe v. Hogan*, 849 F.3d 114, 132-33 (4th Cir. 2017) (en banc) (collecting decisions); *Gould v. Morgan*, 907 F.3d 659, 669 (1st Cir. 2018).

reversible errors, as the State’s brief explains. This brief will focus on the first step, where the circuit court’s approach to the historical inquiry rested on several faulty grounds. First, the circuit court framed the issue incorrectly from the outset: rather than asking whether historical licensing requirements show that such requirements fall outside the scope of the Second Amendment as historically understood—as indeed they do—the court deemed individuals who have failed to obtain a license to be a cognizable “group,” and asked only whether “the government sought to disarm” that group “at the time of” the Fourteenth Amendment’s ratification. *See* Order at 12. Second, the court took the view that only historical laws *identical* to the FOID Card Act, as applied to the circumstances of this case, could establish an applicable limitation on the Second Amendment’s scope. *See* Order at 7-8. Second Amendment methodology, however, does not require such a precise match; analogous historical laws, such as more than a century of laws requiring permits to *purchase* firearms, are sufficient to establish that reasonable permitting requirements are regulations falling outside the Second Amendment’s scope. Moreover, the circuit court ignored several laws that are nearly identical to the FOID Card Act, requiring a license to possess a firearm in the home. Finally, the circuit court failed to recognize the long history of firearm taxes and licensing fees, which date back to at least the mid-nineteenth century.

Due to this longstanding historical tradition of firearm licensing—and related licensing fees—the FOID Card Act’s licensing and fee requirements regulate conduct outside the scope of the Second Amendment right.⁴ For this reason, and the additional reasons the State sets out, the Court should reject Defendant’s constitutional challenge and reverse the circuit court’s decision.

⁴ The Appendix accompanying this brief contains many of the older statutory provisions.

ARGUMENT

I. LAWS BASED ON A LONGSTANDING REGULATORY TRADITION ARE CONSTITUTIONAL

As explained in the previous section, the first step of the two-step framework for analyzing Second Amendment cases requires a court to determine whether the challenged law burdens conduct that falls outside the Amendment’s scope, as historically understood. In conducting that historical inquiry, the Seventh Circuit has confirmed that “exclusions” from the scope of the right “need not mirror limits that were on the books in 1791.” *United States v. Skoien*, 614 F.3d 638, 641 (7th Cir. 2010) (en banc) (noting that prohibitions on possession of firearms by felons and the mentally ill have been found to be sufficiently longstanding, despite the fact that these prohibitions originated in 1938 and 1969, respectively); *see also People v. Aguilar*, 2013 IL 112116, ¶ 27 (observing that 150 years of regulations prohibiting possession of firearms by juveniles reflect a longstanding practice); *Friedman v. City of Highland Park*, 784 F.3d 406, 408 (7th Cir. 2015) (noting that “*Heller* deemed a ban on private possession of machine guns to be obviously valid” despite the fact that “states didn’t begin to regulate private use of machine guns until 1927,” and that “regulating machine guns at the federal level” did not begin until 1934). Other federal circuit courts have likewise considered twentieth-century laws when conducting the historical inquiry. *See, e.g., Fyock v. City of Sunnyvale*, 779 F.3d 991, 997 (9th Cir. 2015) (noting that even “early twentieth century regulations might ... demonstrate a history of longstanding regulation”); *Heller v. District of Columbia*, 670 F.3d 1244, 1253-54 (D.C. Cir. 2011) (“*Heller II*”) (relying on early twentieth century statutes to show that the D.C. handgun registration requirement was “longstanding”).

Furthermore, a regulatory tradition need not precisely match the modern, challenged law to fall outside the Second Amendment’s protection. Instead, “[t]he relevant inquiry is whether a particular *type* of regulation has been a ‘longstanding’ exception to the right to bear arms.” *United States v. Class*, 930 F.3d 460, 465 (D.C. Cir. 2019) (emphasis in original) (rejecting the defendant’s argument that the precise prohibition challenged, which was enacted in the 1980s, lacked a historical basis); *cf. Kachalsky v. Cnty. of Westchester*, 701 F.3d 81, 91 (2d Cir. 2012) (upholding law regulating public carry of firearms, which has “a number of close and longstanding cousins”); J. Blocher & D.A.H. Miller, *The Positive Second Amendment* 136 (2018) (“[L]ower courts have used analogy to extend *Heller*’s exclusions beyond those specifically identified in the case.”). The U.S. Solicitor General recently echoed this view, stating “[i]t is enough if the modern law is ‘fairly supported’ by tradition.” Br. in Opp. to Pet. for a Writ of Cert. 9-10, *McGinnis v. United States*, No. 20-6046 (Jan. 15, 2021) (citations omitted), *cert. denied* (Feb. 22, 2021).⁵

II. FIREARMS LICENSING AND FEE REQUIREMENTS ARE LAWFUL, LONGSTANDING REGULATIONS OUTSIDE THE SCOPE OF THE SECOND AMENDMENT

The FOID Card Act’s licensing and fee requirements are constitutional at the first step of the two-step framework. Licensing laws and analogous laws on permitting and registration have been widespread for over a century, forming a longstanding regulatory

⁵ Even the small number of dissenting jurists who would prefer to interpret the Second Amendment to bar any firearm regulation not grounded in “text, history, and tradition”—a view contrary to the two-part framework that is the law of this Court and every federal circuit that has weighed in—acknowledge that “the proper interpretive approach” to the historical inquiry involves “reason[ing] *by analogy* from history and tradition.” *Heller II*, 670 F.3d at 1275 (Kavanaugh, J., dissenting) (emphasis added).

tradition. Similarly, taxation and fees on firearm possession and licenses date back to the mid-nineteenth century. Accordingly, the licensing and fee requirements of the FOID Card Act fall outside the scope of the Second Amendment and do not conflict with any Second Amendment-protected rights.⁶

A. Firearms Licenses are Consistent with More Than a Century of Legal Tradition

Firearm licensing laws have a lengthy historical pedigree, tracing back more than a century. The circuit court failed to consider this lengthy history due to improper framing of the historical question as well as methodological and substantive errors in its approach to the historical step-one analysis.

First, the circuit court erroneously framed the historical inquiry as whether persons such as Defendant who are “unlicensed, law-abiding citizens within the privacy of their home” were historically “excluded from exercising their Second Amendment right.” Order at 6-7. Under this framing, the circuit court approached the licensing requirement as creating a prohibited class of persons, akin to prohibitions on the possession of firearms by felons and the mentally ill. *See id.* However, unlike felons and the mentally ill, those who are “unlicensed, law-abiding citizens” can readily exercise their Second Amendment rights by taking the simple step of obtaining a license. For this reason, a licensing requirement is

⁶ Even if the challenged licensing and fee requirements fell within the scope of the Second Amendment, social science research and empirical evidence demonstrate that these requirements readily satisfy the applicable (intermediate) standard of scrutiny. The State set out that evidence in its motion papers in the circuit court. *See* Att’y Gen. Resp. to Def’s Mot. 12-23 (July 6, 2020). Furthermore, as the State noted, the constitutionality of the permitting requirement establishes the constitutionality of its reasonable and related fee provisions. *See id.* at 12, 15; *Heller v. District of Columbia* (“*Heller III*”), 801 F.3d 264, 278 (D.C. Cir. 2015) (“[R]easonable fees associated with the constitutional requirements of registration and fingerprinting are also constitutional[.]”).

distinct from a categorical ban. Therefore, the circuit court should not have focused its historical inquiry on whether Defendant fits within “any of the historically proscribed groups,” Order at 7, and instead should have assessed whether there is a historical tradition of imposing firearm licensing requirements on law-abiding citizens.

Second, the circuit court’s assertion that citizens are born with Second Amendment rights, and that any licensing system creates an unconstitutional “privileges” framework, *see* Order at 9, stands in direct contrast to centuries of firearms regulations that have required individuals to take reasonable steps before exercising their Second Amendment rights.⁷ For example, numerous states and localities—including Chicago—enacted laws requiring a permit to purchase or acquire a firearm beginning in the early twentieth century. These laws required a prospective firearms purchaser to obtain a permit from a municipal judge or sheriff, who had to determine that the prospective purchaser was not prohibited by law from possessing a firearm and was of good moral character. *See, e.g.*, 1913 Or. Laws at 497 § 2; Samuel A. Ettelson, Opinions of the Corporation Counsel and Assistants from May 1, 1915, to June 30, 1916, Page 458-459 (Vol. 7, 1916) (Chicago); 1918 Mont. Laws 2, at 6 § 3; 1919 Haw. Sess. Laws 166; 1919 N.C. Sess. Laws 397; 1921 Mo. Laws at 691 § 2; 1927 N.J. Laws at 742, 746 § 9; 1927 Mass. Acts 413; 1927 Mich. Pub. Acts 372, at 887-88 § 6.⁸ These requirements are analogous to those under the FOID Card Act,

⁷ It is also directly contrary to the Seventh Circuit’s opinion in *Berron v. Illinois Concealed Carry Licensing Review Board*, 825 F.3d 843 (7th Cir. 2016), which stressed that “[i]f a state may set substantive requirements for ownership, which *Heller* says it may, then it may use a licensing system to enforce them.” *Id.* at 847; *see also* *Mallard v. Potenza*, 376 F. App’x 132, 134 (2d Cir. 2010) (*Heller* “did not hold reasonable licensing requirements unconstitutional.”).

⁸ These types of laws did not exclusively apply to pistols and revolvers. *See, e.g.*, 1919 Haw. Sess. Laws 166 (permit-to-purchase applied to all firearms); 1919 N.C. Sess. Laws 397 (permit to purchase applied to any pistol or “pump-gun”).

and only differ in that they occur at the point of purchase or acquisition. States have also historically imposed inspection or registration requirements on firearm owners. *See, e.g.*, 1918 Mont. Laws 2, at 6 § 1 (requiring firearm owners to report their weapons to the state); 1927 Mich. Pub. Acts 891 (requiring firearm owners to bring weapon to police for inspection and receive a certificate of inspection). These types of laws, which placed minimal requirements on law-abiding citizens in order for them to lawfully possess weapons—including in the home—continue to be common today.⁹

The circuit court failed to consider these numerous regulations in its historical analysis, instead focusing only on whether there was an exact historical analogue for the FOID Card Act's licensing scheme. However, as explained in Section I, courts can reason by analogy, and a historical regulation need not precisely match the law at issue. Therefore, while a license to purchase or acquire a firearm may not exactly match a license to possess, the requirements are analogous in that they both impose a prerequisite to owning or

⁹ At least ten states currently have permit-to-purchase licensing schemes (some applicable to all firearms and some only to handguns). Conn. Gen. Stat. §§ 29-33, 29-36f, 29-37a; Haw. Rev. Stat. Ann. § 134-2; Iowa Code § 724.15; Md. Code Ann. Pub. Safety § 5-117.1; Mass. Gen. Laws ch. 140, § 131A; Mich. Comp. Laws § 28.422; Neb. Rev. Stat. Ann. § 69-2404; N.J. Stat. Ann. § 2C:58-3; N.C. Gen. Stat. § 14-402; R.I. Gen. Laws § 11-47-35. Additionally, two states besides Illinois require licenses to own, Mass. Gen. Laws ch. 140, § 129B; N.Y. Penal Law § 400.00 (handguns), two states require firearm safety certificates to purchase, Cal. Penal Code §§ 16370, 16670, 26840, 31610; Rev. Code Wash. § 9.41.090 (semiautomatic rifles), and the District of Columbia has a registration law that functions as a licensing requirement, D.C. Code Ann. § 7-2502.01. Five states and the District of Columbia also require safety trainings or exams to obtain a license (again, some applicable to all firearms and some only to handguns). D.C. Code Ann. § 7-2502.01(a)(13); D.C. Mun. Regs. tit. 24, § 2311; Conn. Gen. Stat. § 29-36f; Haw. Rev. Stat. Ann. § 134-2(g), Md. Code Ann. Pub. Safety § 5-117.1(d)(3), Mass. Gen. Laws ch. 140, § 131P; R.I. Gen. Laws § 11-47-35.

possessing a weapon, and thus place similar burdens on the right to “keep and bear arms.”¹⁰ Inspection and registration requirements similarly impose conditions on firearms owners, regardless of whether the weapons are kept within or outside the home. All of these regulations served the same ultimate functions as a license to possess: ensuring that prohibited persons cannot possess firearms and maintaining records of firearm owners. Accordingly, the long history of permit-to-purchase and registration laws demonstrates that licensing schemes are longstanding and outside the scope of the Second Amendment.

Finally, the circuit court’s conclusion that there was not “a single instance where unlicensed, law-abiding citizens within the privacy of their home were excluded from exercising their Second Amendment rights” ignores a number of historical laws that are directly on point. Most notably, New York’s Sullivan Act, as amended in 1913, required individuals to obtain a license to possess a pistol or revolver—what the U.S. Supreme Court recognized as the “quintessential self-defense weapon,” *Heller*, 554 U.S. at 629—within the home. *See* 1913 N.Y. Laws 1627, § 1897.¹¹ Specifically, a magistrate could grant “any householder” a license to “have such weapon in his dwelling” upon a finding of “good moral character of the applicant, and provided that no other good cause exist[ed] for the denial of such application.” *Id.* A revised version of the New York statute clarified that

¹⁰ While the circuit court does not outright reject the relevance of permit-to-purchase laws in its step-one analysis, it dismisses studies related to permit-to-purchase laws at step two. *See Order* at 14.

¹¹ Given that the state historically had the power to impose licensing requirements on the possession of weapons at the core of the Second Amendment right (handguns), it logically follows that this power would also extend to those weapons less suitable for self-defense, and thus further from the core Second Amendment right (long guns). *See, e.g., Nat’l Rifle Ass’n of Am. v. Swearingen*, --- F. Supp. 3d ---, 2021 WL 2592545, at *16 n.30 (N.D. Fla. June 24, 2021), *appeal docketed*, No. 21-12314 (11th Cir. July 8, 2021) (historical age restrictions on handgun ownership justify age restrictions on firearms generally; “[t]o say otherwise would seem to turn *Heller* on its head”).

every person “while ... in possession of a weapon for which a license has been issued, shall have on his person the license issued to him under this section, and shall exhibit the same for inspection upon demand, to any policeman, state trooper or other peace officer.” 1931 N.Y. Laws 792, at 2391 § 6. Similarly, a 1926 Virginia law required a license to own a pistol or revolver, which was contingent upon an annual \$1 tax per weapon. 1926 Va. Acts 285-87, § 1.

Based on these nearly identical laws, as well as the analogous permit-to-purchase and registration laws, the FOID Card Act’s licensing requirement is consistent with over a century of firearms regulations, and thus is a longstanding regulation outside the scope of the Second Amendment.

B. Firearm License Fees are Longstanding Regulations Outside the Scope of the Second Amendment

Laws imposing fees or taxes on firearm possession and licensing are similarly longstanding and outside the scope of the Second Amendment. Therefore, the circuit court’s conclusion that “*any* fee” associated with the Second Amendment right in the home is unconstitutional, Order at 16-17 (emphasis in original), is in error.

Levying fees or taxes on the possession of firearms dates back to at least the mid-nineteenth century. *See* A. Hutchinson, Code of Mississippi 182 (1798-1848) (1844 tax rate of \$2 “on each duelling or pocket pistol”); 1851 Ala. Sess. Laws 3 (\$2 tax on “revolving pistol[s]”); 1866 Ga. Laws 27-28, § 3 (\$1 county tax on “every gun or pistol, musket or rifle over the number of three kept or owned on any plantation”); 1902-1904 Va. Acts 155-157, sch. B, § 6 (taxing the “aggregate value of all shot-guns, rifles, muskets, and other fire-arms”); 1919 N.C. Sess. Laws 397, § 6 (taxing firearms as personal property); 1926 Va. Acts 285-87, ch. 158, §§ 1-9 (\$1 “license tax ... on each pistol or revolver so

owned”). These taxes applied regardless of whether the weapons were kept within or outside of the home. Additionally, beginning in the early twentieth century, several states and localities imposed fees for obtaining a license to purchase or possess a firearm. *See, e.g.*, 1919 N.C. Sess. Law 397, § 3 (50¢ fee to obtain permit to purchase); 1921 Mo. Laws 691, § 2 (50¢ fee for permit to purchase); 1927 N.J. Law. 742, 746 § 9 (50¢ fee for a “permit to purchase or carry a pistol or revolver”); 1931 N.Y. Law 2390, § 5.10 (50¢ fee for “license ... to possess a weapon not to be carried on the person”); Samuel A. Ettelson, *Opinions of the Corporation Counsel and Assistants from May 1, 1915, to June 30, 1916*, 458-459 (Vol. 9, 1916) (\$1 fee for permit to purchase in Chicago). In today’s dollars, these taxes and fees ranged from \$7 to \$70,¹² and many of these charges occurred annually or separately for each gun purchased.¹³

Fees and taxes on the purchase or possession of firearms have continued through modern day. At least 10 states, the District of Columbia, and local governments have firearm licensing or registration laws requiring payment of an administrative fee,¹⁴ and at

¹² Inflation Calculator, Official Data Foundation, officialdata.org (calculating the current dollar value of 50¢ in 1921 and \$2 in 1844).

¹³ Moreover, beginning in the late nineteenth century, states and localities enacted fee requirements for obtaining licenses to carry firearms in public, which ranged from \$15 to over \$300 in today’s dollars. *See* Laws of Nebraska Relating to the City of Lincoln 210, § 6 (1895) (50¢ fee for concealed-carry license); Park’s Annotated Code of the State of Georgia, Penal Code, Art. 3 § 348 (1914) (\$100 bond and 50¢ fee for public-carry license); 1925 W. Va. Acts 25-30, ch. 3, § 7 (\$20 payment to the sheriff and \$2 payment to the clerk of the court for public-carry license); 1933 Haw. Sess. Laws 39, § 8 (\$10 fee for concealed-carry permit); George W. Hess, *Revised Ordinances of the City of Evanston: Also Special Laws and Ordinances of General Interest* Page 131-132, Image 143-144 (1893) (\$2 fee for concealed-carry license).

¹⁴ *See, e.g.*, Cal. Penal Code § 31650; Conn. Gen. Stat. § 29-36h; D.C. Mun. Regs. tit. 24, § 2320.3; Haw. Rev. Stat. § 134-3(b); 430 ILCS 65/5(a); Md. Code Ann., Pub. Safety § 5-117.1(g); Mass. Gen. Laws ch. 140, § 129B(9A); Neb. Rev. Stat. § 69-2404; N.J. Stat. Ann. § 2C:58-3(f); N.Y. Penal Law § 400.00(14); N.C. Gen. Stat. § 14-404(e).

least 13 states charge an additional administrative fee for a mandatory background check.¹⁵ These administrative fees range from \$5 in Nebraska and North Carolina to \$340 in New York City.¹⁶

Taken together, these laws demonstrate that taxes and fees on access to firearms are longstanding regulations. Accordingly, the FOID Card Act's modest \$10 fee, like the licensing scheme itself, does not regulate conduct within the scope of the Second Amendment.

CONCLUSION

For the foregoing reasons and those set out in the State's brief, the circuit court's April 26, 2021, Order should be reversed.

Dated: October 14, 2021

Respectfully submitted,

/s/ Brett E. Legner
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¹⁵ See Cal. Code Regs. tit. 11, § 4001; Cal. Penal Code § 28230; Colo. Rev. Stat. § 24-33.5-424(3.5); Conn. Gen. Stat. § 29-17a(b); Fla. Stat. § 790.065(1)(a); Md. Code Ann., Crim. Proc. § 10-221(b)(7); Nev. Rev. Stat. § 202.2547(7); N.J. Admin. Code § 13:54-1.4(d); Or. Rev. Stat. § 166.414; 18 Pa. Cons. Stat. § 6111(b)(3); Tenn. Code Ann. § 38-6-109, 19-17-1316(e); Utah Code Ann. § 76-10-526(12); Va. Code Ann. § 18.2-308.2:2(J); Wis. Stat. § 175.35(2i).

¹⁶ See Neb. Rev. Stat. § 69-2404; N.C. Gen. Stat. § 14-404(e); *New Application Instructions*, N.Y. Police Dep't License Div., <https://licensing.nypdonline.org/new-app-instruction/> (last visited Nov. 13, 2020) (\$340 application fee for handgun license; \$140 application fee for a rifle or shotgun permit).

Supreme Court Rule 341(c) Certificate of Compliance

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, and those matters appended to the brief under Rule 342(a) is 13 pages.

s/Brett E. Legner
Brett E. Legner
Mayer Brown LLP

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APPENDIX

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APPENDIX A

LAWS OF ALABAMA.

[No. 1.]

AN ACT

1851-52.

Further to equalize and improve the Revenue Laws.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That there shall also be annually assessed and paid on all passes, canals or channels, or property of the like kind, estimated in the manner of mills, distilleries, manufacturing establishments, &c., the same tax as is paid on toll bridges, turnpikes and ferries, that is to say for each hundred dollars of the real value of property twenty-five cents, \$0 25.

On all money which is purposely kept out at interest, whether lent to persons, corporations or companies, in or out of this State, in any form or manner whatever, and whether the evidence of such indebtedness is annually or otherwise renewed or not, and on which tax is not paid in some other form or manner to the State annually, the same rate shall be annually assessed and paid as on money loaned out at or under the legal rate of interest, that is to say for each hundred dollars, and at that rate, twenty-five cents. 25

Tax on money at interest.

On every deck or part of a deck of playing cards sold or kept for use, ten cents. 10

Cards.

On every bowie knife or revolving pistol, two dollars \$2 00

Bowie knife and pistols.

SEC. 2. *Be it further enacted,* That hereafter, to provide against omissions and evasions, all lands shall be assessed and taxes paid thereon in the county in which it lies, whether a tract be divided by a county line or not.

Whose land shall be assessed

SEC. 3. *Be it further enacted,* That the property of soldiers who served in the war with Mexico, and of those who served in the Florida war, as well as those who served in the war of 1812, and of their widows in case of their decease, is exempt from taxation to the extent the same is exempt from execution.

Soldiers exempt

SEC. 4. *Be it further enacted,* That licenses may hereafter be granted by judges of probate of the different counties to practice the daguerrean art at one station in the

Daguerreotypists.

1851-'52.

