

THE  
STATUTES OF OHIO

AND OF THE  
NORTHWESTERN TERRITORY,

ADOPTED OR ENACTED

FROM 1788 TO 1833 INCLUSIVE:

TOGETHER WITH

THE ORDINANCE OF 1787;

THE CONSTITUTIONS OF OHIO AND OF THE UNITED STATES,

AND VARIOUS PUBLIC INSTRUMENTS AND ACTS OF CONGRESS:

ILLUSTRATED BY

A PRELIMINARY SKETCH OF THE HISTORY OF OHIO;

NUMEROUS REFERENCES AND NOTES,

AND COPIOUS INDEXES.

VOLUME I.

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EDITED  
BY SALMON P. CHASE.

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CINCINNATI:  
PUBLISHED BY COREY & FAIRBANK.  
1833.

Repealed, T.  
L. c. 66, § 8.

CHAP. XII.—An act prohibiting the sale of spirituous and other intoxicating liquors to soldiers in the service of the United States, being within ten miles of any military post within the territory of the United States northwest of the river Ohio; and to prevent the selling or pawning of arms, ammunition, clothing, and accoutrements.

Prohibition of  
sale of spirituous  
liquors to  
non-commissioned  
officers,  
&c.

§ 1. *Be it enacted*, That if any person being within ten miles of any encampment, post, fort or garrison, or hospital for the convalescents thereof now, or hereafter to be formed, established or erected within this territory, and occupied, garrisoned, or possessed by regular troops in the service of the United States, or of this territory, shall give, sell, exchange or furnish, or cause or procure to be given, sold, exchanged, or furnished, to any non-commissioned officer or private soldier (knowing him to be such) serving in or belonging to any encampment, post, fort, garrison, or hospital as aforesaid, any spirituous or other intoxicating liquor or drink, be the quantity more or less, without an order in writing previously obtained from a commissioned officer serving with the same troops, he or she so offending, shall on conviction, forfeit and pay to the use of the party first informing (or to the use of the county wherein the offence is committed, if the prosecution be at the suit, and on behalf of the United States) the sum of two dollars for every gill of such liquor, or drink so furnished, without an order as aforesaid, to be recovered before any two justices of the peace for the county wherein the offence shall be committed, in case the aggregate sum, so to be forfeited do not exceed twenty dollars, or if otherwise by action of debt or information in any court of record. *Provided always*, That nothing hereinbefore contained shall be construed to restrain the surgeon or surgeon's mate, having the care of the convalescents, in any such hospital or hospitals, from procuring for the use thereof any liquor or drink, he may deem needful.

Penalty on pur-  
chasing their  
arms, &c.

§ 2. *And be it further enacted*, That if any person shall presume to bargain for, purchase, or receive in pledge, or as a gift, or cause or procure to be bargained for, purchased, or received in pledge or as a gift, on any pretence whatever, all or any part of the public arms, ammunition, clothing or accoutrements pertaining to any non-commissioned officer or private soldier in the service aforesaid (knowing him to be such) he or she so offending, shall on conviction, forfeit and pay for the first offence treble the value of the articles so purchased or received, the same to be recovered with costs, by action of debt or information, in any court of record, one half to the informer, and the other half to the United States, or the whole to the United States, where prosecution shall be first instituted on the public behalf alone: and for every repetition of the like offence by the same person, he or she so offending again, shall forfeit and pay in like manner treble the value of the articles purchased or received as aforesaid, together with costs, and shall moreover suffer imprisonment for a term not exceeding one month.

Penalties here-  
in, how dispos-  
ed of.

This act shall commence, and be in force from the first day of January next ensuing. [*Passed at Vincennes, July 26, 1790.*]

Repealed, T.  
L. c. 66, § 9.

CHAP. XIII.—An act for suppressing and prohibiting every species of gaming for money or other property, and for making void all contracts and payments made in consequence thereof, and also for restraining the disorderly practice of discharging fire arms at certain hours and places.

Preamble.

Whereas the population, happiness and prosperity of all countries, especially infant communities, necessarily depend upon the sobriety and industry of the people, and their attention to the moral and political duties of life, without which neither the great ends of society can be answered, nor the blessings of good government be felt. And whereas many pernicious games have been publicly practised in this territory, tending to the corruption of morals and the increase of vice and idleness, and by which the honest and unsuspecting citizen may be defrauded, and deserving families be reduced to beggary and want.

