LAWS

OF THE

INDIANA TERRITORY;

Comprising those Acts formerly in force, and as Revised by Messrs. *John Rice Jones,* and *John Johnson,* and passed (after amendments) by the Legislature; and the Original Acts Passed at the First Session of the Second General Assembly of the said Territory.

Begun and held at the Borough of Vincennes, on the sixteenth day of August, Anno Domini eighteen hundred and seven.

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Printed by Authority, and under the inspection of the Committee.

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VINCENNES,

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1807.

CHAPTER XXXVII.

An Act for the prevention of Vice and Immorality.

Sunday or 1st day of the week how to be kept and observed under what penalties.

§ 1. IF any person shall be found reveling, fighting or quarrelling, doing or performing any worldly employment, or business whatsoever, on the first day of the week, commonly called Sunday (works of necessity or charity only excepted) or shall use or practice any unlawful game, sport or diversion, whatsoever, or shall be found hunting or shooting, on the said day, and be convicted thereof; every such person, so offending, shall for every such offence, forfeit and pay a sum not exceeding two dollars, nor less than fifty cents, to be levied by distress; or in case such person being a male, shall refuse or neglect to pay the said sum; or goods and chattels cannot be found whereof to levy the same by distress,

he shall be committed to the charge of one of the supervisors of the highways, in the township wherein the offence was committed, to be kept at hard labor for the space of two days: *Provided always,* That nothing herein contained shall be construed to hinder watermen from landing their passengers, or ferrymen from carrying over the water, travellers, or persons removing with their families, on the first day of the week, commonly called Sunday.

Proviso in favor of ferrymen.

Profane swearing what.

§ 2. If any person of the age of sixteen years and upwards, shall profanely curse, damn or swear, by the name of God, Christ Jesus, or the Holy Ghost; every person so offending, being thereof convicted, shall forfeit and pay for every such profane curse, damn or oath, a sum not exceeding two dollars, nor less than fifty cents, at the discretion of the Justice, who may take cognizance thereof; and in case he shall refuse or neglect to pay the said forfeiture; or goods and chattels cannot be found, whereof to levy the same by distress, he shall be committed to the charge of one of the supervisors of the highways of the township where the offence was com-

And how punished.

mitted, to be kept at hard labor for the space of two days for every such offence, of which such person shall be convicted.

Swearing & disorderly behaviour before congregations &c what & how punished.

§ 3. If any person shall presume to appear before any court of justice within this Territory, before any Judge or Justice of the Peace, when acting as such, or before any congregation, assembled for public worship and there make use of profane swearing, or other disorderly behavior, the

effect of which would have an evident tendency to disturb that good order, to be observed on those occasions; if before a court of justice, he shall be fined in any sum not exceeding fifty nor less than five dollars; if before a Judge or Justice of the Peace, he or she shall be fined in any sum not exceeding ten, nor less than three dollars; if before any congregation assembled for divine worship, he, or she so offending, shall be fined in any sum not exceeding ten, nor less than three dollars; and it shall be the duty of any Justice of the Peace within this Territory, the same coming within his knowledge, or upon information by one or more credible witnesses, to issue his warrant and have the offender brought forthwith before him, and shall immediately assess his fine; and for want of sufficient goods and chattels, belonging to the defendant, to be by him shewn to satisfy the fine and costs, aforesaid, the said Justice shall commit the offender to the jail of the proper county where the offence was committed: *Provided,* That nothing herein contained, shall be so construed, as to prevent any court of justice from punishing the like offenders, in the manner herein before mentioned.

Proviso in favor of courts of justice.

Drunkenness what, & how punished.