4

county or in a village not having more than five hundred inhabitants on the applicant paying as a State tax.. \$5 00

In towns with not more than four thousand inhabitants \$10 00

In cities with more than four thousand inhabitants. 25 00

To practice the art generally any where in the State 50 00

For the exhibition of a circus, feats of activity and slight of hand, for each exhibition not exceeding twenty-four hours 10 00

These provisions are to supersede rates prescribed in the code. A license may be obtained as aforesaid for a ten pin alley at any watering place for six months only by paying annually as heretofore, ten dollars \$10 00

And for a billiard table..... 25 00

But if used for a longer time during the year, under any pretence, the owner or proprietor of the alley or billard table shall be liable to indictment in the same manner as if no license had been granted. And it is hereby expressly made the duty of the judge of probate of each county by himself or agent to enquire of every person doing or offering to do any business for which a license is required under this or any other act, and ascertain whether the law has been complied with, and if not to cause the person to be bound over to court. When any citizen, assessor or other public officer may have information and believe that money due for the tax will be lost to the treasury by removals or otherwise, unless received immediately, the same may be paid to the county treasurer, who is required to give duplicate receipts therefor, one to the person paying, the other to the judge of probate, who shall endorse it to the collector. The treasurer shall pay the same over to the collector so soon as collections commence to be paid over by him as other money, and the treasurer charging himself with any portion thereof which belongs to the county treasury. And all moneys due the county treasury shall be paid over as soon as collections are completed to the county treasurer, or it shall be the duty of the treasurer as well as that of the solicitor of the district in his absence or default, in the name of the county, on three days, previous notice, to move for and obtain a judgment for the same, the interest and costs; and ten per cent. damages may be added by the court, if the circumstances require it, against any officer and his securities on their official bonds or other person holding the same.

SEC. 5. *Be it further enacted*, That instead of a transcript or copy of the assessment books by the assessor, the judge of probate is required to make out and forward to the comptroller of public accounts an abstract of the same in such form as said comptroller may prescribe and direct; and the court of commissioners may make such allowance to said judge therefor as they may think adequate and just. And the judge and commissioners shall hereafter receive \$2 50 per day (five cents per mile for travel and ferrriage) while closely and necessarily engaged in examining the books and performing other duties in connection with the revenue; but the judge and one commissioner only shall be competent to do all such duty in the event a fuller attendance is not deemed indispensable by the court.

Judge of probate to make abstract.

Per diem of judge and commissioners.

SEC. 6. *Be it further enacted*, That hereafter the tax collector shall pay the assessor his commissions or other dues, taking from him duplicate receipts, one to be received, allowed and filed by the comptroller if necessary and if the same be correct. And it shall hereafter be the duty of the tax collectors of the several counties to record the receipts they obtain from the comptroller as early as practicable in the office of the judge of probate of the respective counties, in such accessible form or place as the judge may prescribe, so as to readily detect, by reference to the different counties, any errors or deficiencies in the comptroller's office.

How assessor shall be paid.

Tax-collectors to record receipts.

SEC. 7. *Be it further enacted*, That after either the assessor or collector shall have faithfully given the notices required by law to give in or pay taxes, if any person, without sufficient cause, fail or refuse to appear and give in or pay tax, and it thereby becomes necessary for such officer to visit the residence of such person, said officer is authorised to charge therefor (if in a city or town twenty-five cents, if in the country) fifty cents, to be charged and collected at the same time and in the same manner as taxes. But if either of said officers presume to charge or collect any such sum when the proper notice had not been given in good faith, or when from other cause it was improper, the same may be recovered back with costs before any justice of the county.

Extra charges for failure to give in.

SEC. 8. *Be it further enacted*, That no higher nor additional tax shall be paid on account of the code adopted at the present session coming into operation and changing the tax year so as to make it end on the 31st of August or other time; and to provide against that as well as to avoid

New Code not to interfere with tax laws.

1851-'52.

6

Tax not to be
paid twice.

any other conflict or irregularity in the operation of any provisions of the revenue laws, full power and authority are hereby given to the comptroller to order the assessors or collectors either to abate and deduct from the assessment (or to add to) the same in such manner as to obviate the tax being paid twice over the same lapse of time, and to prevent a chasm during which no tax would be paid. He is also authorised at all times to adopt any other rules and regulations for like purposes, submitting the same to the governor for his examination and approval, and shall communicate the same to the different officers concerned by printed circular or otherwise.

Comptroller to
publish and dis-
tribute revenue
acts.

SEC. 9. *Be it further enacted*, That it shall be the duty of the comptroller to publish and distribute, as early as practicable after the adjournment of the assembly, this act and only such other parts of the existing revenue laws, embracing the subjects and sources of taxation, as he may deem sufficient; condensed in such form as he may choose and as he may deem best calculated to give a full and thorough understanding of the same, and to secure an equal and uniform compliance therewith.

Tax law for
Mobile.

SEC. 10. *Be it further enacted*, That the tax law for the city of Mobile be and the same is so amended that the tax collector may sell real or personal property for taxes without the necessity of exhausting the personal property before selling real estate as required by law, either for city or special taxes of any kind, and the fees to the collector for every such sale shall be the same as those specified in section twenty-two, under the act of 1844, (consolidating the several acts of incorporation of the city of Mobile and to alter and amend the same, approved the 15th January, 1844)

Mobile contin-
ued.

SEC. 11. *Be it further enacted*, That if any person or persons shall be dissatisfied with the assessed value of his, her or their real estate in the city of Mobile, and shall give notice to the mayor or aldermen and council of the same, witnesses shall be heard on oath to affix a proper valuation.

Repealing
clause.

SEC. 12. *And be it further enacted*, That all laws and parts of laws contravening the provisions of this act be and the same are hereby repealed: *Provided*, That no prosecution, suit or claim whatever pending or to be brought under existing laws shall in any manner be effected, impaired or altered by the passage of this act.

JOHN D. RATHER, Speaker of the House.

CHARLES McLEMORE, President of the Senate.

APPROVED, February 10, 1852.

H. W. COLLIER.

APPENDIX B

PUBLIC LAWS—COUNTY BONDS, TAXES, ETC.

27

Bibb county to issue bonds—Camden, Glynn and Effingham counties to levy a special tax.

TITLE VI.

COUNTY BONDS, TAXES, ETC.

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|--|--|
| <p>BIBB COUNTY, (No. 40.)</p> <p>SEC. 1. Bonds authorized for building Court House and Jail.</p> <p>2. Sale and payment of bonds.</p> <p>CAMDEN, GLYNN AND EFFINGHAM COUNTIES, (No. 41.)</p> <p>3. Tax on dogs and guns authorized.</p> <p>4. Owners of plantations to make returns.</p> <p>DECATUR CO., (Nos. 42, 43.)</p> <p>5. Payment of Jurors.</p> <p>6. By extra tax.</p> <p>7. Issue of bonds for building bridge.</p> <p>8. Tax for payment.</p> <p>9. Right of way, damages.</p> <p>10. Rates of toll.</p> <p>11. Amount and sale of bonds.</p> <p>ECHOLS CO., (No. 44.)</p> <p>12. Extra tax for building bridge legalized.</p> | <p>LOWNDES CO., (No. 45, 46.)</p> <p>13. Issue of bonds for building Court House and Jail.</p> <p>14. Signing and registering.</p> <p>15. Coupons receivable for county dues.</p> <p>16. Tax for payment of bonds.</p> <p>17. Issue of scrip legalized.</p> <p>RANDOLPH CO., (No. 47.)</p> <p>18. Tax for 1866 legalized.</p> <p>RICHMOND CO., (No. 48.)</p> <p>19. Extra tax for county purposes.</p> <p>THOMAS AND MITCHELL COS., (No. 49.)</p> <p>20. Issue of bonds for taking railroad stock.</p> <p>21. Legal voters to consent to subscription.</p> |
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(No. 40.)

An Act to authorize the Inferior Court of Bibb county to issue their bonds for the purpose of raising funds to build a new Court House and Jail.

1. SECTION I. *The General Assembly of the State of Georgia do enact*, That the Inferior Court of Bibb county shall have power and authority to issue their bonds in such sums as they may deem proper, and having not longer than ten years to run, bearing seven per cent. interest; such bonds to amount, in the aggregate, to not more than fifty thousand dollars, for the purpose of raising funds to build a new Court House and Jail for the county of Bibb. Amount of bonds.

2. SEC. II. The bonds authorized by this act shall be approved and signed by all the Justices of the Inferior Court in their official capacity, and may be sold in the market or at public outcry, as the Inferior Court may direct; at any rate not less than ninety per cent. of their nominal value, and when so issued and sold shall be valid and binding on the county of Bibb, and for the payment of which and the interest thereon, the Inferior Court shall provide 'by taxation. How sold. Payment, how provided for.

SEC. III. Repeals conflicting laws.
Assented to 13th of December, 1866.

(No. 41.)

An Act to authorize the Justices of the Inferior Courts of Camden, Glynn and Effingham counties to levy a special tax for county purposes, and to regulate the same.

3. SECTION I. *The General Assembly of the State of Georgia do enact*, That the Justices of the Inferior Courts of Camden, Glynn and Effingham counties be and they are hereby authorized to levy and Justices of Infr Court authorized to levy tax.

Grand and petit jurors compensated in Decatur county—Decatur county to issue bonds.

collect a tax of two dollars ~~per head~~ on each and every dog over the number of three, and one dollar a piece on every gun or pistol, musket or rifle over the number of three kept or owned on any plantation in the counties aforesaid; the said tax to be applied to such county purposes as the said courts shall direct.

Planters
required to
render full
return up-
on oath.

4. SEC. II. That the owner of every plantation in said counties shall be required to render, upon oath, a full return of every dog, gun, pistol, musket, or rifle so held or kept as aforesaid, and shall be held responsible for the tax imposed upon them, which tax the said Inferior Courts are hereby authorized and empowered to enforce, as in other cases.

SEC. III. Repeals conflicting laws.

Approved 7th of December, 1866.

(No. 42.)

An Act to compensate Grand and Petit Jurors of the Superior, Inferior and County Courts in the county of Decatur, in this State, and to authorize the levy of an extra tax for said purpose.

Compensa-
tion of Ju-
rors.

Proviso.

5. SECTION I. *The General Assembly of the State of Georgia do enact*, That from and immediately after the passage of this act Grand and Petit Jurors who may serve in the Superior or County Courts in the county of Decatur shall be entitled to receive for each and every day they may serve as such jurors, two dollars; *provided* he shall produce the certificate of the sheriff, countersigned by the presiding Judge or Justice, of the time he has served, which certificate shall be a warrant for the sum allowed, and a voucher to the treasurer of the county for paying the same.

Infr Court
may collect
Jury tax.

6. SEC. II. That the Inferior Court of Decatur county is authorized and required to levy and have collected an extra tax, to be styled the "Jury Tax," of sufficient amount to pay all jurors in said county as provided for in the first section of this act.

Act shall be
of force.

SEC. III. That this act shall be of force immediately after its passage, and all conflicting laws are repealed.

Assented to 12th of December, 1866.

(No. 43.)

An Act to authorize the Justices of the Inferior Court of Decatur County to issue Bonds for the payment of erecting a Bridge over Flint River, within the limits of Bainbridge, or for the payment of stock in a corporate company for that purpose.

Bonds.

7. SECTION I. *The General Assembly of the State of Georgia do enact*, That a majority of the Justices of the Inferior Court of Decatur county may issue bonds, payable in two, three, four, five, six, seven, eight, nine and ten years, and if in their judgment it would be better, up to twenty years, with a rate of interest not greater than that rate fixed by law; which bonds, so issued, shall be signed by

APPENDIX C

Evanston, Ill. Ordinances.

REVISED ORDINANCES

OF THE

CITY OF EVANSTON

ALSO

SPECIAL LAWS
AND ORDINANCES OF GENERAL INTEREST

REVISED BY

GEORGE W. HESS AND FRANK R. GROVER

PUBLISHED BY AUTHORITY OF THE
CITY COUNCIL OF THE CITY OF EVANSTONLANSING, MICHIGAN:
DARIUS D. THORP, PRINTER AND BINDER,
1893.100.
12.



CHAPTER XXIX.

CONCEALED WEAPONS.

- 531. *Unlawful to carry.*
- 532. *Confiscation of weapons.*
- 533. *Arrest for carrying.*
- 534. *Procedure.*
- 535. *Penalty.*
- 536. *To whom not applicable.*
- 537. *Mayor to grant licenses.*
- 538. *Fee for license.*
- 539. *Contents of license.*

531. It shall be unlawful for any person within the limits of the city of Evanston to carry or wear under his clothes or concealed about his person, any pistol, colt or slung shot, cross knucklet, or knuckles of lead, brass or other metal, or bowie knife, dirk, dagger, or any other dangerous or deadly weapon.

532. Any such weapon or weapons duly adjudged by any police magistrate, or justice of the peace, to have been worn or carried by any person, in violation of section 531 shall be forfeited or confiscated to the said city of Evanston, and shall be so adjudged.

533. Any policeman of the city of Evanston may, within the limits of said village, without a warrant, arrest any person or persons whom he may find in the act of carrying or wearing concealed about his or their persons, under their clothes, any weapon specified in section 531, 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 weapons.

534. 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 531, 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 or have incurred any of the penalties fixed by this chapter, such magistrate or justice of the peace shall so adjudge and order that the weapon or weapons, concerning the wearing or carrying of which such pen-

alty shall have been incurred, shall be confiscated to the city of Evanston.

535. Any person or persons violating any of the provisions of this chapter shall pay a fine of not less than five dollars nor more than two hundred dollars, in the discretion of the magistrate or court before whom such conviction shall be had.

536. The prohibitions of this chapter shall not apply to the officers or members of the police force of said city when on duty, nor to any officer of any court whose duty it may be to serve warrants or to make arrests; nor to persons whose business or occupation may seem to require the carrying of weapons for their protection, and who shall have obtained from the mayor a license so to do, as hereinafter provided.

537. The Mayor may grant to so many and such persons as he may think proper, licenses to carry concealed weapons, and may revoke any and all of such licenses at his pleasure.

538. Applications for such licenses shall be made to the city clerk, and when granted, the applicant therefor shall pay to the said clerk, for the use of the city, the sum of two dollars.

539. Every such license shall state the name, age and occupation and residence of the person to whom it is granted.

APPENDIX D

coal purchased, a certificate showing the weight of the coal so delivered, and the weight of the wagon or cart.

781. § 3. Any person violating any of the provisions of this ordinance, or who shall deliver to any purchaser a less quantity than two thousand pounds of coal for each ton purchased, (or a proportionate amount for any part of a ton,) or who shall practice any fraud or deceit in the sale or delivery of any coal purchased, to be delivered in said city as aforesaid, shall, upon conviction, be fined in a sum of not less than twenty dollars, nor more than fifty dollars, for each offense; and it is hereby made the duty of every driver of any coal wagon or cart to drive said wagon or cart upon the city scales and have the same weighed with and without the load, whenever requested by the purchaser, the expense of said weighing to be paid by said purchaser if the weights in said certificate are found correct, otherwise to be paid by the dealer.

§ 4. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

§ 5. This ordinance shall take effect and be in force from and after the expiration of one week after its passage, approval, and publication according to law.

Passed August 26, A. D. 1895.

Approved August 26, A. D. 1895.

Attest: J. W. BOWEN, *City Clerk*. [SEAL.]

F. A. GRAHAM, *Mayor*.

AN ORDINANCE regulating the carrying of concealed weapons in the city of Lincoln, prohibiting the carrying of the same save under certain conditions, prescribing penalties for violation of the provisions of this ordinance, and repealing ordinances in conflict herewith.

Be it ordained by the Mayor and Council of the City of Lincoln:

ARTICLE XVI.

Concealed Weapons.

782. § 1. It shall be unlawful for any person within said city to carry about the person any concealed pistol, revolver, dirk, bowie knife, billy, sling-shot, metal knuckles, or other dangerous or deadly weapons of any kind, excepting only officers of the law in the discharge of their duties; and any person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be subject to the penalty hereinafter provided.

783. § 2. Any such weapon or weapons, duly adjudged by the Police Judge of said city to have been worn or carried by any person, in violation of the first section of this ordinance, shall be so forfeited or confiscated to the said city of Lincoln, and shall be so adjudged.

784. § 3. Any policeman of the city of Lincoln may within the limits of said city without 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 person, any pistol, or revolver, slung shot, or cross-knuckles, or knuckles of lead, brass or other metal, or bowie knife, dirk knife, or dirk, or dagger, or any other dangerous or deadly weapon, and detain him, her, or them, in the city jail until a warrant can be procured.

785. § 4. Any person or persons violating any of the provisions of the first section of this ordinance, shall, upon conviction, pay a fine of not more than one hundred dollars, and be committed until such fine and costs are paid.

786. § 5. The prohibitions of this ordinance shall not apply to the officers or members of the police force of the city when on duty, nor to any officer of any court whose duty may be to serve warrants or to make arrests, nor to persons whose business or occupation may seem to require the carrying of weapons for their protection, and who shall have obtained from the Mayor a license so to do.

787. § 6. The Mayor may grant to so many and such persons as he may think proper, licenses to carry concealed weapons, and may revoke any and all of such licenses at his pleasure. Every such license shall state the name, age, occupation, and residence, of the person to whom granted, and shall be good for one year. A fee of fifty cents shall be paid therefor to the City Treasurer, and by him placed in the police fund.

§ 7. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

§ 8. This ordinance shall take effect and be in force from and after the expiration of one week after its passage, approval, and publication according to law.

Passed August 26, A. D. 1895.

Approved August 26, A. D. 1895.

Attest: J. W. BOWEN, *City Clerk*. [SEAL.]

F. A. GRAHAM, *Mayor*.

APPENDIX E

first day of October the said reports shall be delivered to the superintendent of public printing, and he shall cause the same to be printed.

76. That subsection twelve of section one hundred and eighty-three, and sections twelve hundred and twelve, twelve hundred and thirty-six, twelve hundred and thirty-nine, twelve hundred and fifty-four, twelve hundred and ninety-eight, twelve hundred and ninety-nine, thirteen hundred, as amended by an act of the general assembly, approved March fourth, nineteen hundred; thirteen hundred and one, thirteen hundred and two, thirteen hundred and three, thirteen hundred and six, thirteen hundred and seven, thirteen hundred and eight, thirteen hundred and ten, thirteen hundred and eleven, as amended by an act of the general assembly, approved March fourth, nineteen hundred; thirteen hundred and twelve, thirteen hundred and thirteen, thirteen hundred and fourteen, thirteen hundred and fifteen, thirteen hundred and sixteen, thirteen hundred and seventeen, thirteen hundred and eighteen, thirteen hundred and nineteen, thirteen hundred and twenty, thirteen hundred and twenty-one, thirteen hundred and twenty-two, thirteen hundred and twenty-three, thirteen hundred and twenty-four, thirteen hundred and twenty-five, thirteen hundred and twenty-six, thirteen hundred and twenty-seven, thirteen hundred and twenty-eight, thirteen hundred and twenty-nine, thirteen hundred and thirty, thirteen hundred and thirty-one, thirteen hundred and thirty-two, thirteen hundred and thirty-three, and thirteen hundred and thirty-seven of the Code of eighteen hundred and eighty-seven, and sections eleven, twelve, and thirteen of the act of the general assembly of Virginia, approved March third, eighteen hundred and ninety-two, entitled an act to further regulate and control common carriers doing business in this State, and further defining the duties of the railroad commissioner in relation thereto, be, and the same are hereby, repealed.

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

CHAP. 148.—An ACT to raise revenue for support of the government and public free schools, and to pay the interest on the public debt, and to provide a special tax for pensions as authorized by section 189 of the Constitution.

Approved April 10, 1903.

1. Be it enacted by the general assembly of Virginia, That the taxes on persons, property, and incomes for the year commencing the first day of February, nineteen hundred and three, and each year thereafter, and on licenses to transact business, shall be as follows:

TAXES ON LANDS AND LOTS, GROUND RENTS, AND RENT CHARGE.

2. On tracts of lands and lots, and the improvements thereon, not exempt from taxation, ground rents and rent charge, there shall be a tax of twenty cents on every hundred dollars of the assessed value thereof, the proceeds of which shall be applied to the support of the government, and a further tax of ten cents on every hundred dollars of the assessed value thereof, which shall be applied to the support of the public free schools of

the State, and a further special tax of five cents on every hundred dollars of the assessed value thereof, which shall be applied to the payment of pensions.

CLASSIFICATION OF PERSONS AND PERSONAL PROPERTY.

3. The taxable subjects shall be classified by schedules as follows, to-wit:

SCHEDULE A.

4. The classification under schedule A shall be as follows, to-wit:

First. The number of white male inhabitants who have attained the age of twenty-one years, except those pensioned by this State for military services.

Second. The number of colored male inhabitants who have attained the age of twenty-one years, except those pensioned by this State for military services.

TAX ON PERSONS.

5. Upon every male person, classified in schedule A, there shall be a tax of one dollar and fifty cents, of which one dollar shall be for aid of the public free schools and fifty cents shall be returned and paid into the treasury of the county or city in which it shall have been collected.

SCHEDULE B.

6. The classification under schedule B shall be as follows:

TANGIBLE PERSONAL PROPERTY.

First. The aggregate number of horses, mules, asses, and jennets, and the value thereof.

Second. The number of cattle, and the value thereof.

Third. The number of sheep and goats, and the value thereof.

Fourth. The number of hogs, and the value thereof.

Fifth. The aggregate number and value of all family carriages, stage-coaches, carts, wagons, carry-logs, spring-wagons, carryalls, gigs, buggies, sleighs, automobiles, bicycles, and vehicles of like kind, to either of those enumerated.

Sixth. The aggregate value of all books and pictures, except so far as the same are exempt by law.

Seventh. The aggregate value of all tools of mechanics.

Eighth. The aggregate value of all farming implements.

Ninth. The aggregate value of all felled timber, railroad ties, telegraph, telephone, or electric light poles, piles, mine props, cord wood, hoop-poles, staves, and bark which has been felled for sale by other than the owner of the land upon which it has been felled within twelve months preceding the first day of February of each year.

Tenth. The number of watches and clocks, and the value thereof.

Eleventh. The number of sewing machines, and the value thereof.

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Twelfth. The aggregate number and value of piano-fortes, melodeons, harps, organs, and musical instruments of all kinds.

Thirteenth. The aggregate value of all household and kitchen furniture.

Fourteenth. The aggregate value of gold and silver plate, plated ware, diamonds, cameos, or other precious stones or precious metals used as ornaments or jewelry, not including such subjects as are embraced in any other number of this schedule.

Fifteenth. The aggregate value of grain, tobacco, and other agricultural productions in the hands or possession, legal or constructive, of a purchaser.

Sixteenth. The number of boats or water crafts under five tons burthen, used for business or pleasure, and the aggregate value thereof.

Seventeenth. The number of all ships, tug-boats, barges, boats, or other water crafts of five tons burthen and over, and all other floating property not required to be assessed by the State Corporation Commission, used for business or pleasure, and the aggregate value thereof, with their tackle, rigging, and furniture, and all else that pertains to them, or of any share or interest therein, though the said ships, or other water craft, or any of them, may not be, at the time when the assessments are made, in the waters of Virginia.

Eighteenth. The aggregate value of all shot-guns, rifles, muskets, and other fire-arms, bowie knives, dirks, and all weapons of a similar kind: provided, that all fire-arms issued by the State to members of volunteer companies, or for purposes of police, shall not be listed for taxation.

Nineteenth. The value of seines, pound-nets, fykes, weirs, or other devices for catching fish.

Twentieth. The value of all toll bridges, turnpikes, and ferries, except steam ferries owned or operated by a chartered company.

Twenty-first. The aggregate value of all other tangible personal property not specifically enumerated in this or other schedules, and not exempt from taxation: provided, that grain, tobacco, and other agricultural productions in the hands of a producer of the same are hereby declared exempt from taxation as property under this schedule.