Penalty on set-  
ting up gaming  
tables, &c.

§ 1. *Be it therefore enacted*, That if any person or persons within this territory, shall on his, her or their own account, or on the account of any other person or persons, publicly set up, permit, or suffer, or cause or procure to be publicly set up, permitted or suffered, any species of gaming, play or pastime whatever, whereby money or other property shall be betted, won or lost, or by reason whereof the party so publicly permitting the same, shall or may derive any benefit or advantage, in money, goods or other property, as a consideration for permission to play or bet thereat, each and every such person so offending shall forfeit and pay for every such offence of which he or

she shall be convicted, the sum of two hundred dollars, to be recovered with costs, by information, indictment, or action of debt, in any court of record where the same shall be cognizable.

§ 2. *And be it further enacted*, That if any tavernkeeper or innkeeper shall expose, permit or suffer to be played at, in his or her dwelling-house, or in any out-house, or within or under any booth, arbor, shed or other place pertaining to such dwelling-house, or being in his or her tenure or possession, any billiard, faro, E. O. hazard, or other gaming tables, or any other machine, instrument, device, or invention whatsoever, by reason whereof money or other property shall be betted, won or lost, or whereby he or she shall derive any benefit or advantage, in money or other property, as a consideration for permitting others to play or bet thereat. Then, and in every such case, the party so offending shall be deprived of his or her license, and moreover forfeit and pay to the use of the territory, the sum of one hundred dollars, to be recovered with costs, by information, indictment, or action of debt in any court of record where the same shall be cognizable. *Penalties how disposed of.* *Provided always*, That where in any of the cases aforesaid, any person shall within three months from the cause of action, first institute an information, quitam, or bring an original action of debt to recover either of the penalties hereinbefore given, and shall prosecute the same to effect, without delay or discontinuance, such person shall be entitled to receive and have a moiety of such penalty, the other moiety thereof shall go to the use of this territory.

§ 3. *And be it further enacted*, That every promise, agreement, note, bill, bond, or other contract to pay, deliver or secure money, goods, or estate, won or obtained, either by playing at cards, dice-tables, tennis-bowls, or other games, chances, sports, or pastimes, or by laying or betting, on the hands, or sides of any person or party, who shall play at such or any other games, chances, sports, or pastimes, or which shall be won or obtained, by laying or betting on any horse-race, cock-fight, or other sport, pastime, game, or exercise of skill or chance, or which is intended to repay or secure money or other thing lent or advanced for any of the purposes aforesaid, or lent or advanced at the time of such gaming, sporting, or betting, to a person then actually betting, laying, or adventuring money or other thing, shall and the same is and are hereby declared to be null and void. *Notes, &c. given for money won at cards, &c. declared void; and any conveyances, &c. for money won to enure to heirs of the grantor, &c.* And any conveyance or lease of lands, tenements, or hereditaments, sold, demised, or mortgaged, and any sale, mortgage or other transfer of personal estate, to any person for his use, to satisfy or secure money or other thing by him won of, or lent, or advanced to the seller, lessor, or mortgagor, or whereof money or other thing, so won or lent, or advanced, shall be part, or all of the consideration money, shall enure to the heir or heirs of such mortgagor, lessor, bargainor or vendor, and shall vest the whole estate and interest in such person, in the lands, tenements or hereditaments so leased, mortgaged, bargained or sold, and in the personal estate so sold, mortgaged or otherwise transferred to all intents and purposes, in the heir or heirs of such lessor, bargainor, mortgagor or vendor, as if such lessor, bargainor, mortgagor or vendor had died intestate.\*

*Provided always nevertheless*, That nothing so far in this act contained, shall be deemed or construed to restrain or impair the natural and necessary liberty which all good citizens, or subjects without distinction, may of right claim and enjoy in the peaceable exercise of any useful or rational amusement, recreation, sport or pastime, whether the same be used to promote health, pleasure, or a laudable emulation to excel in feats of skill, strength, adroitness, or otherwise howsoever. *Provided*, That neither money nor other property be betted, won or lost thereby, nor any consideration of money or other property be taken or given for or by reason of the same.

And whereas a disorderly practice prevails in many parts of this territory of discharging fire-arms in the streets and vicinity of cities, towns, villages and stations, and also of discharging fire-arms by night in and near such cities towns, villages and stations, by means whereof the lives of citizens are endangered, alarms are excited, and the repose and peace of the community disturbed.