§ 4. If any person of the age of sixteen years or upwards, shall be found in the public highway, or in any public house of entertainment, intoxicated by excessive drinking of spiritu-

ous, vinous, or other strong liquors, and making or exciting any noise, contention or disturbance, it shall be lawful for any Justice of the Peace, on

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complaint or view, to cause such person or persons to be committed to the common jail of the county, there to remain for a term of time not exceeding forty eight hours; end every person so committed, shall pay the fees arising on such commitment; and if any person shall be found offending as aforesaid, at any greater distance than five miles from the county jail; it shall be lawful for any Justice of the peace, to commit such person or persons to the custody of any constable within the township, for the like term of time, to be by such constable confined in any proper and convenient place, for the like term of time; and the said constable shall be entitled to receive the same fees, as are allowed to the keeper of the jail in the like cases.

Judges and justices to take cognizance.

§ 5. The Judges of the Supreme court, every Judge of the court of Common Pleas, and every Justice of the Peace, within the limits of their several jurisdictions, are hereby empowered, authorised and required, to proceed against, and to punish all persons offending against the preceeding sections of the law, and for that purpose each of the said Judges or Justices, severally, may convict such offenders upon his own view and hearing, or shall issue if need be, a warrant, summons, or capias, according to the circumstance of the case, to bring the body of the person accused, as aforesaid, before him: and the same Judges or Justices, shall respectively, in a summary way, enquire into the truth of the accusation, and upon the testimony of one or more credible witnesses, or the confession of the party, shall convict

May convict on view.

In a summary way.

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And pronounce judgment.

the person who shall be guilty as aforesaid, and thereupon shall proceed to pronounce the forfeiture incurred by the person so convicted as herein before directed; and if the person so convicted, refuse, or neglect, to satisfy such forfeiture immediately, with costs, or to produce goods and chattels, whereupon to levy the said forfeiture, together with costs, then the said Judge, or Justice, shall commit the offender to one of the supervisors of the highways, as aforesaid, during such time as is herein before directed; and every such conviction may be in the following words, to wit:

Failing to satisfy fine, to work on public highways

'Be it remembered, that on the day of in the year of A B, of the county labourer, (or otherwise, as his rank, occupation, or calling may be) is convicted before me, being one of the Judges, or Justices, &c. in the county of of swearing profane oath, or oaths, by the name of (or otherwise as the offence and case may be) and I do adjudge him to forfeit for the same, the sum of and for want of goods and chattels to be by the offender shewn, whereon to levy &c. you are to take his body into custody, and him forthwith convey to one of the supervisors of the highways, of the township &c. who is commanded hereby, to receive and keep him at hard labour, on the highway, for the space of two days.—Given under my hand and seal the day and year aforesaid.'

Form of conviction and execution.

Limitation.

Provided, That every such prosecution

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be commenced within seventy-two hours after the offence shall be committed.

Cock fighting.

§ 6. If any person or persons, shall cause to fight any cock or cocks, for money, or any other valuable thing, or shall promote or encourage any match, or matches of cock fighting,

by betting thereon, or shall play at any match of bullets, in any place, for money, or other valuable thing, or on any highway, or public road, with, or without a bet, or shall play at cards, dice, billiards, bowls, shovel board, or any game at hazard, or address, for money, or other valuable thing, every such person so offending, shall, upon conviction thereof, before any Justice or Magistrate as aforesaid, forfeit and pay three dollars, for every such offence; and if any person or persons, shall run any horse, mare or gelding, in any street, or public highway; every person so offending, shall, on conviction thereof before any Justice of the Peace, or on the view of such Justice, forfeit and pay the sum of five dollars, with costs.

Bullet playing.

Cards, dice &c. how punished.

Running horses in public roads.

How punished.

§ 7. No E O table, or other device, except as hereinafter excepted, shall be set up or maintained, in any dwelling house, out house, or other place, by any person whatsoever; on pain of forfeiting every such E O table, or other device, and of forfeiting moreover, the sum of fifty dollars; and upon conviction thereof, before any court having competent jurisdiction, held for the county wherein the offence shall be committed: *Provided always,* That nothing

Keeping E. O. and other tables.

How punished.

in this act contained, shall be construed so as to prohibit private families, from exercising their free will, within their own private houses for their amusement, in a peaceable manner: *Provided also,* That no person shall set up, or suffer to be set up, or kept in his or her house, barn, stable, or other out house, arbor, or bower, or yard, any table, or other thing reputed as a gaming table, or other device, for the purpose of encouraging gaming.