TAXES ON TANGIBLE PERSONAL PROPERTY.

7. On all personal property mentioned in this schedule there shall be a tax of twenty cents on every hundred dollars of the assessed value thereof, the proceeds of which shall be applied to the support of the government, and a further tax of ten cents on every hundred dollars of the assessed value thereof, which shall be applied to the support of the public free schools of this State, and a further special tax of five cents on every hundred dollars of the assessed value thereof, which shall be applied to the payment of pensions.

APPENDIX F

Chap. 195.

AN ACT to amend the penal law, in relation to the sale and carrying of dangerous weapons.

Became a law May 25, 1911, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 88,
§§ 1896,
1897, 1899
amended.

Section 1. Sections eighteen hundred and ninety-six, eighteen hundred and ninety-seven and eighteen hundred and ninety-nine of chapter eighty-eight of the laws of nineteen hundred and nine, entitled "An act providing for the punishment of crime, constituting chapter forty of the consolidated laws," are hereby amended to read as follows:

§ 1896. **Making and disposing of dangerous weapons.** A person who manufactures, or causes to be manufactured, or sells or keeps for sale, or offers, or gives, or disposes of any instrument or weapon of the kind usually known as a blackjack,¹ slungshot, billy, sandclub, sandbag, bludgeon,² or metal knuckles, to any person; or a person who offers, sells, loans, leases, or gives any gun, revolver, pistol or other firearm or any airgun, spring-gun or other instrument or weapon in which the propelling force is a spring or air or any instrument or weapon commonly known as a toy pistol or in or upon which any loaded or blank cartridges are used, or may be used, or any loaded or blank cartridges or ammunition therefor, to any person under the age of sixteen years, is guilty of a misdemeanor.

§ 1897. **Carrying and use of dangerous weapons.** A person who attempts to use against another, or who carries, or possesses, any instrument or weapon of the kind commonly known as a blackjack,¹ slungshot, billy, sandclub, sandbag,² metal knuckles or bludgeon,² or who, with intent to use the same unlawfully³ against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any other dangerous or deadly instrument or weapon,⁴ is guilty of a felony.

¹ Word "blackjack" new.

² Words "sandbag, bludgeon" new.

³ Word "unlawfully" new.

⁴ Words "razor, stiletto, or any other dangerous or deadly instrument or weapon," new.

Any person under the age of sixteen years, who shall have, carry, or have in his possession,⁵ any of the articles named or described in the last section, which it is forbidden therein to offer, sell, loan, lease or give to him, shall be guilty of a misdemeanor.

⁶Any person over the age of sixteen years, who shall have in his possession in any city, village or town of this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, without a written license therefor, issued to him by a police magistrate of such city or village, or by a justice of the peace of such town, or in such manner as may be *prescribed by ordinance in such city, village or town, shall be guilty of a misdemeanor.

Any person over the age of sixteen years, who shall have or carry concealed upon his person in any city, village, or town of this state, any pistol, revolver, or other firearm without a written license therefor, theretofore issued to him by a police magistrate of such city or village, or by a justice of the peace of such town, or in such manner as may be prescribed by ordinance of such city, village or town, shall be guilty of a felony.⁷

⁸Any person not a citizen of the United States, who shall have or carry firearms, or any dangerous or deadly weapons in any public place, at any time, shall be guilty of a felony. This section shall not apply to the regular and ordinary transportation of firearms as merchandise, nor to sheriffs, policemen, or to other duly appointed peace officers, nor to duly authorized military or civil organizations, when parading, nor to the members thereof when going to and from the places of meeting of their respective organizations.

§ 1899. Destruction of dangerous weapons. The unlawful⁹ carrying of a pistol, revolver, or other firearm¹⁰ or of an instrument or weapon of the kind usually known as blackjack, bludgeon,¹¹ slung-shot, billy, sandclub, sandbag,¹² metal knuckles, or of a dagger,

* So in original.

⁵ Words "in any public place" omitted.

⁶ Following sentence new.

⁷ Formerly "misdemeanor."

⁸ Following sentence formerly read: "No person not a citizen of the United States, shall have or carry firearms or dangerous weapons in any public place at any time."

⁹ Word "unlawful" new.

¹⁰ Words "or other firearm" new.

¹¹ Words "blackjack, bludgeon" new.

¹² Word "sandbag" new.

dirk, dangerous knife, or any other dangerous or deadly weapon,¹³ by any person save a peace officer, is a nuisance, and such weapons are hereby declared to be nuisances, and when any one or more of the above described instruments or weapons shall be taken from the possession of any person the same shall be surrendered to the sheriff of the county wherein the same shall be taken, except that in cities of the first class the same shall be surrendered to the head of the police force or department of said city. The officer to whom the same may be so surrendered shall, except upon certificate of a judge of a court of record, or of the district attorney, that the nondestruction thereof is necessary or proper in the ends of justice, proceed at such time or times as he deems proper, and at least once in each year, to destroy or cause to be destroyed any and all such weapons or instruments, in such manner and to such extent that the same shall be and become wholly and entirely ineffective and useless for the purpose for which destined and harmless to human life or limb.

§ 1914
added.

§ 2. Such chapter is hereby amended by adding at the end of article one hundred and seventy-two thereof a new section to be section nineteen hundred and fourteen and to read as follows:

§ 1914. **Sale of pistols, revolvers and other firearms.** Every person selling a pistol, revolver or other firearm of a size which may be concealed upon the person whether such seller is a retail dealer, pawnbroker or otherwise, shall keep a register in which shall be entered at the time of sale, the date of sale, name, age, occupation and residence of every purchaser of such a pistol, revolver or other firearm, together with the calibre, make, model, manufacturer's number or other mark of identification on such pistol, revolver or other firearm. Such person shall also, before delivering the same to the purchaser, require such purchaser to produce a permit for possessing or carrying the same as required by law, and shall also enter in such register the date of such permit, the number thereon, if any, and the name of the magistrate or other officer by whom the same was issued. Every person who shall fail to keep a register and to enter therein the facts required by this section, or who shall fail to exact the production of a permit to possess or carry such pistol, revolver or other firearm, if such permit is required by law, shall be guilty of a misdemeanor. Such register shall be open at all reasonable hours for

¹³ Words "or any other dangerous or deadly weapon," new. Words "without lawful permission, license or authority so to do," omitted.

the inspection of any peace officer. Every person becoming the lawful possessor of such a pistol, revolver or other firearm, who shall sell, give or transfer the same to another person without first notifying the police authorities, shall be guilty of a misdemeanor. This section shall not apply to wholesale dealers.

§ 3. This act shall take effect September first, nineteen hundred and eleven.

In effect
Sept. 1,
1911.

Chap. 196.

AN ACT to amend chapter fifty-two, laws of nineteen hundred and nine, entitled "An act relating to real property, constituting chapter fifty of the consolidated laws," in relation to officers taking acknowledgments.

Became a law May 20, 1911, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and ten of chapter fifty-two of the laws of nineteen hundred and nine, entitled "An act relating to real property, constituting chapter fifty of the consolidated laws," is hereby amended so as to read as follows:

L. 1909 ch.
52, § 310
amended.

§ 310.¹ A certificate of acknowledgment or proof, made within the state, by a commissioner of deeds, justice of the peace, or, except as otherwise provided by law, by a notary public, does not entitle the conveyance to be read in evidence or recorded, except within the county in which the officer making the same is authorized to act² at the time of making such certificate, unless authenticated by a certificate of the clerk of the same county; provided, however, that all certificates of acknowledgments or proof, made by or before a commissioner of deeds of the city of New York residing in any part therein, shall be authenticated by the³ clerk of any county within said city, in whose office such commissioner of deeds shall have filed a certificate under the hand and seal of the city clerk of said city, showing the appointment and

When
county
clerk's au-
thentication
necessary.

¹ Section heading amended out.

² Words "making the same is authorized to act" substituted for word "resides."

³ Words "city clerk of said city, that the said commissioner of deeds was duly appointed and qualified as such," omitted.

APPENDIX G

¹ Where a male person of the age of sixteen years and under the age of eighteen years has been convicted of juvenile delinquency or of a misdemeanor, the trial court may, instead of sentencing him to imprisonment in a state prison or in a penitentiary, direct him to be confined in a house of refuge established by the managers of the society for the reformation of juvenile delinquents in the city of New York; under the provisions of the statute relating thereto. Where a female person not over the age of twelve years is convicted of a crime amounting to felony, or where a female person of the age of twelve years and not over the age of sixteen years is convicted of a crime, the trial court may, instead of sentencing her to imprisonment in a state prison or in a penitentiary, direct her to be confined in the New York State Training School for Girls, under the provisions of the statute relating thereto, but nothing in this section shall affect any of the provisions contained in section twenty-one hundred and ninety-four.

§ 2. All acts or parts of acts inconsistent with this act are hereby repealed.

§ 3. This act shall take effect immediately.

Chap. 608.

AN ACT to amend the penal law generally, in relation to the carrying, use and sale of dangerous weapons.

Became a law May 21, 1913, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighteen hundred and ninety-seven of chapter eighty-eight of the laws of nineteen hundred and nine, entitled "An act providing for the punishment of crime, constituting chapter forty of the consolidated laws," as amended by chapter one hundred and ninety-five of the laws of nineteen hundred and eleven, is hereby amended to read as follows:

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

§ 1897. **Carrying and use of dangerous weapons.** A person who attempts to use against another, or who carries, or possesses, any instrument or weapon of the kind commonly known as a blackjack,

¹ Following sentence new.

slungshot, billy, sandclub, sandbag, metal knuckles, bludgeon, bomb or bombshell,¹ or who, with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any other dangerous or deadly instrument or weapon, is guilty of a felony.

Any person under the age of sixteen years, who shall have, carry, or have in his possession, any of the articles named or described in the last section, which is forbidden therein to offer, sell, loan, lease or give to him, shall be guilty of a misdemeanor.

Any person over the age of sixteen years, who shall have in his possession in any city, village or town of this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, without a written license therefor, issued to him² as hereinafter prescribed, shall be guilty of a misdemeanor.

Any person over the age of sixteen years, who shall have or carry concealed upon his person in any city, village, or town of this state, any pistol, revolver, or other firearm without a written license therefor,³ issued as hereinafter prescribed and licensing such possession and concealment, shall be guilty of a felony.

Any person not a citizen of the United States, who shall have or carry firearms, or any dangerous or deadly weapons in any place, at any time, shall be guilty of a felony,⁴ unless authorized by license issued as hereinafter prescribed.

⁵ It shall be the duty of any magistrate in this state to whom an application therefor is made by a commissioner of correction of a city or by any warden, superintendent or head keeper of any state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted of or accused of crime, or offences, or held as witnesses in criminal cases, to issue to each of such persons as may be designated in such applications, and who is in the regular employ in such institution of the state, or of any county, city, town or village therein, a license authorizing such

¹ Inclusion of bomb and bombshell, new.

² Remainder of sentence formerly read: "by a police magistrate of such city or village, or by a justice of the peace of such town, or in such manner as may be prescribed by ordinance in such city, village or town, shall be guilty of a misdemeanor."

³ Remainder of sentence formerly read: "theretofore issued to him by a police magistrate of such city or village, or by a justice of the peace of such town, or in such manner as may be prescribed by ordinance of such city, village or town, shall be guilty of a felony."

⁴ Word "public" omitted.

⁵ Remainder of sentence new

⁶ Following paragraph new.

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

⁶ It shall be the duty of any magistrate in this state, upon application therefor, by any householder, merchant, storekeeper or messenger of any banking institution or express company in the state, and provided such magistrate is satisfied of the good moral character of the applicant, and provided that no other good cause exists for the denial of such application, to issue to such applicant a license to have and possess a pistol or revolver, and authorizing him (a) if a householder, to have such weapon in his dwelling, and (b) if a merchant, or storekeeper, to have such weapon in his place of business, and (c) if a messenger of a banking institution or express company, to have and carry such weapon concealed while in the employ of such institution or express company.

⁶ In addition, it shall be lawful for any magistrate, upon proof before him that the person applying therefor is of good moral character, and that proper cause exists for the issuance thereof, to issue to such person a license to have and carry concealed a pistol or revolver without regard to employment or place of possessing such weapon, provided, however, that no such license shall be issued to any alien, or to any person not a citizen of and usually resident in the state of New York, except by a judge or justice of a court of record in this state, who shall state in such license the particular reason for the issuance thereof, and the names of the persons certifying to the good moral character of the applicant.

⁶ Any license issued in pursuance of the provisions of this section may be limited as to the date of expiration thereof and may be vacated and cancelled at any time by the magistrate, judge or justice who issued the same or by any judge or justice of a court of record. Any license issued in pursuance of this section and not otherwise limited as to place or time or possession of such weapon, shall be effective throughout the state of New York, *notwithstanding the provisions of any local law or ordinance.

This section shall not apply to the regular and ordinary transportation of firearms as merchandise, nor to sheriffs, policemen, or to other duly appointed peace officers, nor to duly authorized military or civil organizations, when parading, nor to the members thereof when going to and from the place of meeting of their respective organizations.

* So in original.

⁶ Following paragraph new.

§ 1914, as
added by
L. 1911,
ch. 195,
amended.

§ 2. Section nineteen hundred and fourteen of such chapter, as added by chapter one hundred and ninety-five of the laws of nineteen hundred and eleven, is hereby amended to read as follows:

§ 1914. Sale of pistols, revolvers and other firearms. ⁷No pistol, revolver or other firearms of a size which may be concealed upon the person, shall be sold, or given away, or otherwise disposed of, except to a person expressly authorized under the provisions of section eighteen hundred and ninety-seven of the penal law to possess and have such firearm.

⁷Any person selling or disposing of such firearm in violation of this provision of this section shall be guilty of a misdemeanor.

Every person selling a pistol, revolver or other firearm of a size which may be concealed upon the person, whether such seller is a retail dealer, pawnbroker, or otherwise, shall keep a register in which shall be entered at the time of sale, the date of sale, name, age, occupation and residence of every purchaser of such a pistol, revolver or other firearm, together with the calibre, make, model, manufacturer's number or other mark of identification on such pistol, revolver or other firearm. Such person shall also, before delivering the same to the purchaser, require such purchaser to produce a license⁸ for possessing or carrying the same, as required by law, and shall also enter in such register the date of such permit, the number thereof, if any, and the name of the magistrate or other officer by whom the same was issued. Every person who shall fail to keep a register and to enter therein the facts required by this section or who shall fail to exact the production of a permit to possess or carry such pistol, revolver or other firearm, if such permit is required by law, shall be guilty of a misdemeanor. Such register shall be open at all reasonable hours for the inspection of any peace officer. Every person becoming the lawful possessor of such a pistol, revolver or other firearm, who shall sell, give or transfer the same to another person without first notifying the police authorities, shall be guilty of a misdemeanor. This section shall not apply to wholesale dealers.

§ 3. This act shall take effect September first, nineteen hundred and thirteen.

⁷ Following sentence new.

⁸ Word "license" substituted for word "permit."

In effect
Sept. 1,
1913.

APPENDIX H

Sec. 1621. Upon appeal being taken, the clerk of the court where the notice of appeal is filed, must within 30 days thereafter, or such further time as such court, or the judge thereof may allow, transmit a certified copy of the notice of appeal, certificate of cause, if any, and judgment roll to the clerk of the Supreme Court.

Filed in the office of the Secretary of State February 26, 1913.

CHAPTER 256.

AN ACT

[S. B. 330.]

Forbidding the sale, barter, giving away, disposal of or display for sale of pocket pistols and revolvers, and fixing a penalty for the violation thereof.

Be it enacted by the People of the State of Oregon:

Section 1. It shall be unlawful for any person, firm or corporation to display for sale at retail any pocket pistol or revolver or to sell at retail, barter, give away or dispose of the same to any person whomsoever, excepting a policeman, member of the militia or peace officer of the State of Oregon, unless the purchaser or person attempting to procure the same shall have a permit for the purpose of procuring such pocket pistol or revolver signed by the municipal judge or city recorder of the city or county judge or a justice of the peace of the county wherein such person resides.

Section 2. *Provided*, that no judge, city recorder or justice of the peace shall issue such permit until said applicant has furnished him with an affidavit from at least two reputable freeholders as to the applicant's good moral character.

Section 3. All persons, firms or corporations engaged in the retail sale of pocket pistols or revolvers shall keep a record of the sale of such pocket pistols or revolvers by registering the name of the person or persons and the number of the pocket pistol or revolver and shall transmit same to the sheriff of the county in which purchase is made on the 1st and 15th day of each calendar month.

Section 4. Any person violating the provisions of this act shall be guilty of a misdemeanor.

Filed in the office of the Secretary of State February 26, 1913.

APPENDIX I

Carrying concealed weapons; carrying weapons to courts, etc.

in one count: See § 344, catchword **Indictment**. of term before crime of forcible detainer, instituted by prosecutor, irrelevant. (52 S. E. 147).
Landlord need not have actual occupancy after tenant's departure at end

§ 346. (§ 340.) **Punishment for forcible entry or detainer.** Any person who shall be guilty of a forcible entry, or a forcible detainer, or both, shall be punished as for a misdemeanor; and the court before whom the conviction takes place shall cause restitution of possession of the premises to be made to the party aggrieved. If the party forcibly detaining lands and tenements, or those under whom he claims, shall have been in peaceable possession of the same for the space of three years or more, immediately preceding the filing of the complaint, he shall not be subject to the penalties of this section, nor shall the restitution of possession be made. The only questions to be submitted to and determined by the jury in trials for forcible entry, or forcible detainer, shall be the possession and the force, without regard to the merits of the title on either side.

Cobb, 812-813. Acts 1895, p. 63.

§§ 5398-5405, C. C.

Chain-gang sentence for a violation of section 345 is legal since the adoption by the legislature of section 1039 of the Penal Code of 1895 (section 1065 of this Code). 115/567 (2) (41 S. E. 1000).
Indictment may charge both forcible entry and forcible detainer in same count but, if charged, both must be proved. 99/692 (2) (26 S. E. 496); see 74/816; 10 App. 664, 665 (73 S. E. 1079).
Pendency of civil action for forcible detainer, instituted by prosecutor, irrelevant. 105/657 (2) (31 S. E. 576).
Verdict may be for both offenses under indictment charging both, though evidence must warrant such verdict. 74/816.

ARTICLE 3.

Carrying Concealed Weapons; Carrying Weapons to Courts, Election Grounds, etc.; Carrying Pistols without License; Pointing Weapon at Another; and Furnishing Weapons to Minors.

§ 347. (§ 341.) **Carrying concealed weapons.** Any person having or carrying about his person, unless in an open manner and fully exposed to view, any kind of metal knucks, pistol, dirk, sword in a cane, spear, bowie-knife or any other kind of knives manufactured and sold for the purpose of offense and defense, shall be guilty of a misdemeanor.

Cobb, 848, 849. Acts 1882-3, p. 48. 1898, p. 60.

Basket: See **Charge, Concealed**.
Charge that "if the pistol was carried so exposed to view that it could readily be seen and recognized as a pistol" intimates that the defendant had a pistol in his possession, and, where this fact is in issue before the jury, such charge requires new trial.

Carrying concealed weapons; carrying weapons to courts, etc.

2 App. 626 (1) (58 S. E. 1063). Charge as to carrying pistol in basket omitting to state that pistol must be concealed was error. 6 App. 533 (65 S. E. 354).

Church, carrying pistol to, different from offense of carrying concealed weapon. 4 App. 845 (62 S. E. 561).

Concealed, weapon is, if carried in basket or bag and not for purpose of transportation alone. 86/255 (12 S. E. 361). Or in a sack under the arm. 6 App. 18 (1) (64 S. E. 111). Or wrapped in bundle and carried merely for transportation. 126/89 (1-b) (54 S. E. 809). Defendant guilty if he transported pistol from repair shop at request of owner. 99/253 (1) (25 S. E. 624). If weapon is concealed but for a moment, offense complete. 75/882; 46/292. Satchel containing concealed pistol, with a strap resting upon shoulder of accused while a passenger in a railway car, warranted conviction. 105/633 (32 S. E. 155). Pistol was not concealed if sufficiently exposed to enable witness to recognize it as a pistol. 114/539 (3) (40 S. E. 733). Carrying pistol in pocket in such a manner that those standing in full view cannot see it, violates this section. 2 App. 417 (1) (58 S. E. 549). See **Charge**.

Evidence presenting conflict between positive and negative testimony, the positive pointing directly to defendant's guilt, conviction upheld. 12/213. Evidence that weapon carried openly at another time, not in conflict with testimony that defendant later carried it concealed. 61/481. Evidence as to general habit of accused to carry weapon openly, not admissible. 36/242; 106/142 (32 S. E. 18). Evidence that accused had a pistol in his pocket, but that witness did not see it, his recognition of it as a pistol being derived from the shape of the object, not authorize conviction. 114/538 (2) (40 S. E. 733). Evidence conflicting as to concealment, refusal of new trial not reversed. 122/143 (50 S. E. 66). Evidence that concealed pistol was exposed to view by reason of the defendant's leaning over so as to disclose it in the bosom of his overalls, supported conviction. 7 App. 33 (65 S. E. 1097). Evidence that defendant

approached witnesses with a pistol, that he concealed the pistol in his pocket until he was almost within their presence, when he took it from his pocket, warranted conviction. 8 App. 32, 33 (68 S. E. 457). See **Purpose**. Evidence secured by search of prisoner: See notes to § 1037 (3), catchword **Search**.

Exposed to view, means so exposed as that weapon could readily be seen and recognized. 1/243; 32/225, 292. The expression does not mean necessarily that one meeting accused could see pistol; error so to charge. 114/538 (40 S. E. 733).

Habit: See **Evidence**.

Home, carrying concealed pistol within limits of, is within statute. 114/60 (1) (39 S. E. 873).

Indictment need not allege that metal knucks were manufactured and sold for "offense and defense." 121/144 (2) (48 S. E. 966). Two indictments charging offenses on different dates in presence of different persons, prima facie charge separate offenses. 119/964 (1) (47 S. E. 567).

Metal knucks: Amending Act of 1898, p. 60, inserting "kind of metal knucks," constitutional. 128/55 (57 S. E. 90); 1 App. 697, 698 (57 S. E. 90). See **Indictment**.

Place to place, carrying from, in presence of different persons constitutes but one offense, but when continuity broken, offense is ended and concealment again is new offense. 119/964 (3) (47 S. E. 567).

Purpose in carrying weapon concealed, not material. 94/774 (21 S. E. 992); 126/89 (1-a) (54 S. E. 809). Evidence to show purpose, inadmissible. 46/292. Though weapon carried as precaution for self-defense after life was threatened, no excuse. 72/211. See **Concealed**.

Search, as to admissibility of evidence disclosed by, see notes to § 1037 (3), catchword **Search**.

Self-defense: See **Purpose**.

Sentence of \$200 fine or twelve months in chain-gang, not excessive. 65/303.

Threats: See **Purpose**.

Transportation: See **Charge, Concealed**.