For remedy of which abuses,

\* Under this act, the heirs took the estate conveyed on a gambling consideration subject to the debts of the grantor. When land, having been conveyed for a gambling consideration, was afterwards sold on attachment against the grantor, as an absconding debtor, the sale was held to be valid. (1 O. R. 402.)

Fire-arms not to be discharged within certain distance of a house.

Penalty for transgression.

Fire-arms not to be discharged before sunrise and after sunset, under what penalty.

Right to use arms lawfully; in military exercise, &c. or in killing birds, &c. not infringed.

In what direction game may be shot at.

Duty of judges herein.

§ 4. *Be it enacted*, That if any person shall presume to discharge or fire, or cause to be discharged or fired, any gun or other fire-arms at any mark or object, or upon any pretence whatever, unless he or she shall at the same time be with such gun or fire-arms at the distance of at least one-quarter of a mile from the nearest building of any such city, town, village or station, such person shall for every such offence, forfeit and pay to the use of the county in which the same shall be committed, a sum not exceeding five dollars, nor less than one dollar. And if any person being within a quarter of a mile of any city, town, village or station as aforesaid, shall at the same time wilfully discharge or fire any gun or fire-arms, or cause or procure the same to be discharged or fired, at any time after the setting of the sun and before the rising of the same, he or she so offending, shall in like manner forfeit and pay to the use aforesaid, a sum not exceeding five dollars, nor less than one dollar; reserving nevertheless to any person who will inform, and sue for either of the penalties hereinbefore last mentioned within one month from the commission of the offence, a moiety of the penalty which the party offending shall on conviction be adjudged to forfeit and pay, the other moiety thereof to go to the use of the county as aforesaid; which said several penalties, or either of them, shall be recoverable with costs, before any justice, judge, or court having cognizance of the same.

*Provided always*, That nothing herein contained shall be deemed or construed to extend to any person lawfully using fire-arms as offensive or defensive weapons, in annoying, or opposing a common enemy, or defending his or her person or property, or the person or property of any other, against the invasion or depredations of an enemy, or in the support of the laws and government; or against the attacks of rebels, highwaymen, robbers, thieves, or others unlawfully assailing him or her, or in any other manner where such opposition, defence, or resistance is allowed by the law of the land.

*Provided also*, That nothing herein contained shall be construed or extend to prevent the necessary military exercise, evolutions and firings of, or the discharging of cannon or small arms, by any soldiers or troops in the service of the United States, or of this territory, being in the field, or posted in or near any city, town, village, station, garrison, fort, encampment or other place, and acting under the immediate orders or by the special direction of the officer commanding the same. Nor shall any thing herein contained be intended or construed to extend to the act of killing or destroying birds of prey, or other wild birds, and mad or wild animals of the brute kind lurking among, in or near, or preying upon or threatening to prey upon and devour any kind of animal stock, or the corn, grain, and other produce in, of or belonging to any plantation, field, garden or other place within, adjoining, or in the vicinity of any city, town, village or station: nor to the hindrance of any person shooting at or killing any of the larger kind of game or wild animals, such as buffaloes, bears, deer, hares, rabbits, turkeys, swans, geese that may happen at any time to come in view, or be passing or feeding near any city, town, or other place as aforesaid: but every person shooting at any of such game is hereby required to discharge the ball, or balls, shot, or missile weapon so employed in a direction from such city, town, village, or station towards the country so as such ball or balls, missile weapon, or shot, shall pass by or from, and go clear of the buildings pertaining to the same.

§ 5. *And be it further enacted*, That as well the presiding judge in the general court, as the presiding judge or justice in each and every inferior court of law, in this territory shall severally and from time to time give this act in charge to the grand juries of such courts respectively whenever such grand juries shall be sworn.

This act to commence and be in force from and after the first day of January next. [*Passed at Vincennes, August 4, 1790.*]

Alt. T. L. c. 44.  
Rep. T. L. c. 66, § 10.

CHAP. XIV.—An act\* to alter the terms of the general court.

§ 1. *Be it enacted and it is hereby enacted*, That from and after the first day of January next, the several terms of the general court for the territory north-west of the river Ohio shall be held in the following manner, viz. In the county of Knox on the first Tuesday in May yearly and every year. In the

\* This, and the following laws, to c. 23, inclusive, were 'passed,' by governor St. Clair and judges Symmes and Turner.