Weapon, though disabled, accused still guilty if he carried it concealed. 61/417; 94/772 (21 S. E. 992).

APPENDIX J

OPINIONS

OF THE

Corporation Counsel and

Assistants

FROM

MAY 1, 1915, TO JUNE 30, 1916.

**PUBLISHED BY AUTHORITY OF THE
CITY COUNCIL
OF THE CITY OF CHICAGO**

CHICAGO

UNIVERSITY

**Compiled and Edited by
SAMUEL A. ETTELSON
Corporation Counsel**

9

A37

Permit for Purchase of Revolver by Owner of Shooting Gallery.

November 10, 1915.

MESSRS. VON LENGERKE & ANTOINE, 128-32 South Wabash Avenue.

Gentlemen:

Your communication of the 5th inst. wherein you wish to be advised if it is necessary for a person who keeps, conducts and operates a licensed shooting gallery to secure from the general superintendent of police a permit to purchase revolvers to be used for target practice in licensed shooting gallery, has been referred to me, and in reply I beg to state as follows:

An ordinance passed by the City Council under date of May 25, 1914, and appearing upon pages 418 and 419 of the Council Journal, amending an ordinance passed by the City Council May 11, 1914, and appearing on pages 186 and 187 of the Council Journal, is as follows:

“SECTION 4a. It shall be unlawful for any person, firm or corporation to sell, barter or give away to any person within the City of Chicago, any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character which can be concealed on the person, except to licensed dealers and to persons who have secured a permit for the purchase of such articles from the general superintendent of police as hereinafter required; provided, this section shall not apply to sales made of such articles which are to be delivered or furnished outside the City of Chicago.

“SECTION 5. It shall be unlawful for any person to purchase any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, without first securing from the General Superintendent of Police a permit so to do. Before any such permit is granted, an application in writing shall be made therefor, setting forth in such application the name, address, age, height, weight, complexion, nationality and other elements of identification, of the person desiring such permit, and the applicant shall present

such evidence of good character as the General Superintendent of Police in his discretion may require.

"SECTION 6. It shall be the duty of the General Superintendent of Police to refuse such permit to

(a) All persons having been convicted of any crime.

(b) All minors.

"Otherwise, in case he shall be satisfied that the applicant is a person of good moral character, it shall be the duty of the General Superintendent of Police to grant such permit, upon the payment of a fee of one dollar.

"SECTION 8. Any person, firm or corporation violating any of the provisions of this ordinance, shall be fined not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) for each offense, and every purchase, sale or gift of any weapon mentioned in this ordinance shall be deemed a separate offense."

It would seem from the above sections that the intention of the City Council was to exercise the power to determine the manner in which deadly weapons may be sold. The section of the ordinance requiring a permit from the general superintendent of police before a person can lawfully purchase a revolver was for the purpose of keeping a record of all revolvers sold in the City of Chicago.

The ordinance giving the city power to restrict and regulate the sale of firearms is a separate and distinct ordinance from the one giving the city power to grant licenses to persons to keep, conduct and operate a shooting gallery.

I am, therefore, of the opinion that a person must first secure a permit from the general superintendent of police before he can purchase a revolver to be used in a shooting gallery for target practice.

Yours very truly,

CHARLES E. PEACE,
Assistant Corporation Counsel.

Approved:

SAMUEL A. ETTELSON,
Corporation Counsel.

APPENDIX K

CHAPTER 2

EXTRAORDINARY SESSION LAWS

CHAPTER 2.

An Act Entitled: "An Act providing for the Registration of All Fire Arms and Weapons and Regulating the Sale Thereof and Defining the Duties of Certain County Officers and Providing Penalties for a Violation of the Provisions of This Act."

Be it enacted by the Legislative Assembly of the State of Montana:

Registration of
all firearms re-
quired.

Section 1. Within thirty days from the passage and approval of this Act, every person within the State of Montana, who owns or has in his possession any fire arms or weapons, shall make a full, true, and complete verified report upon the form hereinafter provided to the sheriff of the County in which such person lives, of all fire arms and weapons which are owned or possessed by him or her or are in his or her control, and on sale or transfer into the possession of any other person such person shall immediately forward to the sheriff of the County in which such person lives the name and address of that purchaser and person into whose possession or control such fire arm or weapon was delivered.

Duty upon sale
or transfer.

Section 2. Such report shall be in the following form:

Form of report.

County of.....
No.....
State of Montana }
County of..... } ss.

....., being first duly sworn on oath deposes and says:

1. That he is a citizen of....., and that his address is.....Street, City or Town of....., County of.....

2. That he is the owner (has in his possession or control) the following fire arms and weapons. Manufacturer's name....., Manufacturer's No....., calibre, and where possible date and Manufacturer's series.

3. That he was born at....., on theday of....., A. D. 18....., and that his occupation is.....

4. Description: Height..... inches, color....., skin....., eyes....., hair.....,

Dated at....., Montana, this.....day of.....1918.

Subscribed and sworn to before me this.....day of.....A. D., 1918.

FIFTEENTH LEGISLATIVE ASSEMBLY

CHAPTER 2

Section 3. Any person signing a fictitious name or address or giving any false information in such report shall be guilty of a misdemeanor, and any person failing to file such report as in this Act provided, shall be guilty of a misdemeanor. Such report may be verified before any person authorized by the laws of this state to administer oaths, or before any sheriff, under-sheriff, or deputy sheriff. It shall be unlawful for any person to purchase, borrow or otherwise acquire possession of any firearm or weapon as in this Act defined, from any person, firm or corporation outside of the State of Montana, without first obtaining a permit from the sheriff of the County in which such person lives. And no sheriff shall give any such permit without first procuring from such person an affidavit in substantially the same form as herein provided in Section 2, setting forth the description of the firm arm or weapon in Paragraph 2, which such person desires to purchase. No permit shall be given by the sheriff until he is satisfied that the person applying for such permit is of good moral character and does not desire such fire arm or weapon for any unlawful purpose.

Signing a fictitious name or address or failing to report, a misdemeanor.

Verification before whom.

Permit to purchase or borrow weapon must be first obtained.

Sheriff shall first require what.

It shall be unlawful for any person, Railroad Company, Express Company or Transportation Company to deliver to any person without a permit from the sheriff of the County within which such delivery is made, any gun, fire arm or ammunition.

Common carrier shall not deliver any such weapon until when.

Section 4. It shall be the duty of the Board of County Commissioners of each County in this State to forthwith furnish the sheriff of such County with sufficient blanks for carrying out the purposes of this Act.

County Commissioners to furnish blanks.

Section 5. That within thirty days from the passage and approval of this Act, every person engaged in the business of selling, leasing or otherwise transferring any fire arm or weapon, whether such seller is a retail dealer, pawn broker or otherwise, shall obtain a register from the County Clerk, in which shall be entered at the time of sale, the date of sale, full description of fire arm or weapon sold, name of purchaser, permanent residence, temporary residence, age, occupation, height, color of skin, color of eyes, color of hair, and the signature of such purchaser. Any purchaser of a fire arm or weapon shall be required to sign his name in the aforesaid register in the space provided for the same. Any person signing a fictitious name or address shall be guilty of a mis-

Dealers and lessors shall obtain register.

Register shall contain what.

False registration.

CHAPTER 2

EXTRAORDINARY SESSION LAWS

Failing to keep register.

demeanor. Any person who shall fail to keep a register and to enter therein all facts required by this Act shall be guilty of a misdemeanor. Such register shall be open at all reasonable hours for the inspection of any peace office.

County Clerk to print and furnish registers at cost.

Section 6. The County Clerk of each County shall forthwith cause to be printed a sufficient number of such registers for the purpose of carrying out the provisions of this Act and shall dispose of the same at the actual cost thereof. The leaves of such register shall be in duplicate and shall be in the following form:

County of

No.

ORIGINAL.

Form. of register.

DEALERS RECORD OR SALE OF FIRE ARM OR WEAPON.

STATE OF MONTANA.

NOTICE TO DEALERS: This original is for your files. If spoiled in making out do not destroy; keep in book.

Carbon duplicate must be mailed on the date of sale to the sheriff of the County. Violation of this law is a misdemeanor. Use indelible pencil.

Sold by....., Salesman....., City or Town of.....

Description of fire arm or weapon.....

Maker....., number....., calibre.....

Name of purchaser....., age....., permanent

residence....., Street, City or Town of.....,

County of....., Temporary residence.....

Street, City or Town of....., County of.....

Height....., feet....., inches; occupation.....,

color..... skin....., eyes....., hair.....

Date of Sale.....

Witness:

.....
Salesman.

(signing a fictitious name or making false report is a misdemeanor.)

County of.....

No.

FIFTEENTH LEGISLATIVE ASSEMBLY

CHAPTER 2

DUPLICATE.

DEALERS RECORD OF SALE OF FIRE ARM OR
WEAPON.

STATE OF MONTANA.

NOTICE TO DEALERS: This carbon duplicate must be mailed on the date of sale to the sheriff of the County. Violation of this law is a misdemeanor.

Sold by....., Salesman....., City or Town of.....

Description of fire arm or weapon.....

Maker....., number....., calibre.....

Name of purchaser....., age....., permanent

residence..... Street, City or Town of.....,

County of....., temporary residence..... Street,

City or Town of....., County of.....

Height.....feetinches; Occupation.....,

color....., skin..... eyes....., hair.....

Date of sale.....

Witness:

.....
Salesman.

Section 7. Any person or corporation violating any of the provisions of this Act or any person or corporation who receives by parcel post or otherwise any fire arms or ammunition without first having a permit as in this Act provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) or shall be imprisoned in the county jail for not less than ten days nor more than six months, or be punished by both such fine and imprisonment.

Violation of Act
a misdemeanor.

Penalty.

Section 8. For the purposes of this Act a fire arm or weapon shall be deemed to be any revolver, pistol, shot gun, rifle, dirk, dagger or sword.

Fire arm de-
fined.

Section 9. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 10. This Act shall be in full force and effect from and after its passage and approval.

Approved February 20, 1918.

APPENDIX L

archives, or a majority of them. Two of such commissioners shall be persons well versed in the English and Hawaiian languages, and the other member thereof shall be a person well versed in the Hawaiian language. The commissioners so appointed shall jointly and actively, and without delay, complete the compilation of said dictionary. The members of said board shall receive such compensation for their services as the said commissioners of public archives, with the approval of the governor, shall determine.

SECTION 3. This appropriation shall be expended by the board of commissioners of the public archives in accordance with the terms of Chapter 198 of the Revised Laws of Hawaii, 1915.

SECTION 4. This Act shall take effect upon its approval.

Approved this 25th day of April, A. D. 1919.

C. J. McCARTHY,
Governor of the Territory of Hawaii.

ACT 124

[H. B. No. 304]

AN ACT TO AMEND CHAPTER 125 OF THE REVISED LAWS OF HAWAII, 1915, AS AMENDED BY ACT 122 OF THE SESSION LAWS OF 1915, RELATING TO FIREARMS AND AMMUNITION, BY ADDING THERETO TWO NEW SECTIONS TO BE KNOWN AS SECTIONS 2202B AND 2202C.

Be it Enacted by the Legislature of the Territory of Hawaii:

SECTION 1. Chapter 125 of the Revised Laws of Hawaii, 1915, as amended by Act 122 of the Session Laws of 1915, is hereby amended by adding thereto two new sections to be known as Section 2202B and Section 2202C and to read as follows:

“Section 2202B. Any person, firm, or corporation, dealing in or keeping for sale firearms, or any other person in possession of firearms, shall not make an individual or retail sale of any such firearms, unless the person desiring to purchase the same shall first have obtained from the sheriff or a deputy sheriff of the county or city and county a written permit for such purchase; the person desiring to purchase any such firearms shall deliver the said written permit to the proposed vendor, and if the sale is effected, the said vendor shall indorse on the back of said permit a full and complete description of the particular firearm sold under said permit, and immediately transmit the said permit by mail or otherwise to the office or officer issuing the same.

“Section 2202C. Any person, firm, or corporation who shall violate any of the provisions of Section 2202B shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00).”

SECTION 2. This Act shall take effect upon its approval.

Approved this 25th day of April, A. D. 1919.

C. J. McARTHUR,
Governor of the Territory of Hawaii.

ACT 125

[H. B. No. 308]

AN ACT TO AMEND SECTIONS 2206 AND 2211 OF THE REVISED LAWS OF HAWAII, 1915, AS AMENDED, RELATING TO WEIGHTS AND MEASURES.

Be it Enacted by the Legislature of the Territory of Hawaii:

SECTION 1. Section 2206 of the Revised Laws of Hawaii,

APPENDIX M

amended by inserting after the word "commissioner" in line six thereof, and before the word "the" in said line, the words "corporation commission, legislative reference library."

SEC. 4. That section five thousand three hundred and sixty-two of the Revisal of one thousand nine hundred and five be amended by inserting after the word "at" in line three thereof, and before the word "one" in said line, the words "such price as he deems reasonable, not less than."

Section 6352
of the Revisal
amended.

SEC. 5. This act shall be in force from and after its ratification. Ratified this 8th day of March, A.D. 1919.

CHAPTER 196

AN ACT TO AMEND CHAPTER 115, PUBLIC LAWS OF 1913, PERMITTING THE PRESIDENT OF THE BOARD OF TRUSTEES OF THE APPALACHIAN TRAINING SCHOOL FOR TEACHERS TO EXECUTE DEED TO RAILWAY COMPANY.

The General Assembly of North Carolina do enact:

SECTION 1. That section three of chapter one hundred and fifteen, Public Laws of North Carolina, session one thousand nine hundred and thirteen, be amended by inserting between the first word in said section and the second word, the following: "the President of," and strike out in the first line of said section the words "are further" and insert in lieu thereof the word "is."

Authority conferred on
president.

SEC. 2. This act shall be in force from and after its ratification. Ratified this 8th day of March, A.D. 1919.

CHAPTER 197

AN ACT TO REGULATE THE SALE OF CONCEALED WEAPONS IN NORTH CAROLINA.

The General Assembly of North Carolina do enact:

SECTION 1. That it shall be unlawful for any person, firm, or corporation in this State to sell, give away or dispose of, or to purchase or receive, at any place within the State from any other place within or without the State, without a license or permit therefor shall have first been obtained by such purchaser or receiver from the clerk of the Superior Court of the county in which such purchase, sale, or transfer is intended to be made, any pistol, so-called pump-gun, bowie knife, dirk, dagger or metallic knucks.

Unlawful to sell,
give away, buy
or receive pistol,
pump-gun,
bowie knife,
dagger or
knucks without
license or
permit.

Permits and
licenses to be
issued by clerks
of Superior
Courts.

SEC. 2. That the clerks of the Superior Courts of any and all counties of this State are hereby authorized and directed to issue to any person, firm, or corporation in any such county a license or permit to purchase or receive any weapon mentioned in section one of this act from any person, firm, or corporation offering to sell or dispose of the same, which said license or permit shall be in the following form, to wit:

NORTH CAROLINA,

-----County.

Form of
license to pur-
chaser of
weapon.

I, -----, clerk of the Superior Court of said county, do hereby certify that ----- whose place of residence is ----- Street, in ----- (or) in ----- Township ----- County, North Carolina, having this day satisfied me as to his, her (or) their good moral character, and that the possession of one of the weapons described in section one of this act is necessary for self-defense or the protection of the home, a license or permit is therefore hereby given said ----- to purchase one pistol, (or) ----- from any person
(If any other weapon is named, strike out word pistol.)

son, firm, or corporation authorized to dispose of the same.

This ----- day of -----, 19---

-----,
Clerk Superior Court.

Applicant must
must be of good
moral character.

Proviso : clerk
may refuse
permit.
Proviso : officers
of law not
affected.
License fee.

Record kept by
clerk.

Dealer's record
of sales.

SEC. 3. That before the clerk of the Superior Court shall issue any such license or permit, he shall fully satisfy himself by affidavits, oral evidence, or otherwise, as to the good moral character of the applicant therefor, and that such person, firm, or corporation requires the possession of such weapon mentioned in section one of this act for protection of the home: *Provided*, that if said clerk shall not be so fully satisfied, he shall refuse to issue said license or permit: and *Provided further*, that nothing in this act shall apply to officers authorized by law to carry firearms. The clerk shall charge for his services upon issuing such license or permit a fee of fifty cents.

SEC. 4. That the clerk of the Superior Court shall keep a book, to be provided by the board of commissioners of each county, in which he shall keep a record of all licenses or permits issued under this act, including the name, date, place of residence, age, former place of residence, etc., of each such person, firm, or corporation to whom or which a license or permit shall have been so issued.

SEC. 5. That each and every dealer in pistols, pistol cartridges and other weapons mentioned in section one of this act shall keep an accurate record of all sales thereof, including the name, place

of residence, date of sale, etc., of each person, firm, or corporation, to whom or which any and all such sales are made, which said record shall be open to the inspection of any duly constituted State, county or police officer, within this State.

SEC. 6. That during the period of listing taxes in each year the owner or person in possession or having the custody or care of any pistol or other weapon mentioned in section one of this act shall be, and is hereby, required to list the same specifically, together with the value thereof, as is now required by law for listing other personal property for taxes: *Provided*, that all persons listing any such weapons for taxes as aforesaid shall also be required to designate his place of residence, local street address, or otherwise as the case may be.

Weapons to be listed for taxes.

Proviso: persons listing them must give address.

SEC. 7. That any person, firm, or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and fined or imprisoned in the discretion of the court.

Violation of act a misdemeanor.

SEC. 8. That upon submission or conviction of any person in this State for unlawfully carrying concealed weapons off of his own premises, the pistol or other deadly weapon with reference to which the defendant shall have been convicted shall be condemned and ordered confiscated and destroyed by the judge presiding at any such trial.

Weapons carried unlawfully to be destroyed.

SEC. 9. That this act shall be in force from and after the first day of April, one thousand nine hundred and nineteen.

Ratified this 10th day of March, A.D. 1919.

CHAPTER 198

AN ACT TO CONTROL THE DISTRIBUTION OF FUNDS TO THE CHEROKEE NORMAL SCHOOL OF ROBESON COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That the State Board of Education is hereby empowered to turn over to the county board of education of Robeson County the sum of one thousand dollars of the fund appropriated to the Cherokee Normal School of Robeson County, five hundred dollars in one thousand nine hundred and nineteen, and five hundred dollars in one thousand nine hundred and twenty, for the maintenance of an Indian training school at Union Chapel.

State Board of Education authorized to make appropriation.

SEC. 2. This act shall be in force and effect from and after its ratification.

Ratified this 8th day of March, A.D. 1919.

APPENDIX N

supervision of such training and appoint such assistants as may be necessary to administer said act, and fix their compensation; (4) to direct the disbursement and administer the use of all funds provided by the federal government and allotted for the vocational rehabilitation of such persons.

Sec. 4. Shall formulate plan of co-operation.—It shall be the duty of the state board for vocational education to formulate a plan of co-operation in carrying out the provisions of this act and of said act of congress, with Missouri workmen's compensation commission.

Sec. 5. Authorized and empowered to receive gifts and donations—to be reported to the general assembly.—The state board for vocational education is hereby authorized and empowered to receive such gifts and donations, either from public or private sources, as may be offered unconditionally or under such conditions related to the vocational rehabilitation of persons disabled in industry or otherwise and consistent with the provisions of this act. All moneys received as gifts or donations shall be deposited in the state treasury and shall constitute a permanent fund to be called the special fund for the vocational rehabilitation of disabled persons, to be used by the said board to defray the expenses of vocational rehabilitation in special cases, including the payment of necessary expenses of persons undergoing training. A full report of all gifts and donations offered and accepted, together with the names of the donors and the respective amounts contributed by each, and all disbursements therefrom shall be submitted biennially to the general assembly.

Sec. 6. Emergency.—On account of there being many persons in the state needing vocational rehabilitation, and that there are now federal funds available for this purpose an emergency exists within the meaning of the Constitution; therefore this act shall take effect and be in force from and after its passage and approval.

Approved April 7, 1921.

[H. B. 168.]

WEAPONS, FIREARMS: Regulation of Sale and Possession.

AN ACT to provide for the public safety by requiring each pistol, revolver or other firearm of a size which may be concealed upon the person, to be stamped with the description of the same, and a record of all sales thereof to be kept by all dealers therein, and regulating the buying, selling, borrowing, loaning, giving away, trading, bartering, delivering or receiving of such weapons, and prescribing punishments for the violation thereof, and with an emergency clause.

SECTION

1. Pistol, revolver or firearms to be plainly marked.
2. Shall secure permit to acquire weapon.
3. Weapons must be stamped.
4. Manufacture not prohibited.

SECTION

5. Punishment for violation.
6. Validity of remaining sections not affected.
7. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section 1. Pistol, revolver or firearms to be plainly marked.

No wholesaler or dealer therein shall have in his possession for the purpose of sale, or shall sell, any pistol, revolver, or other firearm of a size which may be concealed upon the person, which does not have plainly and permanently stamped upon the metallic portion thereof, the trademark or name of the maker, the model and the serial factory number thereof, which number shall not be the same as that of any other such weapon of the same model made by the same maker, and the maker, and no wholesale or retail dealer therein shall have in his possession for the purpose of sale, or shall sell, any such weapon unless he keep a full and complete record of such description of such weapon, the name and address of the person from whom purchased and to whom sold, the date of such purchase or sale, and in the case of retailers the date of the permit and the name of the circuit clerk granting the same, which record shall be open to inspection at all times by any police officer or other peace officer of this state.

Sec. 2. Shall secure permit to acquire weapon.—No person, other than a manufacturer or wholesaler thereof to or from a wholesale or retail dealer therein, for the purposes of commerce, shall directly or indirectly buy, sell, borrow, loan, give away, trade, barter, deliver or receive, in this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, unless the buyer, borrower or person receiving such weapon shall first obtain and deliver to, and the same be demanded and received by, the seller, loaner, or person delivering such weapon, within thirty days after the issuance thereof, a permit authorizing such person to acquire such weapon. Such permit shall be issued by the circuit clerk of the county in which the applicant for a permit resides in this state, if the sheriff be satisfied that the person applying for the same is of good moral character and of lawful age, and that the granting of the same will not endanger the public safety. The permit shall recite the date of the issuance thereof and that the same is invalid after thirty days after the said date, the name and address of the person to whom granted and of the person from whom such weapon is to be acquired, the nature of the transaction, and a full description of such weapon, and shall be countersigned by the person to whom granted in the presence of the circuit clerk. The circuit clerk shall receive therefor a fee of \$0.50. If the permit be used, the person receiving the same shall return it to the circuit clerk within thirty days after its expiration, with a notation thereon showing the date and manner of the disposition of such weapon. The circuit clerk shall keep a record of all applications for such permits and his action thereon, and shall preserve all returned permits. No person shall in any manner transfer, alter or change any such permit or make a false notation thereon or obtain the same upon any false representation to the circuit clerk granting the same, or use or attempt to use a permit granted to another.

Sec. 3. Weapons must be stamped.—No person within this state shall lease, buy or in anywise procure the possession from any person, firm or corporation within or without the state, of any pistol, revolver or other firearm of a size which may be concealed upon the person, that is not stamped as required by section 1 of this act; and no person shall buy or otherwise acquire the possession of any such article unless he shall have first procured a written permit so to do from the circuit clerk of the county in which such person resides, in the manner as provided in section 2 of this act.

Sec. 4. Manufacture not prohibited.—Nothing herein contained shall be considered or construed as forbidding or making it unlawful for a dealer in or manufacturer of pistols, revolvers or other firearms of a size which may be concealed upon the person, located in this state, to ship into other states or foreign countries, any such articles whether stamped as required by this act or not so stamped.

Sec. 5. Punishment for violation.—Any person, its or his directors, officers, agents or servants, convicted of violating any of the provisions of this act, shall be punished by imprisonment in the penitentiary for not more than five years, or by imprisonment in the county jail not less than six months, or by a fine not less than fifty dollars nor more than five thousand dollars, or by both fine and imprisonment in the county jail.

Sec. 6. Validity of remaining sections not affected.—If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The general assembly hereby declared that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more of the same shall be declared unconstitutional.

Sec. 7. Emergency clause.—There being no adequate law governing the stamping, recording, sale and other disposition of weapons as described herein, creates an emergency within the meaning of the Constitution; therefore this act shall take effect and be in force from and after its approval.

Approved April 7, 1921.

APPENDIX O

CHAPTER 3

(House Bill No. 7—By Mr. Robinson from the Select Committee)

AN ACT to amend and re-enact section seven of chapter one hundred and forty-eight of the code of West Virginia, as amended and re-enacted by chapter fifty-one of the acts of the legislature of West Virginia, one thousand nine hundred and nine, regular session, and as further amended and re-enacted by an act of the legislature of West Virginia, regular session, one thousand nine hundred and twenty-five, relating to offenses against the peace; providing for the granting and revoking of licenses and permits respecting the use, transportation and possession of weapons and fire arms; restricting the manner of the sale and display of weapons and fire arms; imposing liability upon certain persons for the accidental or improper, negligent or illegal discharges of weapons and fire arms; defining the powers and duties of certain officers in the granting and revocation of said licenses and permits, and providing penalties for the violation of this act and any part thereof.

[Passed June 5, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

7. (a) Penalty for carrying dangerous or deadly weapon without license; second offense; duties of prosecuting attorneys; application for license; what to show; publication; issuance; fee; bond; term of license; territory covered; deputy sheriffs and railway police licenses co-extensive with state; accounting for fees; forms by tax commissioner; certified copy of license to superintendent of department of public safety; list of all licenses to the same; lawful to carry arms on own premises, or from place of purchase and repair, not applicable to employee; permits to express company employees and railway police; bonds; emergency permits; reports of violations, and penalty

Sec.

for failure so to do; certain officers permitted to carry arms; bond; unlawful to carry or use weapon in a manner likely to cause breach of peace; penalty; revocation of license; notice; reinstatement.

7. (b) Permits for possession of machine gun and high-powered rifle; regulations; exception of rifle club members and licensed hunters; granting of permit; fee; revocation; confiscation of arms; alien prohibited from owning or possessing arms; display of arms for sale or rent prohibited; report of sales by dealers to superintendent of department of public safety; unlawful to arm alien; penalty for violations of this sub-section; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter one hundred and forty-eight of the code of West Virginia, as amended and re-enacted by chapter fifty-one of the acts of the legislature of West Virginia of one thousand nine hundred and nine, regular session, and as further amended and re-enacted by the legislature of West Virginia, one thousand nine hundred and twenty-five, regular session, in House Bill number four hundred six, be amended and re-enacted so as to read as follows:

Section 7 (a). If any person, without a state license therefor, 2 carry about his person any revolver or other pistol, dirk, 3 bowie-knife, slung shot, razor, billy, metallic or other false 4 knuckles, or any other dangerous or deadly weapon of like 5 kind or character, he shall be guilty of a misdemeanor and 7 upon conviction thereof be confined in the county jail for a 8 period of not less than six nor more than twelve months for 9 the first offense; but upon conviction of the same person for 10 the second offense in this state, he shall be guilty of a felony 11 and be confined in the penitentiary not less than one or more 12 than five years, and in either case fined not less than fifty 13 nor more than two hundred dollars, in the discretion of the 14 court; and it shall be the duty of the prosecuting attorney 15 in all cases to ascertain whether or not the charge made by 16 the grand jury is the first or second offense, and if it shall be 17 the second offense, it shall be so stated in the indictment re- 18 turned, and the prosecuting attorney shall introduce the rec- 19 ord evidence before the trial court of said second offense, and 20 shall not be permitted to use his discretion in charging said 21 second offense nor in introducing evidence to prove the same 22 on the trial; *provided*, that boys or girls under the age of 23 eighteen years, upon the second conviction, may, at the dis- 24 cretion of the court, be sent to the industrial homes for boys 25 and girls, respectively, of the state. Any person desiring to 26 obtain a state license to carry any such weapon within one or 27 more counties in this state shall first publish a notice in some 28 newspaper, published in the county in which he resides, setting 29 forth his name, residence and occupation, and that on a cer- 30 tain day he will apply to the circuit court of his county for 31 such state license; and after the publication of such notice for 32 at least ten days before said application is made and at the 33 time stated in said notice upon application to said court, it 34 may grant such person a license in the following manner, 35 to-wit:

36 The applicant shall file with said court his application in 37 writing, duly verified, which said application shall show:

38 *First:* That said applicant is a citizen of the United States 39 of America.

40 *Second:* That such applicant has been a *bona fide* resident 41 of this state for at least one year next prior to the date of 42 such application, and of the county sixty days next prior 43 thereto.

44 *Third:* That such applicant is over twenty-one years of
45 age; that he is a person of good moral character, of temper-
46 ate habits, not addicted to intoxication, and has not been
47 convicted of a felony nor of any offense involving the use on
48 his part of such weapon in an unlawful manner.

49 *Fourth:* The purpose or purposes for which the applicant
50 desires to carry such weapon and the necessity therefor and
51 the county or counties in which said license is desired to be
52 effective.

53 Upon the hearing of such application the court shall hear
54 evidence upon all matters stated in such application and upon
55 any other matter deemed pertinent by the court, and if such
56 court be satisfied from the proof that there is good reason and
57 cause for such person to carry such weapon, and all of the
58 other conditions of this act be complied with, said circuit
59 court or the judge thereof in vacation, may grant
60 said license for such purposes, and no other, as said
60-a circuit court may set out in the said license (and the word
60-b "court" as used in this act shall include the circuit judge
60-c thereof, acting in vacation); but before the said
61 license shall be effective such person shall pay to the
62 sheriff, and the court shall so certify in its order granting the
63 license, the sum of twenty dollars, and shall also file a bond
64 with the clerk of said court, in the penalty of three thousand
65 five hundred dollars, with good security, signed by a respon-
66 sible person or persons, or by some surety company, author-
67 ized to do business in this state, conditioned that such appli-
68 cant will not carry such weapon except in accordance with his
69 said application and as authorized by the court, and that he
70 will pay all costs and damages accruing to any person by the
71 accidental discharge or improper, negligent or illegal use of
72 said weapon or weapons. Any such license granted after this
73 act becomes effective shall be good for one year, unless sooner
74 revoked, as hereinafter provided, and be co-extensive with the
75 county in which granted, and such other county or coun-
76 ties as the court shall designate in the order granting such
77 license; except that regularly appointed deputy sheriffs having
78 license shall be permitted to carry such revolver or other
79 weapons at any place, within the state, while in the perfor-
80 mance of their duties as such deputy sheriffs and except that
81 any such license granted to regularly appointed railway police

82 shall be co-extensive with the state, and all license fees col-
83 lected hereunder shall be paid by the sheriff and accounted for
84 to the auditor as other license taxes are collected and paid, and
85 the state tax commissioner shall prepare all suitable forms for
86 licenses and bonds and certificates showing that such license
87 has been granted and to do anything else in the premises to
88 protect the state and see to the enforcement of this act.

89 The clerk of the court shall immediately after license is
90 granted as aforesaid, furnish the superintendent of the de-
91 partment of public safety a certified copy of the order of the
92 court granting such license, for which service the clerk shall
93 be paid a fee of two dollars which shall be taxed as cost in
94 the proceeding; within thirty days after this act becomes
95 effective it shall be the duty of the clerks of each court in this
96 state having jurisdiction to issue pistol licenses to certify
97 to the superintendent of the department of public safety a
98 list of all such licenses issued in his county.

99 *Provided*, that nothing herein shall prevent any person
100 from carrying any such weapon, in good faith and not for a
101 felonious purpose, upon his own premises, nor shall anything
102 herein prevent a person from carrying any such weapon
103 (unloaded) from the place of purchase to his home
104 or place of residence, or to a place of repair and
105 back to his home or residence; but nothing herein
106 shall be construed to authorize any employee of any person,
107 firm or corporation doing business in this state to carry on
108 or about the premises of such employer any such pistol, or
109 other weapon mentioned in this act for which a license is
110 herein required, without having first obtained the license and
111 given the bond as herein provided; and, *provided, further*,
112 that nothing herein shall prevent agents, messengers and
113 other employees of express companies doing business as com-
114 mon carriers, whose duties require such agents, messengers
115 and other employees to have the care, custody or protection
116 of money, valuables and other property for such express com-
117 panies, from carrying any such weapon while actually en-
118 gaged in such duties, or in doing anything reasonably inci-
119 dent to such duties; *provided*, such express company shall
120 execute a continuing bond in the penalty of thirty thousand
121 dollars, payable unto the state of West Virginia, and with
122 security to be approved by the secretary of state of the state

123 of West Virginia, conditioned that said express company will
124 pay all damages, accruing to anyone by the accidental dis-
125 charge or improper, negligent or illegal discharge or use of such
126 weapon or weapons by such agent, messenger or other employee
127 while actually engaged in such duties for such express com-
128 pany, in doing anything that is reasonably incident to such du-
129 ties; but the amount which may be recovered for breach of
130 such condition shall not exceed the sum of three thousand five
131 hundred dollars in any one case, and such bond shall be filed
132 with and held by the said secretary of state, for the purpose
133 aforesaid, but upon the trial of any cause for the recovery of
134 damages upon said bond, the burden of proof shall be upon
135 such express company to establish that such agent, messenger
136 or other employee was not actually employed in such duties for
137 such express company nor in doing anything that was rea-
138 sonably incident to such duties at the time such damages were
139 sustained; and, *provided further*, that nothing herein shall
139-a prevent railroad police officers duly appointed and qualified
139-b under authority of section thirty-one of chapter one hun-
139-c dred forty-five of Barnes' code or duly qualified under the
139-d laws of any other state, from carrying any such weapon
139-e while actually engaged in their duties or in doing anything
139-f reasonably incident to such duties; *provided*, such railroad
139-g company shall execute a continuing bond in the penalty of
139-h ten thousand dollars payable unto the state of West Vir-
139-i ginia and with security to be approved by the secretary of
139-j state of the state of West Virginia conditioned that said
139-k railroad company will pay all damages accruing to anyone
139-l by the accidental discharge or improper, negligent or illegal
139-m discharge or use of such weapon or weapons by such rail-
139-n road special police officer whether appointed in this or some
139-n-1 other state while actually engaged in such duties for such
139-o railroad company, in doing anything that is reasonably inci-
139-p dent to such duties, but the amount which may be recovered
139-q for breach of such condition shall not exceed the sum of
139-r three thousand five hundred dollars in any one case, and
139-s such bond shall be filed with and held by the said secretary
139-t of state for the purpose aforesaid but upon the trial of any
139-u cause for the recovery of damages upon said bond, the bur-
139-v den of proof shall be upon such railroad company to estab-
139-w lish that such railroad police officer was not actually em-

139-*x* played in such duties for such railroad company nor in
139-*y* doing anything that was reasonably incident to such duties
139-*z* at the time such damages were sustained; and *provided, fur-*
140 *ther*, that in case of riot, public danger and emer-
140-*a* gency, a justice of the peace, or other person
141 issuing a warrant, may authorize a special constable and his
142 posse whose names shall be set forth in said warrant,
142-*a* to carry weapons for the purpose of executing a pro-
143 cess, and a sheriff in such cases may authorize a deputy or
144 posse to carry weapons, but the justice shall write in his
145 docket the cause and reasons for such authority and the name
146 of the person, or persons, so authorized, and index the same,
147 and the sheriff or other officer shall write out and file with
148 the clerk of the county court the reasons and causes for such
149 authority and the name, or names of the persons so author-
150 ized, and the same shall always be open to public inspection,
151 and such authority shall authorize such special constable,
152 deputies and posses to carry weapons in good faith only for
153 the specific purposes and times named in such authority, and
154 upon the trial of every indictment the jury shall inquire into
155 the good faith of the person attempting to defend such in-
156 dictment under the authority granted by any such justice,
157 sheriff or other officer, and any such person or persons so
158 authorized shall be personally liable for the injury caused to
159 any person by the negligent or unlawful use of any such
160 weapon or weapons. It shall be the duty of all ministerial of-
161 ficers, consisting of the justices of the peace, notaries public and
162 other conservators of the peace of this state, to report to the
163 prosecuting attorney of the county the names of all persons
164 guilty of violating this section, and any person wilfully failing
165 so to do, shall be guilty of a misdemeanor and shall be fined not
166 exceeding two hundred dollars, and shall, moreover, be liable
167 to removal from office for such wilful failure; and it shall
168 likewise be the duty of every person having knowledge of the
169 violation of this act, to report the same to the prosecuting
170 attorney, and to freely and fully give evidence concerning
171 the same, and any one failing so to do, shall be guilty of a
172 misdemeanor and upon conviction thereof shall be fined not
173 exceeding one hundred dollars; *provided, further*, that noth-
174 ing herein contained shall be so construed as to prohibit sher-
175 iffs, their regularly appointed deputies, who actually collect

176 taxes in each county, and all constables in their respective
177 counties and districts, and all regularly appointed police offi-
178 cers of their respective cities, towns or villages, all jailors and
179 game protectors who have been duly appointed as such, and
179-a members of the department of public safety of this
179-b state, from carrying such weapons as they are now
180 authorized by law to carry, who shall have given
181 bond in the penalty of not less than three thousand five hun-
182 dred dollars, conditioned for the faithful performance of their
183 respective duties, which said officers shall be liable upon their
184 said official bond, for the damages done by the unlawful or
185 careless use of any such weapon or weapons, whether such
186 bond is so conditioned or not.

187 It shall be unlawful for any person armed with a pistol,
188 gun, or other dangerous or deadly weapon, whether licensed
189 to carry same or not, to carry, expose, brandish, or use, such
190 weapon in a way or manner to cause, or threaten, a breach
191 of the peace. Any person violating this provision of this act
192-4 shall be guilty of a misdemeanor, and upon conviction, shall
195 be fined not less than fifty nor more than three hundred
196 dollars or imprisoned in the county jail not less than thirty
197 nor more than ninety days, or be punished by both fine and
198 imprisonment in the discretion of the court.

199 Any circuit court granting any such license to carry any
200 of the weapons mentioned in this act, the governor, or the su-
201 perintendent of the department of public safety, with the con-
202 sent of the governor, may, for any cause deemed sufficient by
203 said court, or by the governor or by the superintendent of the
204 department of public safety with the approval of the governor
205 aforesaid, as the case may be, revoke any such license to carry
205-a a pistol or other weapon mentioned in this act for which a
205-b license is required, and immediate notice of such revocation
206 shall be given such licensee in person, by registered mail or in
207 the same manner as provided by law for the service of other
208 notices, and no person whose license has been so revoked shall
209 be re-licensed within one year thereafter; *provided*, that the
210 authority so revoking such license may, after a hearing, sooner
211 reinstate such licensee.

212 (b) It shall be unlawful for any person to carry, transport,
213 or to have in his possession any machine gun, sub-machine gun,
214 and what is commonly known as a high powered rifle, or any

215 gun of similar kind or character, or any ammunition therefor,
216 except on his own premises or premises leased to him for a
217 fixed term, until such person shall have first obtained a per-
218 mit from the superintendent of the department of public
219 safety of this state, and approved by the governor, or until a
220 license therefor shall have been obtained from the circuit
221 court as in the case of pistols and all such licenses together
222 with the numbers identifying such rifle shall be certified to
223 the superintendent of the department of public safety. *Pro-*
224 *vided, further,* that nothing herein shall prevent the use of
225 rifles by *bona fide* rifle club members who are freeholders or
226 tenants for a fixed term in this state at their usual or cus-
227 tomary place of practice, or licensed hunters in the actual
228 hunting of game animals. No such permit shall be granted
229 by such superintendent except in cases of riot, public danger,
230 and emergency, until such applicant shall have filed his writ-
231 ten application with said superintendent of the department
232 of public safety, in accordance with such rules and regula-
233 tions as may from time to time be prescribed by said depart-
234 ment of public safety relative thereto, which application shall
235 be accompanied by a fee of two dollars to be used in defraying
236 the expense of issuing such permit, and said application shall
237 contain the same provisions as are required to be shown under
238 the provisions of this act by applicants for pistol license, and
239 shall be duly verified by such applicant, and at least one
240 other reputable citizen of this state. Any such permit as
241 granted under the provisions of this act may be revoked by the
242 governor at his pleasure and upon the revocation of any such
243 permit the department of public safety shall immediately seize
244 and take possession of any such machine gun, sub-machine
245 gun, high powered rifle, or gun of similar kind and character,
246 held by reason of said permit, and any and all ammunition
247 therefor, and the said department of public safety shall also
248 confiscate any such machine gun, sub-machine gun, and what
249 is commonly known as a high powered rifle, or any gun of
250 similar kind and character and any and all ammunition there-
251 for so owned, carried, transported or possessed contrary to the
252 provisions of this act, and shall safely store and keep the same,
253 subject to the order of the governor. No alien shall own, keep
254 or possess any firearm of any kind or character. It shall be
255 unlawful for any person, firm or corporation to place or keep

256 on public display to passersby on the streets, for rent or sale,
 257 any revolver, pistol, dirk, bowie knife, slung shot or other
 258 dangerous weapon of like kind or character or any machine
 259 gun, sub-machine gun or high powered rifle or any gun of
 260 similar kind or character, or any ammunition for the same.

261 All dealers licensed to sell any of the foregoing arms or
 262 weapons shall take the name, address, age and general appear-
 263 ance of the purchaser, as well as the maker of the gun, manu-
 264 facturer's serial number and caliber, and report the same at
 265 once in writing to the superintendent of the department of
 266 public safety.

267 It shall be unlawful for any person to sell, rent, give or
 268 lend any of the above mentioned arms to an unnaturalized
 269 person.

270 Any person violating the provisions of sub-section (b) of
 271 this act shall be guilty of a misdemeanor and upon conviction
 272 thereof shall be fined not less than fifty dollars, nor more than
 273 three hundred dollars, or confined in the county jail not less
 274 than thirty days nor more than six months, or both such fine
 275 and imprisonment, in the discretion of the court.

276 All acts and parts of acts inconsistent herewith are hereby
 277 repealed.

CHAPTER 4

(Senate Bill No. 4—By Joint Special Committee)

AN ACT making appropriations of public moneys to pay general charges upon the treasury.

[Passed June 6, 1925; in effect from passage. Approved by the Governor.]

Sec.		Sec.	
1.	Appropriations made from the treasury.		cost of new capitol; authorizing construction and limiting cost of second office building.
2.	Fiscal years of 1926 and 1927.	5.	Appropriations for maintenance and repair of roads; in "state fund general revenue" not otherwise appropriated to be used for road maintenance.
3.	Appropriations under sub-sections "A," "B" and "C" payable out of the general revenue of the state.	5-a.	Recodification commission; salary and expenses of the commission, assistants and stenographers; expenses of the legislative committee; this an additional appropriation.
	<i>Sub-Section "A"</i>		<i>Sub-Section "B"</i>
4.	Construction and equipment of second unit of office building of new capitol; Governor to sell all state property on Capitol and Summers streets in Charleston; proceeds to be paid into the treasury as a special capitol building fund; Governor may continue capitol building commission, by re-appointment; limit of total	6.	Appropriations appearing under sub-section "B" payable only on requisition and approval of the state board of control.

APPENDIX P

1926.]

ACTS OF ASSEMBLY.

285

CHAP. 158.—An ACT to improve a license tax on pistols and revolvers; to regulate the sale thereof and of ammunition therefor; and to provide that the proceeds of such tax shall be used for the establishment of a diseased and crippled children's hospital. [S B 44]

Approved March 17, 1926.

1. Be it enacted by the general assembly of Virginia, That it shall be the duty of every person residing in this State and owning a pistol or revolver therein, to pay on or before the first day of January of each year a license tax of one dollar on each pistol or revolver so owned, or in the event that such pistol or revolver shall be acquired by any such person on or after the first day of February, such license tax shall be forthwith paid thereon. The application for the license shall give the name of the owner, and the number, make and calibre of such pistol or revolver, which shall be set forth in the license. All pistol or revolver licenses shall run from the first day of January to the first day of the following January. Such license taxes shall be paid to the treasurer of the city or county wherein the said owner resides, and the said treasurer shall not receive more for handling the funds arising from the tax imposed by this act than he receives for handling other State funds. The treasurers shall not receive compensation for their services in issuing the license cards herein provided for. Upon payment of the tax provided for in this section the person paying the same shall be entitled to a license card therefor, showing the year for which the license is paid, the county or city issuing the card, the serial number of the license, and the number, calibre, make and owner of the pistol or revolver. When the license card is issued the treasurer shall record the name of the owner of the pistol or revolver, and the number, calibre and make thereof with the number of the license, in a book prepared for the purpose. The license cards and book shall be furnished by the boards herein provided and shall be paid out of the funds derived from the pistol and revolver licenses. If any such card should be lost the owner of the card shall pay to the treasurer twenty-five cents for a duplicate card.

2. It shall be the duty of every retailer selling a pistol or revolver in this State, at the time of such sale, to keep a record of the name and address of the purchaser and the number, make and calibre of the pistol or revolver, and to report once a month to the treasurer of his county or city the names of such purchasers, if any, together with the number, make and calibre of each pistol or revolver purchased; and all persons receiving or having in their possession a pistol or revolver for the purpose of repairing the same shall report to the treasurer of his county or city once a month giving the name and address of the owner and the calibre, make and serial number of such pistol or revolver.

3. It shall be unlawful for any retailer in this State to sell ammunition for any pistol or revolver to any person unless the person desiring to make such purchase displays the license card for the current year provided for in this act.

4. Any person violating any provision of this act or using a li-

license card not issued to him, for the purpose of purchasing ammunition, or using a license card for the purchase of pistol or revolver ammunition unless the ammunition is intended to be used for the weapon mentioned in the license card shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five nor more than fifty dollars, or sentenced to the State convict road force for not less than thirty or not more than sixty days, or both, in the discretion of the tribunal trying the case.

5. The provisions of this act shall not apply to any officer authorized by law to carry a pistol or revolver nor to the pistol or revolver of such officer when such pistol or revolver is carried in discharge of his official duty, except that every officer shall list his pistol or revolver with the treasurer of his county or city annually by January first; nor to a pistol of an obsolete type kept as a souvenir, memento or relic, such as cap and ball type, etcetera, or souvenir used or captured by any person or relative in any war. But such pistol shall be registered as herein provided, upon satisfactory proof to the officer issuing such license that the pistol in question comes properly within this exception, in which case, no license tax shall be charged.

6. The tax hereby imposed shall be in lieu of all other taxes on such pistols and revolvers; but nothing in this act shall be construed to apply to such weapons in the stocks of licensed wholesaler or retailers.

7. All funds arising from pistol and revolver licenses, except as hereinbefore provided, shall be kept separate from other funds and shall be paid into the State treasury to establish a fund known as the diseased and crippled children's hospital fund, which shall be used for the purpose of establishing and maintaining within the State at such place or places as may be selected by the board hereinafter provided for, a hospital or hospitals for the care, treatment and vocational training of diseased and crippled children resident in Virginia, or for any such rehabilitation work that the board may deem wise.

Each treasurer shall between the first and fifteenth of July and between the first and fifteenth of January report to the auditor of public accounts collections, which he is required to make by this act, and shall at the same time pay into the State treasury the amount collected less the commissions which he is authorized to retain for collecting same as provided for in this act, and the auditor of public accounts shall keep said funds separate from other funds to be designated and known as "the diseased and cripple children's hospital fund."

8. The administration of the aid fund shall be under the direction of a board of seven physicians to be appointed by the governor, subject to approval by the senate; one member of the board shall be appointed from or on recommendation of the faculty of the medical department of the University of Virginia and one from or on recommendation of the faculty of the Medical College of Virginia at Richmond, of the other five members, one shall be appointed from each of the five geographical divisions of the State. Appointments to the said board shall be made on July first, nineteen hundred and twenty-six,

and shall be so arranged that the term of one member shall expire on each July first from one to seven years thereafter; the successors of the original appointees shall be appointed for seven year terms. The governor shall have the right to remove any member of the board for cause, and shall fill for the unexpired term any vacancy occurring on the board. When the term of a member expires, he may succeed himself when reappointed by the governor and confirmed by the senate.

The board shall hold its original meeting on the call of the governor, shall select its chairman and secretary, and shall hold future meetings as it may provide, but not less than twice a year. The members of the board shall serve without compensation, but shall be entitled to their actual hotel and traveling expenses while in attendance on the meetings of the board.

The board herein provided for shall be styled "the board of trustees of the Virginia State diseased and crippled children's hospital," and shall have power in such name to take, hold and subject to the approval of the governor, convey property, to contract and be contracted with, and to sue and be sued.

The said board shall have the power to purchase and take such land, to purchase or build such building or buildings, to manufacture, buy or otherwise obtain such equipment, to employ such persons, and to do all such other things as may be necessary to carry out the purpose for which it is created as hereinabove set out. Provided, however, that no purchase of land or buildings shall be made before approval of the governor. It may take and hold gifts and donations from private sources for the furtherance of the said purposes. But the said board shall not withdraw any money from the State treasury, or obligate itself to pay out any money until the fund to its credit from the proceeds of pistol and revolver licenses or from private donation shall have reached the sum of fifty thousand dollars.

9. The State treasurer shall make payments from the fund hereinabove created on warrants from the auditor of public accounts, issued on vouchers certified by the chairman of the board hereinabove created on authority of the board.

10. All acts and parts of acts inconsistent with this act are hereby repealed to the extent of such inconsistency.

CHAP. 159.—An ACT to amend the Code of Virginia by adding thereto a new section to be numbered section 2850-a, in relation to notaries public for the State at large. [S B 184]

Approved March 17, 1926.

1. Be it enacted by the general assembly of Virginia, That the Code of Virginia be amended by adding thereto a new section to be numbered section twenty-eight hundred and fifty-a, which new section shall read as follows:

Section 2850a. Notaries public for the State at large.—The governor may appoint in and for the State of Virginia at large as many

APPENDIX Q

vent the state treasurer from deducting at any time, from any moneys which may be due from the commonwealth to the delinquent city or town, the whole or any part of said tax, with the interest accrued thereon, which shall remain unpaid.

Deduction of
tax from
money due
from com-
monwealth.

Approved April 27, 1927.

AN ACT RELATIVE TO THE CHOICE OF A THIRD MEMBER OF
THE STATE BOARD OF RETIREMENT. *Chap. 325*

Whereas, The deferred operation of this act would in part defeat its purpose, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Emergency
preamble.

Be it enacted, etc., as follows:

Chapter ten of the General Laws is hereby amended by striking out section eighteen and inserting in place thereof the following: — *Section 18.* There shall be a state board of retirement serving in the department, consisting of three members, one of whom shall be the state treasurer, ex officio, who shall be chairman, a second member elected by the state retirement association established under section two of chapter thirty-two from among their number in such manner as the commissioner of insurance may determine, and a third member chosen by the other two. If the third member is not so chosen within thirty days after the election of the second, the governor shall appoint the third member for a term of three years. Upon the expiration of the term of office of an elected, chosen or appointed member or in case of a vacancy in either of said offices, his successor shall be elected, chosen or appointed as aforesaid for three years.

G. L. 10, § 18,
amended.

State board
of retirement,
members,
election.

Expirations
and vacancies.

Approved April 27, 1927.

AN ACT RELATIVE TO MACHINE GUNS AND OTHER FIREARMS. *Chap. 326*

Be it enacted, etc., as follows:

SECTION 1. Chapter one hundred and forty of the General Laws, as amended in section one hundred and twenty-one by section one of chapter four hundred and eighty-five of the acts of nineteen hundred and twenty-two, is hereby further amended by striking out said section one hundred and twenty-one and inserting in place thereof the following: — *Section 121.* In sections one hundred and twenty-two to one hundred and twenty-nine, inclusive, "firearms" includes a pistol, revolver or other weapon of any description, loaded or unloaded, from which a shot or bullet can be discharged and of which the length of barrel, not including any revolving, detachable or magazine breech, does not exceed twelve inches, and a machine gun, irrespective of the length of the barrel. Any gun of small arm calibre designed for rapid fire and operated by a mechanism, or any gun which operates automatically after the first shot has been fired, either by gas action or recoil action,

G. L. 140,
§ 121, etc.,
amended.

Definition of
"firearms."

Definition of
"machine gun."

Words "purchase" and "sale" to include exchange, word "purchaser" to include exchanger, and verbs "sell" and "purchase" to include verb exchange.

Sections not applicable to certain firearms.
G. L. 140,
§ 123, etc.,
amended.

Conditions of licensees to sell, rent or lease certain firearms.

shall be deemed to be a machine gun for the purposes of said sections, and of sections one hundred and thirty-one and one hundred and thirty-one B. As used in this section and in sections one hundred and twenty-two to one hundred and thirty-one A, the words "purchase" and "sale" shall include exchange, the word "purchaser" shall include exchanger, and the verbs "sell" and "purchase", in their different forms and tenses, shall include the verb exchange in its appropriate form and tense. Said sections one hundred and twenty-two to one hundred and twenty-nine, inclusive, shall not apply to antique firearms incapable of use as firearms nor to sales of firearms at wholesale.

SECTION 2. Said chapter one hundred and forty, as amended in section one hundred and twenty-three by section four of said chapter four hundred and eighty-five, by section one of chapter two hundred and eighty-four of the acts of nineteen hundred and twenty-five and by section one of chapter three hundred and ninety-five of the acts of nineteen hundred and twenty-six, is hereby further amended by striking out said section one hundred and twenty-three and inserting in place thereof the following: — *Section 123.* The license shall be expressed to be and shall be subject to the following conditions: First, That the provisions in regard to the nature of the license and the building in which the business may be carried on under it shall be strictly adhered to. Second, That every licensee shall before delivery of a firearm make or cause to be made a true entry in a sales record book to be furnished by the licensing authorities and to be kept for that purpose, specifying the description of the firearm, the make, number, whether single barrel, magazine, revolver, pin, rim or central fire, whether sold, rented or leased, the date and hour of such delivery, and shall, before delivery as aforesaid, require the purchaser, renter or lessee personally to write in said sales record book his full name, sex, residence and occupation. The said book shall be open at all times to the inspection of the licensing authorities and of the police. Third, That the license or a copy thereof, certified by the recording officer of the licensing authorities or by the clerk of the town by which it is issued, shall be displayed on the premises in a position where it can easily be read. Fourth, That no firearms shall be displayed in any outer window of said premises or in any other place where they can readily be seen from the outside. Fifth, That the licensee shall, once a week, send a copy of the record of sales, rentals and leases made by him for the preceding seven days to the licensing authorities and to the commissioner of public safety. Sixth, That every firearm shall be delivered securely wrapped and fastened and shall be unloaded when delivered. Seventh, That no delivery of a pistol or revolver shall be made on the day of application for the purchase, rental or lease thereof, except to a person having a license to carry the

same issued under section one hundred and thirty-one. Eighth, That no pistol or revolver shall be sold, rented or leased to a person who has not a permit, then in force, to purchase, rent or lease the same issued under section one hundred and thirty-one A, and that no machine gun shall be sold, rented or leased to a person who has not a license to possess the same issued under section one hundred and thirty-one. Ninth, That upon a sale, rental or lease of a pistol or revolver, the licensee under section one hundred and twenty-two shall take up such permit and shall endorse upon it the time and place of said sale, rental or lease, and shall forthwith transmit the same to the commissioner of public safety, and that upon the sale, rental or lease of a machine gun shall endorse upon the license to possess the same the time and place of said sale, rental or lease, and shall forthwith transmit a notice thereof to said commissioner. Tenth, That this license shall be subject to forfeiture as provided in section one hundred and twenty-five for breach of any of its conditions, and that, if the licensee hereunder is convicted of a violation of any such condition, this license shall thereupon become void.

Conditions of
licenses to
sell, rent or
lease certain
firearms.

SECTION 3. Section one hundred and thirty-one of said chapter one hundred and forty, as amended by section nine of said chapter four hundred and eighty-five and by section four of said chapter two hundred and eighty-four, is hereby further amended by inserting after the word "commonwealth" in the twelfth line the words:— or to possess therein a machine gun, — so as to read as follows:— *Section 131.* The justice of a court or a trial justice, the board of police or mayor of a city, the selectmen of a town, or the commissioner of public safety, or persons authorized by them, may, upon the application of any person residing or having a place of business within the jurisdiction of the person or body issuing the license, except an unnaturalized person, a person who has been convicted of a felony or of the unlawful use or sale of drugs or a minor other than one fifteen years of age or over in the employ of a bank, public utility corporation or business of a similar nature whose application is endorsed by his employer, issue a license to such applicant to carry a pistol or revolver in the commonwealth or to possess therein a machine gun, if it appears that he has good reason to fear an injury to his person or property or for any other proper purpose, and that he is a suitable person to be so licensed. Such license shall be issued for a term not to exceed one year, but may be for a less period, and all such licenses shall be revocable at the will of the person or body issuing the same, who shall forthwith send written notice of such revocation to the commissioner of public safety. Said licenses shall be issued on forms furnished by said commissioner and a copy of every license so issued shall within one week after the granting thereof be sent to the said commissioner. Whoever issues

G. L. 140,
§ 131, eto.,
amended.

License to
carry pistols
or revolvers,
or possess
machine gun,
issuance to
certain per-
sons, etc.

Duration of
license.

Revocation.

Form, etc.

Penalty.

a license in violation of this section shall be punished by imprisonment for not less than six months nor more than two years in a jail or house of correction.

G. L. 140,
§ 131B, etc.,
amended.

SECTION 4. Section one hundred and thirty-one B of said chapter one hundred and forty, inserted by section three of said chapter three hundred and ninety-five, is hereby amended by striking out the word "or" where it occurs a second time in the second line and inserting in place thereof a comma and also by inserting after the word "revolver" in the same line the words: — or machine gun, — so as to read as follows: — *Section 131B.* Whoever loans money secured by mortgage, deposit or pledge of a pistol, revolver or machine gun shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or by both.

Penalty for
loans of money
on pistol,
revolver or
machine gun.

G. L. 269,
§ 10, etc.,
amended.

SECTION 5. Section ten of chapter two hundred and sixty-nine of the General Laws, as amended by section one of chapter two hundred and forty-eight of the acts of nineteen hundred and twenty-three and by section five of said chapter two hundred and eighty-four, is hereby further amended by inserting after the word "unloaded" in the third line the words: — , or possesses a machine gun as defined in section one hundred and twenty-one of chapter one hundred and forty, — so as to read as follows: — *Section 10.* Whoever, except as provided by law, carries on his person, or carries on his person or under his control in a vehicle, a pistol or revolver, loaded or unloaded, or possesses a machine gun as defined in section one hundred and twenty-one of chapter one hundred and forty, without permission under section one hundred and thirty-one of chapter one hundred and forty, or whoever so carries any stiletto, dagger, dirk knife, slung shot, metallic knuckles or sawed off shotgun, or whoever, when arrested upon a warrant for an alleged crime or when arrested while committing a crime or a breach or disturbance of the public peace, is armed with, or has on his person, or has on his person or under his control in a vehicle, a billy or dangerous weapon other than those herein mentioned, shall be punished by imprisonment for not less than six months nor more than two and one half years in a jail or house of correction or for not less than two and one half years nor more than five years in the state prison, and upon conviction the pistol or other article shall be confiscated by the commonwealth. The pistol or article so confiscated shall, by the authority of the written order of the court or trial justice, be forwarded by common carrier to the commissioner of public safety, who, upon receipt of the same, shall notify said court or justice thereof. Said commissioner may sell or destroy the same, and, in case of a sale, after paying the cost of forwarding the article, shall pay over the net proceeds to the commonwealth.

Penalty for
carrying
dangerous
weapons or
possessing
machine gun
without per-
mission, etc.

Confiscation.

Forwarding to
commissioner
of public
safety, etc.

Approved April 27, 1927.

APPENDIX R

other purpose. Such persons shall hold office during the term of their employment by the state highway department but the authority herein vested shall cease upon the termination of such employment. The persons so appointed shall by reason of such appointment be members of the department of public safety during the terms of such appointment but shall serve without pay as members thereof.

Approved June 2, 1927.

[No. 372.]

AN ACT to regulate and license the selling, purchasing, possessing and carrying of certain firearms; to prohibit the buying, selling or carrying of certain firearms without a license therefor; to prohibit the possession of certain weapons and attachments; to prohibit the pawning of certain firearms; to prohibit the sale, offering for sale, or possession for the purpose of sale of written or printed matter containing any offer to sell or deliver certain firearms or devices within this state; to provide penalties for the violations of this act, and to repeal act number two hundred seventy-four of the public acts of nineteen hundred eleven, being sections fifteen thousand two hundred thirty-six, fifteen thousand two hundred thirty-seven, fifteen thousand two hundred thirty-eight, fifteen thousand two hundred thirty-nine, fifteen thousand two hundred forty, fifteen thousand two hundred forty-one, fifteen thousand two hundred forty-two, fifteen thousand two hundred forty-three, fifteen thousand two hundred forty-four, fifteen thousand two hundred forty-five and fifteen thousand two hundred forty-six of the compiled laws of nineteen hundred fifteen; act number three hundred thirteen of the public acts of nineteen hundred twenty-five; and section sixteen of chapter one hundred sixty-two of the revised statutes of eighteen hundred forty-six, being section fifteen thousand six hundred forty-one of the compiled laws of nineteen hundred fifteen.

The People of the State of Michigan enact:

SECTION 1. The word "pistol" as used in this act shall mean any firearm, loaded or unloaded, thirty inches or less in length. The word "purchaser" shall mean any person who receives a pistol from another by purchase, gift or loan. The word "seller" shall mean any person who sells, furnishes, loans or gives a pistol to another. Words defined.

SEC. 2. No person shall purchase a pistol as defined in this act without first having obtained a license therefor as License before purchase.

To whom
granted.

Executed
in duplicate.

Misde-
meanor;
penalty.

prescribed herein. The commissioner or chief of police, or his duly authorized deputy, in incorporated cities or in incorporated villages having an organized department of police, and the sheriff, or his authorized deputy, in parts of the respective counties not included within incorporated cities or villages, are hereby authorized to issue licenses to purchase pistols to applicants residing within the respective territories herein mentioned. No such license shall be granted to any person except he be nineteen years of age or over, and has resided in this state six months or more, and in no event shall such a license be issued to a person who has been convicted of a felony or adjudged insane in this state or elsewhere. Applications for such licenses shall be signed by the applicant under oath upon forms provided by the commissioner of public safety. Licenses to purchase pistols shall be executed in duplicate upon forms provided by the commissioner of public safety and shall be signed by the licensing authority. One copy of such license shall be delivered to the applicant and the duplicate of such license shall be retained by such licensing authority as a permanent official record for a period of six years. Such license shall be void unless used within ten days after the date of its issue. Any person who shall sell to another any pistol as defined in this act without complying with the requirements of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars or imprisonment in the county jail not more than ninety days, or both such fine and imprisonment in the discretion of the court. Such license shall be signed in ink by the holder thereof in the presence of the person selling, loaning or giving a pistol to such licensee and shall thereupon be taken up by such person, signed by him in ink and shall be delivered or sent by registered mail within forty-eight hours to the commissioner of public safety. The seller shall certify upon said license in the space provided therefor the name of the person to whom such pistol was delivered, the make, style, calibre and number of such pistol, and shall further certify that such purchaser signed his name on said license in the presence of the seller. The provisions of this section shall not apply to the purchase of pistols from wholesalers by dealers regularly engaged in the business of selling pistols at retail, nor to the sale, barter or exchange of pistols kept solely as relics, souvenirs or curios.

Unlawful to
manufacture,
etc., certain
firearms, etc.

Penalty for
violation.

SEC. 3. It shall be unlawful within this state to manufacture, sell, offer for sale, or possess any machine gun or firearm which can be fired more than sixteen times without reloading, or any muffler, silencer or device for deadening or muffling the sound of a discharged firearm, or any bomb or bombshell, or any blackjack, slung shot, billy, metallic knuckles, sandclub, sandbag or bludgeon. Any person convicted of a violation of this section shall be guilty of a felony and shall be punished by a fine not exceeding one thousand

dollars or imprisonment in the state prison not more than five years, or by both such fine and imprisonment in the discretion of the court. The provisions of this section shall not apply, however, to any person, firm or corporation manufacturing firearms, explosives or munitions of war by virtue of any contracts with any department of the government of the United States, or with any foreign government, state, municipality or any subdivision thereof.

SEC. 4. Any person who, with intent to use the same unlawfully against the person of another, goes armed with a pistol or other firearm or dagger, dirk, razor, stiletto, or knife having a blade over three inches in length, or any other dangerous or deadly weapon or instrument, shall be guilty of a felony and on conviction thereof shall be punished by a fine not exceeding one thousand dollars or imprisonment in the state prison for not more than five years, or by both such fine and imprisonment in the discretion of the court.

Felony,
what
deemed.

Penalty.

SEC. 5. No person shall carry a dagger, dirk, stiletto or other dangerous weapon except hunting knives adapted and carried as such, concealed on or about his person, or whether concealed or otherwise in any vehicle operated or occupied by him, except in his dwelling house or place of business or on other land possessed by him. No person shall carry a pistol concealed on or about his person, or, whether concealed or otherwise, in any vehicle operated or occupied by him, except in his dwelling house or place of business or on other land possessed by him, without a license therefor as herein provided. Any person violating the provisions of this section shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars or imprisonment in the state prison for not more than five years, or by both such fine and imprisonment in the discretion of the court.

Unlawful to
carry, etc.,
dagger, etc.

SEC. 6. The prosecuting attorney, the commissioner or chief of police and the commissioner of public safety or their respective authorized deputies in incorporated cities or in incorporated villages having an organized department of police, and the prosecuting attorney, the commissioner of public safety or their authorized deputies, and the sheriff, under-sheriff or chief deputy sheriff in parts of the respective counties not included within incorporated cities or villages shall constitute boards exclusively authorized to issue licenses to carry pistols concealed on the person to applicants residing within the respective territories herein mentioned. The county clerk of each county shall be clerk of such licensing boards, which boards shall be known in law as "The Concealed Weapon Licensing Board." No such license to carry a pistol concealed on the person shall be granted to any person except he be nineteen years of age or over and has resided in this state six months or over, and in no event shall such license be issued unless it appears that the applicant has good reason to fear injury to his person or property, or has

Concealed
weapon
licensing
board.

To whom
license
granted.

Chairman
of board.

other proper reasons, and that he is a suitable person to be so licensed, and in no event to a person who has been convicted of a felony or adjudged insane in this state or elsewhere. The prosecuting attorney shall be the chairman of the said board, which shall convene at least once in each calendar month and at such other times as they shall be called to convene by the chairman. Such licenses shall be issued only upon written application signed by the applicant and on his oath and upon forms provided by the commissioner of public safety. Such licenses shall issue only with the approval of a majority of said board and shall be executed in triplicate upon forms provided by the commissioner of public safety and shall be signed in the name of the concealed weapon licensing board by the county clerk and the seal of the circuit court affixed thereto. One copy of such license shall be delivered to the applicant, the duplicate of said license shall be retained by the county clerk as a permanent official record for a period of six years, and the triplicate of such license shall be forwarded to the commissioner of public safety who shall file and index licenses so received by him and keep the same as a permanent official record for a period of six years. Each license shall be issued for a definite period of not more than one year, to be stated in the license, and no renewal of such license shall be granted except upon the filing of a new application. Every license issued hereunder shall bear the imprint of the right thumb of the licensee, or, if that be not possible, of the left thumb or some other finger of such licensee. Such licensee shall carry such license upon his person at all times when he may be carrying a pistol concealed upon his person and shall display such license upon the request of any peace officer.

Duration
of license.

When license
to expire.

SEC. 7. All licenses heretofore issued in this state permitting a person to carry a pistol concealed upon his person shall expire at midnight, December thirty-one, nineteen hundred twenty-seven.

When license
revoked.

SEC. 8. The licensing board herein created by section six may revoke any license issued by it upon receiving a certificate of any magistrate showing that such licensee has been convicted of violating any of the provisions of this act, or has been convicted of a felony. Such license may also be revoked whenever in the judgment of said board the reason for granting such license shall have ceased to exist, or whenever said board shall for any reasonable cause determine said licensee to be an unfit person to carry a pistol concealed upon his person. No such license shall be revoked except upon written complaint and then only after a hearing by said board, of which at least seven days' notice shall be given to the licensee either by personal service or by registered mail to his last known address. The clerk of said licensing board is hereby authorized to administer an oath to any person testifying before such board at any such hearing.

SEC. 9. On or before the first day of November, nineteen hundred twenty-seven, any person within this state who owns or has in his possession a pistol as defined in this act, shall, if he reside in an incorporated city or an incorporated village having an organized police department, present such weapon for safety inspection to the commissioner or chief of police of such city or village; if such person reside in a part of the county not included within the corporate limits of such city or village he shall so present such pistol for safety inspection to the sheriff of such county. Any person owning or coming into possession of a pistol after the first day of November, nineteen hundred twenty-seven, shall forthwith present such pistol for safety inspection in the manner provided in this section. A certificate of inspection shall thereupon be issued in triplicate on a form provided by the commissioner of public safety, containing the name, age, address, description and signature of the person presenting such pistol for inspection, together with a full description thereof; the original of such certificate shall be delivered to the registrant; the duplicate thereof shall be mailed to the commissioner of public safety and filed and indexed by him and kept as a permanent official record for a period of six years, and the triplicate of such certificate shall be retained and filed in the office of said sheriff, or commissioner or chief of police, as the case may be. The provisions of this section shall not apply to wholesale or retail dealers in firearms or to collections of pistols kept solely for the purpose of display, as relics, souvenirs, curios or antiques, nor to weapons heretofore registered under the provisions of section eleven of act number three hundred thirteen of the public acts of nineteen hundred twenty-five. Any person who fails to comply with the provision of this section shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding ninety days, or by both such fine and imprisonment in the discretion of the court.

Safety inspection of weapons.

Certificate issued.

SEC. 10. No pawnbroker shall accept a pistol in pawn. Any person violating this section of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars or imprisonment in the county jail for not more than ninety days or by both such fine and imprisonment in the discretion of the court.

Pistol not accepted in pawn.

SEC. 11. No person shall wilfully alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identity of any pistol. Possession of any such firearm upon which the number shall have been altered, removed or obliterated, shall be presumptive evidence that such possessor has altered, removed or obliterated the same. Any person convicted under this section shall be punished by a fine not to exceed five hundred dollars or by imprisonment

Alteration of pistol unlawful.

in the state prison not to exceed two years or by both such fine and imprisonment in the discretion of the court.

Exceptions
to act.

SEC. 12. The provisions of section two, three, five and nine shall not apply to any peace officer of the state or any subdivision thereof who is regularly employed and paid by the state or such subdivision, or to any member of the army, navy or marine corps of the United States, or of organizations authorized by law to purchase or receive weapons from the United States or from this state, nor to the national guard or other duly authorized military organizations when on duty or drill, nor to the members thereof in going to or returning from their customary places of assembly or practice, nor to a person licensed to carry a pistol concealed upon his person issued by another state, nor to the regular and ordinary transportation of pistols as merchandise, or to any person while carrying a pistol unloaded in a wrapper from the place of purchase to his home or place of business or to a place of repair or back to his home or place of business, or in moving goods from one place of abode or business to another.

When un-
lawfully
possessed.

SEC. 13. When complaint shall be made on oath to any magistrate authorized to issue warrants in criminal cases that any pistol or other weapon or device mentioned in this act is unlawfully possessed or carried by any person, such magistrate shall, if he be satisfied that there is reasonable cause to believe the matters in said complaint be true, issue his warrant directed to any peace officer, commanding him to search the person or place described in such complaint, and if such pistol, weapon or device be there found; to seize and hold the same as evidence of a violation of this act.

Forfeited to
state.

SEC. 14. All pistols, weapons or devices carried or possessed contrary to this act are hereby declared forfeited to the state.

Certain
books, etc.,
unlawful to
sell, etc.

SEC. 15. It shall be unlawful to sell or deliver within this state, or to offer or expose for sale, or to have in possession for the purpose of sale, any book, pamphlet, circular, magazine, newspaper or other form of written or printed matter offering to sell or deliver, or containing an offer to sell or deliver to any person within this state from any place without this state any pistol or any weapon or device mentioned in section three hereof. The provisions of this section shall not apply to sales or offers to sell pistols at wholesale to persons regularly engaged in the business of selling such pistols at wholesale or retail, nor to sales or offers to sell such pistols made or authorized by the United States government or any department or agency thereof.

Penalty for
violation.

SEC. 16. Any person violating the provisions of section fifteen of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed one hundred dollars or by imprisonment in the county jail not to exceed ninety days, or by both such fine and imprisonment in the discretion of the court.

Sec. 17. Act number two hundred seventy-four of the public acts of nineteen hundred eleven, being sections fifteen thousand two hundred thirty-six, fifteen thousand two hundred thirty-seven, fifteen thousand two hundred thirty-eight, fifteen thousand two hundred thirty-nine, fifteen thousand two hundred forty, fifteen thousand two hundred forty-one, fifteen thousand two hundred forty-two, fifteen thousand two hundred forty-three, fifteen thousand two hundred forty-four, fifteen thousand two hundred forty-five and fifteen thousand two hundred forty-six of the compiled laws of nineteen hundred fifteen; act number three hundred thirteen of the public acts of nineteen hundred twenty-five; and section sixteen of chapter one hundred sixty-two of the revised statutes of eighteen hundred forty-six, being section fifteen thousand six hundred forty-one of the compiled laws of nineteen hundred fifteen, are hereby repealed: *Provided, however,* That any proceedings pending under any of said sections herein repealed shall not be affected hereby but shall be concluded in accordance with the law of such repealed section or sections.

Acts repealed.

Proviso.

Sec. 18. This act is declared to be severable, and should any section hereof be hereafter declared unconstitutional or otherwise invalid, the remainder of the act shall not be affected thereby.

Savings clause.

Approved June 2, 1927.

[No. 373.]

AN ACT to amend section twenty-five of chapter thirty of act number three hundred fourteen of the public acts of nineteen hundred fifteen, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms of civil actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act," being section thirteen thousand two hundred fifty-three of the compiled laws of nineteen hundred fifteen, as amended by act number two hundred forty-three of the public acts of nineteen hundred seventeen, and to add a new section there-to to stand as section thirty-one.

The People of the State of Michigan enact:

SECTION 1. Section twenty-five of chapter thirty of act number three hundred fourteen of the public acts of nineteen

Section amended.

APPENDIX S

VII. MISCELLANEOUS.

Repealer. 25. All acts and parts of acts inconsistent with the provisions hereof are repealed in so far as applicable to the matters which are the subject of this act; *provided*, that nothing herein contained shall affect the practice and procedure prescribed under the State Motor Vehicle and Traffic acts.

As to constitutionality of act. 26. In case for any reason any section, part of section or provision of this act shall be questioned in any court, or determined to be unconstitutional or invalid, the same shall not in anywise affect any other section, part of section or provision of this act; *provided*, that in cities bordering on the Atlantic ocean having a population in excess of fifty thousand the salary shall not exceed six thousand dollars.

Proviso. 27. This act shall take effect immediately.
Approved March 30, 1927.

CHAPTER 321.

A Further Supplement to an act entitled "An act for the punishment of crimes" (Revision of 1898), approved June fourteenth, one thousand eight hundred and ninety-eight.

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

Pawnbrokers not to deal in weapons. 1. No pawnbroker shall hereafter sell or have in his possession for sale or to loan or give away, any machine gun, automatic rifle, revolver, pistol, or other firearm, or other instrument of any kind known as a blackjack, slungshot, billy, sandclub, sandbag, bludgeon, metal knuckles, dagger, dirk, dangerous knife, stiletto, bomb or other high explosive. Any pawnbroker violating the provisions of this act shall be guilty of a high misdemeanor and punished accordingly.

Penalty.

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2. Any person who shall commit or attempt to commit any assault, robbery, larceny, burglary, or breaking and entering, when armed with, or having in his possession, any revolver, pistol, or other firearm, or other instrument of any kind known as a blackjack, slungshot, billy, sandclub, sandbag, bludgeon, metal knuckles, dagger, dirk, dangerous knife, stiletto, bomb or other high explosive, shall, in addition to the punishment provided for the crime, be punished on a first conviction by imprisonment for not more than five years; upon a second conviction for a period of not more than ten years; upon a third conviction by imprisonment for a period of not more than fifteen years; upon a fourth or subsequent conviction, by imprisonment for life, or for an additional period of not more than twenty years, in the discretion of the court; *provided, however*, the indictment or allegation shall aver that the person was armed with or had in his possession any such instrument and conviction is had thereon.

Additional
Sentence for
Armed Criminals.

Proviso.

3. In the trial of a person for committing or attempting to commit any crime enumerated in section two hereof, the fact that he was armed with or had in his possession any of the firearms or instruments enumerated in section one hereof without a license to carry the same, shall be prima facie evidence of his intention to commit said crime of violence.

Arms as evidence of intent.

The presence of a firearm in a vehicle is presumptive evidence of possession by all persons occupying or using the vehicle at the time.

Firearms in vehicle.

4. No person who shall have been convicted in this State or elsewhere of any of the crimes enumerated in section two hereof shall purchase, own, or have in his possession or under his control any of the firearms or instruments enumerated in section one hereof. Violation of this section shall be punished by imprisonment for not more than five years.

Convicted person not to have weapons.

Penalty.

5. Every person who manufactures, or who sells at wholesale, any of the firearms or instruments enumerated in section one hereof, shall be registered with the Secretary of State and shall furnish to the Secretary of State such particulars as may be prescribed by law for such registration; *provided*, that if the Secretary

Manufacturers of weapons registered.

Proviso.

of State is satisfied that any applicant for such registration cannot be permitted to carry on business as a manufacturer or wholesale dealer in the firearms or instruments enumerated in section one hereof without danger to the public safety, he may refuse to register that person.

Certificate
furnished.

The Secretary of State shall furnish to every person who is registered under this section, a certificate of registration.

Removal of
name from
registration
list.

If any person desires to have his name removed from registration, or if the Secretary of State is satisfied that any person whose name is registered is no longer carrying on business as such manufacturer or wholesale dealer, or has ceased to have a place of business within the State, or cannot longer be permitted to carry on business as such manufacturer or wholesale dealer without danger to the public safety, he shall, after giving reasonable notice to such manufacturer or wholesale dealer and hearing thereon, cause the name of such person to be removed from registration. Any person aggrieved by the refusal of such State official to register him as such manufacturer or wholesale dealer, or by the removal of his name from registration, shall have a right of appeal to the Supreme Court of the State.

Appeal may be
taken.

Record of
sales.

Every manufacturer and wholesale dealer shall keep a detailed record of each firearm or instrument sold by him. Such record shall include date of sale, name of purchaser, description of arm, and serial number thereof. The information contained in such record shall be available to police and other public officials in the performance of their official duties.

Retail dealers
licensed.

6. No retail dealer shall sell or expose for sale, or have in his possession with intent to sell, any of the firearms or instruments enumerated in section one hereof without being licensed as hereafter provided.

Licenses granted
by Common Pleas
judge.

The Common Pleas judge of any court of this State, may, in his discretion, grant licenses in form prescribed by the Secretary of State, effective for not more than one year from date of issue, permitting the licensee to sell at retail within the said city or town or political subdivision, pistols or revolvers, subject to the follow-

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ing conditions, for breach of any of which the license shall be subject to forfeiture:

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

2. The license or a copy thereof certified by the issuing authority shall be displayed in a conspicuous place on the premises where it can be easily read. License displayed;

3. No pistol or revolver, or imitation thereof, or placard advertising the sale thereof, shall be placed in any window or in any part of said premises where it can be readily seen from the outside. No advertising;

4. No pistol or revolver shall be delivered (a) unless the purchaser shall have obtained a permit to purchase under the provisions of section nine; (b) until seven days shall have elapsed after the application for the permit; (c) unless the purchaser either is personally known to the seller or shall present evidence of his identity; (d) unless the pistol or revolver shall be unloaded and securely wrapped; *provided, however*, a permit to cover a pistol or revolver shall, for the purposes of this section and of section nine of this act, be equivalent to a permit to purchase a pistol or revolver. Delivery to purchaser;

5. A true record of every pistol or revolver sold shall be made in a book kept for the purpose, the form of which shall be prescribed by the Secretary of State and shall be personally signed by the person effecting the sale, and shall contain the date of the sale, the calibre, make, model, and manufacturer's number of the weapon, and the name, address and permit number of the purchaser. Proviso

No license to sell at retail shall be granted except as provided in this section. Record kept by retailer;

Violation of any of the provisions of this section (viz. section six) shall be a misdemeanor. Licensing;

7. Any person who shall knowingly sell any of the firearms or instruments enumerated in section one hereof to a minor under the age of eighteen years, or to a person not of sound mind, or to a drug addict, or to a person who has been convicted of committing or attempting to commit any of the crimes enumerated in section two hereof when armed with any of the firearms or instruments enumerated in section one hereof, shall be guilty of misdemeanor. Penalty.

Penalty for
loaning on
firearms.

8. Any person who loans money secured by mortgage, deposit or pledge of a pistol or revolver shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or both.

Purchaser
must have
permit.

9. No person shall sell a pistol or revolver to another person unless the purchaser has first secured a permit to purchase or carry a pistol or revolver. No person of good character and who is of good repute in the community in which he lives, and who is not subject to any of the disabilities set forth in other sections of this act, shall be denied a permit to purchase a pistol or revolver. The judge of any court within this State (except, however, justices of the peace), the sheriff of a county or the chief of police of a city, town or municipality shall upon application issue to any person qualified under the provisions of this section a permit to purchase a pistol or revolver, and the Secretary of State shall have concurrent jurisdiction to issue such permit in any case, notwithstanding it has been refused by any other licensing official, if in his opinion the applicant is qualified.

By whom
granted.

Application
for permit.

Applications for such permits shall be in form as prescribed by the Secretary of State and shall set forth the name, residence, place of business, age, occupation, sex, color, and physical description of the applicant, and shall state whether the applicant is a citizen, and whether he has ever been convicted of any of the crimes enumerated in section two hereof as defined in this act. Such application shall be signed by the applicant and shall contain as reference the names and addresses of two reputable citizens personally acquainted with him.

Blank forms.

Application blanks shall be obtainable from the Secretary of State and from any other officers authorized to grant such permit, and may be obtained from licensed retail dealers. The application, together with a fee of fifty cents, shall be delivered or forwarded to the licensing authority who shall investigate the same, and unless good cause for the denial thereof shall appear, shall grant said permit within seven days from the date of the receipt of the application. The permit shall be in form prescribed by the Secretary of State and shall be

Fee.

Permit in
triplicate.

issued to the applicant in triplicate. The applicant shall deliver to the seller the permit in triplicate and the seller shall indorse on the back of each copy the make, model, calibre and serial number of the pistol or revolver, sold under the permit. One copy shall then be returned to the purchaser with the pistol or revolver, one copy shall be kept by the seller as a permanent record, and the third copy shall be forwarded by the seller within three days to the Secretary of State. If the permit is not granted, the fee shall be returned to the applicant.

Disposition of copies.

All fees for permits shall be paid into the general fund of the State if the permit be issued by the Secretary of State; to the municipality if the permit be issued by a municipal officer; in all other instances to the general fund of the county wherein the officer acts or the licensee resides or does business.

Disposition of fees.

A person shall not be restricted as to the number of pistols or revolvers he may purchase, if he applies for and obtains permits to purchase the same, but only one pistol or revolver shall be purchased or delivered on each permit.

One pistol to each permit.

10. The granting of permits to carry a revolver, pistol or other instrument, enumerated in section one hereof shall be under and according to the provisions of an act entitled "An act to amend an act entitled 'A further supplement to an act entitled "An act for the punishment of crimes" (Revision of 1898), approved June fourteenth, one thousand eight hundred and ninety-eight,' which supplementary act was approved March eleventh, nineteen hundred and twenty-four," and the supplements thereto and amendments thereof.

Act relative to granting permits.

11. No person shall, without a license therefor issued as provided in the statute referred to in the preceding section, carry a pistol or revolver in any vehicle or concealed on or about his person, except in his dwelling house or place of business or on land possessed by him; *provided, however*, that nothing in this act contained shall be construed in any way to apply to the United States marshal or his deputies, the sheriff, or the undersheriffs of any county, nor to the regularly employed members of any police department, nor to any special policemen appointed by the governing body of any

Carrying pistol without license.

Proviso—exceptions to act.

municipality of this State, nor to any prosecutor or assistant prosecutor of any county, regular fish and game wardens, constable, railway police, canal police, steamboat police, and prosecutor's detectives; nor to any member of the State Police, nor to any motor vehicle inspector; nor to any officer of the Society for the Prevention of Cruelty to Animals; nor to any prison or jail wardens or their deputies; nor to guards while in the employ of any banking or building and loan institution of this State; nor to any court attendant engaged in attending the Circuit Court, Court of Oyer and Terminer, Court of Common Pleas, or General Court of Quarter Sessions, justices of the peace; nor to the members of the Army, Navy or Marine Corps of the United States or of the National Guard when on duty; nor to duly authorized military organizations when under orders, nor to the members thereof when going to or from places of meeting of their respective organizations, carrying the weapons prescribed for such drill, exercise or parade; *and provided, further*, nothing in this act contained shall be construed to apply to any person having a written permit to carry any revolver, pistol or other firearm, when such permit has been obtained pursuant to the provisions of this act; nor to public utility corporations in the transportation of explosives; *provided, however*, that nothing herein contained shall prevent any person from keeping or carrying about his or her place of business, dwelling house or premises, any such revolver, pistol, firearm or other weapon, or from carrying the same from any place of purchase to his or her dwelling house or place of business, or from his or her dwelling house or place of business to any place where repairing is done, to have the same repaired and returned or to carry a gun, rifle or knife in the woods or fields or upon the waters of the State for the purpose of hunting or target practice. Whenever the words "pistol" or "revolver" are used in this act such words shall include a shotgun, rifle or other firearm with over-all length less than twenty-six inches.

12. Any person who shall give or cause to be given false information in applying for a permit to purchase or a license to carry a pistol or revolver, or in purchasing

Proviso.

Proviso

Definition of pistol.

Penalty for false information.

CHAPTER 321, LAWS OF 1927.

749

or otherwise acquiring delivery of a pistol or revolver, shall be deemed to be guilty of a misdemeanor and shall be subject to the same penalty as is provided for the crime of misdemeanor in this State.

13. It shall be unlawful within this State to manufacture, sell, purchase or possess, except for military or police purposes, any muffler, silencer or device for deadening or muffling the sound of a firearm when discharged. Any violation of this section shall be a misdemeanor.

Mufflers
forbidden.

14. Any person, except a duly appointed law enforcement officer, or a member of the Army, Navy, or Marine Corps of the United States, or of the National Guard or organized reserves when on duty, who possesses, or carries on or about his person or in a vehicle, a bomb or bomb shell, except for blasting or other commercial use, or who, with intent to use the same unlawfully against the person or property of another, possesses or carries any explosive substance, or any explosive liquid, gas or like substance, shall be guilty of a high misdemeanor.

As to bombs.

15. No person shall change, alter, remove or obliterate the name of the maker, model, manufacturer's number, or other mark of identification of any pistol or revolver. Any violation of this section shall be a misdemeanor.

Not alter
maker's name
and number.

16. No property right shall exist in any firearms unlawfully possessed, carried or used, and all such firearms are hereby declared to be nuisances and forfeited to the State. When such forfeited firearms shall be taken from any person, they shall be surrendered to the sheriff of the county in which taken or to the head of the police department in cities or to the office of the prosecutor of the county. *Provided, however,* that if any such firearms shall be found to be the property of an innocent owner, it shall be returned to such owner if and when no longer needed for evidential purposes.

As to property
right in fire-
arms.

Proviso.

17. In the case of the conviction under this act of a person who is not a citizen of the United States, it shall be the duty of the clerk of the court in which such conviction is secured to certify the fact of such conviction to the proper officer of the United States Government having supervision of the deportation of aliens.

Conviction of
aliens.

Antiques, or-
naments ex-
cepted.

18. 'This act shall not apply to antique pistols unsuit-
able for use as firearms and possessed as curiosities or
ornaments.

Expiration of
previous
licenses.

19. All licenses heretofore issued within this State
permitting the sale or purchase of pistols or revolvers
shall expire ninety days after the passage of this act.

Repealer.

20. All acts or parts of acts inconsistent herewith
are hereby repealed.

Approved March 30, 1927.

CHAPTER 322.

An Amendment amending an act entitled "An act re-
specting coroners" (Revision), approved March
twenty-seventh, one thousand eight hundred and
seventy-four.

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

Section 26
amended.

1. The twenty-sixth section of the act to which this
is amendatory be and the same is hereby amended to
read as follows:

Fees allowed
coroners.

26. That the following fees shall be allowed:

To coroner, or person acting in his stead, for view-
ing the body five dollars;

Mileage per mile, going and returning, ten cents, or
actual carfare;

Sitting with jury at inquest each day, three dollars.

Taking deposition of witnesses at inquest, ten cents
per folio, counting not more than two folios of manu-
script to each page;

For every witness attending such inquest, when resi-
dent in the county, fifty cents for each day, and when
from a foreign county, one dollar a day, in which shall
be included his or her going to and returning from the
same, allowing one day for every thirty miles from
and to his or her place or residence;

Jurors' fees.

Jurors' fees, twenty-five cents for each case; but in
cases of special importance the board of chosen free-

APPENDIX T

CHAPTER 792

AN ACT to amend the penal law, in relation to the sale, possession, use and licensing of firearms

Became a law September 22, 1931, with the approval of the Governor. Passed, on message of necessity, three-fifths being present

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighteen hundred and ninety-six of the penal law is hereby amended to read as follows:

§ 1896. **Making and disposing of dangerous weapons.** A person who manufactures, or causes to be manufactured, or sells or keeps for sale, or offers, or gives, or disposes of any instrument or weapon of the kind usually known as a blackjack, a slungshot, billy, sandclub, sandbag, bludgeon, or metal knuckles, to any person; or a person who offers, sells, loans, leases, or gives any gun, revolver, pistol or other firearm or any airgun, springgun or other instrument or weapon in which the propelling force is a spring or air or any instrument or weapon commonly known as a toy pistol or in or upon which any loaded or blank cartridges are used, or may be used, or any loaded or blank cartridges or ammunition therefor, to any person under the age of sixteen years, is guilty of a misdemeanor. A person who sells or keeps for sale, or offers, or gives, or disposes of any instrument or weapon of the kind usually known as a machine-gun to any person is guilty of a felony, except that the manufacture of machine-guns as merchandise and the sale and shipment thereof direct to regularly constituted or appointed state or municipal police departments, sheriffs, policemen, and other peace officers, and to state prisons, penitentiaries and county jails, and to military and naval organizations shall be lawful.

§ 2. Subdivision one of section eighteen hundred and ninety-seven of the penal law is hereby amended to read as follows:

1. A person who attempts to use against another an imitation pistol, or who carries, or possesses any instrument or weapon of the kind commonly known as a black-jack, slungshot, billy, sandclub, sandbag, metal knuckles, bludgeon, or who, with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, imitation pistol, sawed off shot-gun, or any other dangerous or deadly instrument, or weapon, is guilty of a misdemeanor, and if he has been previously convicted of any crime he is guilty of a felony. This subdivision shall not apply to the use or possession of an instrument or weapon commonly known as a machine-gun.

§ 3. Section eighteen hundred and ninety-seven of the penal law is hereby amended by adding a new subdivision, to be subdivision one-a, to read as follows:

1 a. A machine-gun is a weapon of any description, irrespective of size, by whatever name known, loaded or unloaded, from which

a number of shots or bullets may be rapidly or automatically discharged from a magazine with one continuous pull of the trigger. A person who possesses or uses such machine-gun is guilty of a felony. The presence of such machine-gun in any room, dwelling, structure or vehicle shall be presumptive evidence of its illegal possession by all the persons occupying the place where such machine-gun is found. This subdivision shall not apply to possession of a machine-gun as authorized by the preceding section. Nor shall it apply to the possession or use of machine-guns in the discharge of their official duties by the state police, the warden, superintendent, headkeeper or deputy of any state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or held as witnesses in criminal cases, sheriffs, policemen, or other peace officers, nor to the possession or use of machine-guns by a person when on duty in the military or naval service of the United States or of this state, or in the postal service of the United States, nor to the possession by common carriers while being transported direct to any police department, military or naval organization, or person authorized by this section to possess and use the same.

§ 4. Section eighteen hundred and ninety-seven of the penal law is hereby amended by adding a new subdivision, to be subdivision nine-a, to read as follows:

9-a. No license shall be issued by the police commissioner of the city of New York except to a resident of that city. Outside of the city of New York, no license shall be issued by a judge or justice of a court of record except to a resident of the county in which the office of such judge or justice is located. A license may be issued, however, to a qualified person principally employed in such city or county and to a merchant or storekeeper having his principal place of business in such city or county.

§ 5. Subdivision ten of section eighteen hundred and ninety-seven of the penal law is hereby amended to read as follows:

10. The expense of providing a judge, justice or officer with blank applications, licenses and record books for carrying out the provisions of this section shall be a charge against the county, or the city of New York in the case of the police commissioner of such city which blank applications, licenses and record books shall, except in the city of New York, be approved as to form by the superintendent of state police. Such judge, justice or officer shall collect a fee of fifty cents for each license issued and shall pay the same into the treasury of the county or of such city, as the case may be. The application for any such license, if the license be granted, shall be filed by such judge, justice or officer in the office of the city or county clerk of the city or county, as the case may be, where the applicant resides, and in addition, a duplicate copy of the application shall be filed in the office of the executive department, division of state police, within ten days after the issuance of the license. Every such license shall specify the weapon or weapons for which the license

is issued and whether to be carried on the person or possessed on the premises and shall expire on the ensuing first day of January, provided, however, that any such license may be limited as to time to expire on a date fixed in the license prior to such date and provided, however, that, except in the city of New York, a license to a householder to possess a weapon upon certain premises shall not be limited in time but shall be revocable as herein provided. Each license issued to possess a weapon not to be carried on the person shall specify the place where the licensee shall possess the same. Each application for a license to carry a weapon on the person shall be accompanied by a photograph of the applicant in duplicate which photograph shall have been taken within thirty days prior to the filing of such application and one copy of which shall be attached to the license and the other remain with the application. Before a license is issued as provided in this section the officer to whom the application is made shall ascertain if the applicant has been convicted of crime and shall cause the finger prints of such applicant, except he be a householder, to be taken in duplicate. One original of such finger prints shall be filed in the office of the executive department, division of state police, within ten days after the license is issued and one shall remain on file in the office of the officer taking the same. No such finger print may be inspected by any person, other than a peace officer, except on order of a judge or justice of a court of record on such notice, if any, to the person to whom the license was issued as the judge or justice may determine. A person who has been convicted in this state or elsewhere of a felony or any one of the seven misdemeanors mentioned in section five hundred and fifty-two of the code of criminal procedure shall not be entitled to a license under this section. A license may be revoked and cancelled at any time by the police commissioner or elsewhere than in the city of New York, by any judge, or justice of a court of record. But if before the date of the expiration thereof, providing the license shall not have been cancelled or revoked, the licensee apply for a renewal, the term of such license shall thereby be extended until the application for renewal shall have been disposed of by such commissioner, judge or justice.

§ 6. Section eighteen hundred and ninety-seven of the penal law is hereby amended by adding a new subdivision, to be subdivision ten-a, to read as follows:

10-a. Every person while carrying or in possession of a weapon for which a license shall have been issued, shall have on his person the license issued to him under this section, and shall exhibit the same for inspection upon demand, to any policeman, state trooper or other peace officer. The failure of any person to exhibit his license as provided in this subdivision shall be presumptive evidence that such person is not duly licensed and shall cause a forfeiture of his license.

§ 7. Every license heretofore issued pursuant to section eighteen hundred and ninety-seven of the penal law, except to a house-

holder under subdivision eight thereof, and then in force, shall expire on the first day of October, nineteen hundred thirty-one.

§ 8. This act shall take effect October first, nineteen hundred thirty-one.

CHAPTER 793

AN ACT to amend the penal law, in relation to disorderly conduct

Became a law September 22, 1931, with the approval of the Governor. Passed, on message of necessity, three-fifths being present

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seven hundred and twenty-two of the penal law is hereby amended to read as follows:

§ 722. **Disorderly conduct.** Any person who with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned, commits any of the following acts shall be deemed to have committed the offense of disorderly conduct:

1. Uses offensive, disorderly, threatening, abusive or insulting language, conduct or behavior;
2. Acts in such a manner as to annoy, disturb, interfere with, obstruct, or be offensive to others;
3. Congregates with others on a public street and refuses to move on when ordered by the police;
4. By his actions causes a crowd to collect, except when lawfully addressing such a crowd;
5. Shouts or makes a noise either outside or inside a building during the night time to the annoyance or disturbance of any considerable number of persons;
6. Interferes with any person in any place by jostling against such person or unnecessarily crowding him or by placing a hand in the proximity of such person's pocket, pocketbook or handbag;
7. Stations himself on the public street or follows pedestrians for the purpose of soliciting alms, or who solicits alms on the public streets unlawfully;
8. Frequents or loiters about any public place soliciting men for the purpose of committing a crime against nature or other lewdness;
9. Causes a disturbance in any street car, railroad car, omnibus or other public conveyance, by running through it, climbing through windows or upon the seats, or otherwise annoying passengers or employees therein;
10. Stands on sidewalks or street corners and makes insulting remarks to or about passing pedestrians or annoys such pedestrians;
11. Is engaged in some illegal occupation or who bears an evil reputation and with an unlawful purpose consorts with thieves and criminals or frequents unlawful resorts; provided, however,

APPENDIX U

ACT 25	RELATING TO TRUST COMPANIES.	
ACT 26	SALE, TRANSFER, ETC., OF FIREARMS.	35

ACT 25

[H. B. No. 100]

AN ACT TO AMEND SECTION 3487 OF THE REVISED LAWS OF HAWAII 1925, RELATING TO TRUST COMPANIES.

Be it Enacted by the Legislature of the Territory of Hawaii:

SECTION 1. Section 3487 of the Revised Laws of Hawaii 1925, is hereby amended by adding thereto at the end thereof the following:

"Provided that the treasurer may, whether before or after making such application, permit such company to continue or resume business upon its effecting appropriate remedies within such time and upon such terms and in such manner as he shall approve, as by making good the impairment of its capital, or by reducing its capital to the extent of the impairment but not below the amount required by law or by selling all or any of its assets or capital stock to or merging with any trust company, whose capital has not been impaired, which will take over and assume its liabilities, or by making satisfactory arrangements with its creditors, or by reorganization or otherwise."

SECTION 2. This Act shall take effect upon its approval.

Approved this 2nd day of January, A. D. 1934.

LAWRENCE M. JUDD,
Governor of the Territory of Hawaii.

ACT 26

[H. B. No. 70]

AN ACT REGULATING THE SALE, TRANSFER AND POSSESSION OF FIREARMS AND AMMUNITION AND REPEALING SECTIONS 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146 AND 2147, REVISED LAWS OF HAWAII 1925, ACT 206, SESSION LAWS OF HAWAII 1927, AND ACT 120, SESSION LAWS OF HAWAII 1933.

Be it Enacted by the Legislature of the Territory of Hawaii:

SECTION 1. Sections 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146 and 2147 of the Revised Laws of Hawaii 1925, Act 206, Session Laws of Hawaii 1927, and Act 120, Session

Laws of Hawaii 1933, and all other laws or parts of laws in conflict with the provisions of this Act, are hereby repealed.

SECTION 2. Definitions. "Firearm" as used in this Act means any weapon, the operating force of which is an explosive. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannon and sub-machine guns. The specific mention herein of certain weapons does not exclude from the definition other weapons operated by explosives.

"Crime of violence" as used in this Act means any of the following crimes, namely: murder, manslaughter, rape, kidnapping, robbery, burglary, and those certain crimes set forth in Sections 4130 and 4131 of said Revised Laws.

"Pistol" or "revolver" as used in this Act, means and includes any firearm of any shape whatsoever with barrel less than twelve inches in length and capable of discharging loaded ammunition or any noxious gas.

"Person" as used in this Act includes individuals, firms, corporations and copartnerships, and includes wholesale and retail dealers.

SECTION 3. Every person residing or doing business or temporarily sojourning within the Territory on the effective date of this Act who possesses a firearm of any description, whether usable or unusable, serviceable or unserviceable, modern or antique, not already registered in the name of the present possessor, or who possesses ammunition of any kind or description, except shotgun ammunition, shall, within ten days of said effective date, register the same with the chief of police of the city and county of Honolulu or the sheriff of the county, other than the city and county of Honolulu, wherein is his place of business, or if there be no place of business, his residence, or if there be neither place of business nor residence, his place of sojourn.

Every person arriving in the Territory after the effective date of this Act, who brings with him firearms or ammunition of the type and description set out in this section, shall register the same in similar manner within forty-eight hours after arrival.

The registration shall be on such forms as may be designated by the bureau of crime statistics and shall include a description of the class of firearm or firearms and ammunition owned by him, or in his possession, together with the name of the maker and the factory number, if known or ascertainable, and the source from which possession was obtained.

Within sixty days after the effective date of this Act, the chief of police of the city and county of Honolulu and the sheriffs of the several counties, other than the city and county of Honolulu,

shall furnish the bureau of crime statistics a record of all registrations now on file in their respective offices. Within ten days after the end of each month the chief of police of the city and county of Honolulu and the sheriffs of the several counties, other than the city and county of Honolulu, shall furnish to the bureau of crime statistics duplicate copies of all registrations made during the preceding month.

No fee shall be charged for such registration.

Any person who fails to comply with the provisions of this section shall be punished by a fine of not more than two hundred and fifty dollars (\$250.00).

SECTION 4. No person residing or doing business or temporarily sojourning within the Territory shall take possession of any firearm of any description, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior Acts or unregistered, or of any ammunition of any kind or description, except shotgun ammunition, either through sale, gift, loan, bequest, or otherwise, whether procured in the Territory or imported by mail, express, freight, or otherwise, until he shall first have procured from the chief of police of the city and county of Honolulu or the sheriff of the county, other than the city and county of Honolulu, wherein is his place of business, or if there be no place of business, his residence, or if there be neither place of business nor residence, his place of sojourn, a permit to acquire as prescribed herein. The chief of police of the city and county of Honolulu or the sheriffs of the several counties, other than the city and county of Honolulu, are hereby authorized, within their discretion, to issue permits, within their respective jurisdictions, to acquire rifles, pistols, and revolvers to citizens of the United States, of the age of twenty years or more, and to duly accredited official representatives of foreign nations. Permits to acquire ammunition for rifles, pistols and revolvers acquired prior to the effective date of this Act and registered in accordance with the provisions hereof, may be granted persons of the age of twenty years or more irrespective of citizenship. Permits to acquire shotguns may be granted to persons of the age of sixteen years or more, irrespective of citizenship. Applications for such permits shall be signed by the applicant upon forms to be specified by the bureau of crime statistics, and shall be signed by the issuing authority. One copy of such permit shall be retained by the issuing authority, as a permanent official record. Such permit shall be void unless used within ten days after the date of issue. In all cases where possession is acquired from another person in the Territory the permit shall be signed in ink by the holder thereof and shall thereupon be delivered to and taken up by the person selling, loaning, giving or delivering the firearm or ammunition, who shall make entry thereon setting

forth in the space provided therefor the name of the person to whom the firearm or ammunition was delivered, and the make, style, caliber, and number, as applicable. He shall then sign it in ink and cause it to be delivered or sent by registered mail to the issuing authority within forty-eight hours. In case receipt of such firearms or ammunition is had by mail, express, freight, or otherwise, from sources outside the Territory, the person to whom such permit has been issued, shall make the prescribed entries thereon, sign in ink, and cause it to be delivered or sent by registered mail to the issuing authority within forty-eight hours after taking possession of the firearms or ammunition. No person shall sell, give, loan, or deliver into the possession of another any firearm or ammunition except in accordance with the provisions of this section.

Any person acquiring a firearm or ammunition under the provisions of this section shall, within five days of acquisition, register same in the manner prescribed by Section 3 of this Act.

No fee shall be charged for permits under this section.

Any person who violates any provision of this section shall be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than one year, or by both.

SECTION 5. Any person who has procured a hunting license under the provisions of Sections 2028-2032, inclusive, of the Revised Laws of Hawaii 1925, as amended, shall, while actually engaged in hunting or while going to or from the place of hunting, be authorized to carry and use any lawfully acquired rifle or shotgun and suitable ammunition therefor.

SECTION 6. The possession of all firearms and ammunition shall be confined to the possessor's place of business, residence, or sojourn, or to carriage as merchandise in a wrapper from the place of purchase to the purchaser's home, place of business or place of sojourn, or between these places and a place of repair, or upon change of place of business, abode, or sojourn, except as provided in Sections 5 and 8; provided, however, that no person who has been convicted in this Territory or elsewhere, of having committed or attempted a crime of violence, shall own or have in his possession or under his control a pistol or revolver or ammunition therefor. Any person violating any provision of this section shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one year, or by both.

SECTION 7. The manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of any machine guns, sub-machine guns, automatic rifles, cannon, mufflers, silencers or devices for deadening or muffling the sound of discharged firearms, or any bomb or bombshell is prohibited. Any person convicted of a viola-

tion of this section shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one year, or by both.

SECTION 8. In an exceptional case, when the applicant shows good reason to fear injury to his person or property, the chief of police of the city and county of Honolulu or the sheriff of a county, other than the city and county of Honolulu, may grant a license to a citizen of the United States or a duly accredited official representative of a foreign nation, of the age of twenty years or more, to carry concealed on his person within the city and county or the county in which such license is granted, a pistol or revolver and ammunition therefor. Unless renewed, such license shall automatically become void at the expiration of one year from date of issue. No such license shall issue unless it appears that the applicant is a suitable person to be so licensed, and in no event to a person who has been convicted of a felony, or adjudged insane, in the Territory or elsewhere. All licenses to carry concealed weapons heretofore issued shall expire at midnight on the effective date of this Act. No person shall carry concealed on his person a pistol or revolver or ammunition therefor without being licensed so to do under the provisions of this section.

For each such license there shall be charged a fee of ten dollars (\$10.00), which shall be covered into the treasury of the city and county or the county in which such license is granted.

Any person violating this section shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one year, or by both.

SECTION 9. No person shall wilfully alter, remove, or obliterate the name of the make, model, manufacturer's number or other mark of identity of any firearm or ammunition. Possession of such firearm or ammunition upon which any mark of identity shall have been altered, removed, or obliterated shall be presumptive evidence that such possessor has altered, removed or obliterated the same. Any person who violates the provisions of this section shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than one year, or by both.

SECTION 10. In the trial of a person for committing or attempting to commit a crime of violence, the fact that he was unlawfully armed with a firearm shall be prima facie evidence of his intent to commit said crime of violence.

SECTION 11. The provisions of Sections 6, 7 and 8 of this Act shall not apply to members of police departments, sheriffs, marshals, members of military and naval forces of the Territory and

of the United States, mail carriers, law enforcement officers, or persons employed by the Territory or subdivisions thereof or the United States whose duties require them to be armed, while such persons are in the performance of their respective duties, or while going to and from their respective places of duty, nor shall the provisions of Sections 3 and 4 of this Act apply to such firearms or ammunition as are a part of the official equipment of any Federal agency.

SECTION 12. All firearms or ammunition carried or possessed contrary to this Act shall be forfeited to the Territory, and shall be destroyed by the chief of police of the city and county of Honolulu or the sheriff of the county, other than the city and county of Honolulu, in whose jurisdiction they are forfeited.

SECTION 13. All permits and licenses provided for under this Act may be revoked, for good cause, by the issuing authority or by the judge of any court.

SECTION 14. Within ten days after the last day of each month each of the authorities herein authorized to issue or revoke permits and licenses shall make a report to the bureau of crime statistics as of the last day of the preceding month of all permits and licenses issued or revoked by him. Said report shall be in such manner and in such form as the bureau of crime statistics shall prescribe.

SECTION 15. If any person, in complying with any of the requirements of this Act, shall give false information, or offer false evidence of his identity, he shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one year, or by both.

SECTION 16. If any section, subsection, sentence, clause or phrase of this Act is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have approved this Act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

SECTION 17. This Act shall take effect upon its approval.

Approved this 9th day of January, A. D. 1934.

LAWRENCE M. JUDD,
Governor of the Territory of Hawaii.

APPENDIX V

Ch. 8. *Revenue.*

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16. *When Collector to Strike off Land to the State.* Whenever any land shall be offered for sale for taxes due thereon, and at such sale the amount of taxes due thereon shall not be bid for the same, it shall be the duty of the collector to bid such lands in for the state, and execute and file in the Probate clerk's office, a proper deed therefor, subject to the owner's rights of redemption, as in other cases; and it shall be the further duty of such collector, to make an annual return to the Auditor of Public Accounts, of all lands purchased at such sale for the state, and the amount of taxes secured by such purchases.

See a. 21; c. 20, a. 20, 21.

ART. 14. *Amendment of Article Ten—Feb. 21, 1842.*

The second section of the above-recited Act is so amended as to authorize the oath therein required to be taken by tax collectors, to be administered by any justice of the peace, within the county for which such collector may be elected; and upon the certified copy of such oath, from the justice of the peace, the Treasurer or Auditor may be authorized to receive the claims or warrants in settlement of the collector's account.

Time and relief to county and collector of Carroll, as to assessment, &c., of 1841, Feb. 16th, 1842. . 165.

Offices of assessor and collector of Marion united, Feb. 28th, 1842. . 238.

See a. 17, § 12.

ART 15. *An Act to amend the Revenue Laws of this State, July 26, 1843 . . 41 to 48.*

§ 1. Repealing 1841, s 16 . . 58.

2. *Notice of Collector's Sale to be as that of Sheriff for sale of Realty.* So much of the the thirty-seventh section of "An act to provide for therevenue of this State, approved Feb. 6, 1841," as requires the collectors of taxes to advertise tax sales in a newspaper, is hereby repealed; and all sales of real estate distrained for taxes shall be made in like manner and upon like notice as now required by law upon sales of real estate made by sheriff's upon executions.

See a. 9 s 37—a. 17, s 26—a. 21.

4. *Fifty or one hundred per centum for Redemption of Land.* So much of the fifteenth section of 'An act, supplementary to an act to provide for the revenue of this State, approved February 6, 1841,' as authorizes the owner of lands sold for taxes to redeem the same by paying the purchaser the sum of money paid by him for the taxes and costs of sale, together with sixteen per cent. per annum upon said sum, is hereby so amended as to require the payment of fifty per centum upon said sums, if redeemed within twelve months, and if not within twelve months, one hundred per centum.

See act 1846. . 155—a. 12, s 15—a. 17, s 27, 28, 59—a. 21—c. 20, a 20, 21.

7. *Sheriff to be Collector after first of November—his qualifications, duties, and liabilities accordingly.* The office of tax collector, from and after the first day of November next, shall be abolished, and from and after that time all the duties required by law of the tax collector shall be performed by the sheriffs of the several counties, who shall receive for their services three per cent. on the amount by them collected, and shall be liable for a failure or neglect of any duty required by law, or for embezzlement or conversion to their own use of any state or county taxes to any amount, to the same penalties now prescribed by law against tax collectors: and besides the bond now required by law, the sheriff shall give another bond for collection of taxes, in the same penalty, and conditioned in manner now prescribed by law for bonds of tax collectors.

Offices again separated, February 24, 1844 s. 12, a, 16. But see March 5, 1846, a. 17, s 12.

The other sections of this act, of a general nature, have been re-enacted or superseded. They make several provisions of local and particular relief.

ART. 16. *An Act to Amend and Reduce into one the several Acts in relation to the Revenue of this State, and for other purposes*—February 4, 1844 . . 57 to 86.

§ 1. *Rates of Taxation.* The following taxes shall be assessed and collected within this state, to wit: An *ad valorem* tax of three-tenths of one per cent. on all lands of this state, not excepted by the ordinance admitting this state into the Union, or specially exempted by provisions of this act—on all money loaned at interest by individuals, or employed by them in the purchase of notes, bonds, checks, bills of credit of any description whatever as security for money advanced—on all goods, wares, and merchandize sold by any regular merchant—on all bank stock, subscribed for in any incorporated bank in this state, which shall not have paid a bonus for its charter, or been exempted by the provisions thereof (except stock subscribed for and owned by the state, or some incorporated literary or charitable institution.) An *ad valorem* tax of two and one-half per cent. on all merchandize sold by an auctioneer or transient vender of goods; an *ad valorem* tax of one per cent, on each pleasure-carriage, watch, and clock (except such as are kept for sale by merchants and artisans.) A tax of ten dollars on each nine or ten pin alley, or any alley of the same kind kept for public play; a tax of fifty dollars per annum on each theatre and each race track; and one dollar on each and every Bowie knife; a tax of one cent on each head of cattle over the number of twenty owned by any one individual; a poll tax of fifty cents on every free white male between the ages of twenty-one and fifty years; a tax of one dollar and a half on each and every free colored male between the age of twenty one and fifty years; and of seventy-five cents for each and every slave under sixty and over five years of age; and on each slave under the age of five years, twenty-five cents; an *ad valorem* tax of two per cent. on all gold or silver above the amount of fifty dollars manufactured otherwise than into coin, except jewelry worn about the person, and such as is kept for sale by merchants or artisans; an *ad valorem* tax of three-tenths of one per cent., on each piano; an *ad valorem* tax of one per cent. on each race, saddle, or carriage horse, and each horse kept by livery-stable keepers for hire: a *ad valorem* tax of one-fourth of one-per cent. on all public toll ferries, bridges, and turnpikes; a tax of two dollars on each duelling or pocket pistol, except such as are kept for sale by merchants or artisans, or kept for use by military companies; for each stallion or jackass, for whose services as such money or other valuable thing is received, a sum equal to the price of one mare, to be demanded and collected at any time during the season by the assessor, who shall pay over the same to the tax collector.

Tax on slaves and land changed a. 17, s. 1.

6. *In what County Person and Property Assessed.* Every person shall be assessed in the county in which he resides at the time of assessment, for each and every article and item of taxation which he or she is liable to pay under the provisions of the first section of this act: and when the line between two counties divides a tract of land, it shall, if occupied, be assessed in the county in which the occupant resides; if unoccupied, each part shall be assessed in the county in which the same may lie; and all personal property owned by any person in any county other than that of his or her residence, shall be assessed in the county in which the same is situated; and if he or she