Proviso in favorof private amusements.

§ 8. If any person or persons shall loose any money, or valuable thing, at, or upon any match of cock fighting, bullet playing, or horse racing, or at, or upon any game of address, game of hazard, play, or game whatsoever, the person or persons who shall loose their money, or other valuable thing, shall not be compelled to pay, or make good the same. And any

Securities made or entered into for gaming void.

contract, note, bill, bond, judgment, mortgage, or other security or conveyance whatsoever, given, granted, drawn or entered into for the security or satisfaction of the same, or any part thereof, shall be utterly void, and of no effect.

Money &c. lost at gaming may be recevered back within 30 days,

§ 9. If any person or persons shall loose any money, or other thing of value, at, or upon any game of address, or of hazard, or other play, and shall pay, or deliver the same, or any part thereof; the person or persons, so loosing and paying, or delivering the same, shall have a right within thirty days, then next thereafter, to sue for, and recover the money or goods, so lost and

paid or delivered, or any part thereof, from the respective winner or winners thereof, with costs of suit, by action of debt, or case, founded on this act, to be prosecuted in any court of record, or where the value is within the sum cognizable by a single Justice, the same may be recovered before any Justice of the Peace within this Territory, subject to an appeal as in other cases.

Where to be prosecuted.

Boxing &c. what.

§ 10. If any person or persons, shall challenge another, to fight or box at fisticuffs, or with the intent to bring on a match at boxing, shall in words or gesture, endeavour to provoke any other person or persons to commit an affray, whether an affray ensues or not, every person so offending, on conviction thereof, shall forfeit and pay for every such offence, a sum not exceeding five dollars, nor less than one dollar; and every Magistrate of the county, where the offence shall have been committed, shall have cognizance thereof: *Provided however,* That such prosecution be commenced within four days from the time the offence was committed.

And how punished.

Limitation.

Duels what.

§ 11. If any person within this Territory shall challenge by word, or in writing, the person of another, to fight at sword, rapier, pistol, or other deadly weapon, the person so challenging, shall forfeit and pay for every such offence, being thereof lawfully convicted, in any court of record within the

county wherein the offence shall be committed, having competent jurisdiction, by the testimony of one or more witnesses, or by

Prosecutions where to be brought.

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the confession of the party offending a sum not exceeding two hundred and fifty dollars, nor less than fifty dollars; or shall suffer imprisonment, for a term not exceeding twelve months, nor less than three months, without bail or mainprize; and the person who shall accept any such challenge, shall in like manner upon conviction, forfeit and pay a sum not exceeding one hundred dollars; or shall suffer such imprisonment, for a term not exceeding six months, nor less than one month; and if any person, shall willingly and knowingly, carry and deliver any written challenge, or shall verbally deliver any message, purporting to be a challenge, or shall consent to be a second in any such intended duel, and shall be legally convicted thereof, as aforesaid, the person so offending, shall for every such offence, forfeit and pay a sum not exceeding one hundred dollars, nor less than fifty dollars; or shall suffer imprisonment for a term not exceeding six months, nor less than one month, as aforesaid.

How punished.

Carriers of challenges &c.

How punished.

§ 12. All prosecutions under this act shall be by action of debt, or trespass on the case, or by indictment, where the penalty exceeds a magistrates jurisdiction; and all fines and penalties set or imposed, and paid by virtue of the provisions herein contained, shall be paid into the treasury of the county, in which such fine or penalty shall be set or imposed, for the use of the said county: *Provided always,* That no person shall be prosecuted for any offence against this act, except such offences, as are enumerated in

Nature of prosecutions under this act & where commenced.

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the tenth section thereof, unless such prosecution be commenced, within thirty days after the offence has been committed.

In what time to be commenced.

Persons committed to supervisors refusing to labor to be imprisoned.

§ 13. If any person or persons who shall be committed to the supervisor of the highways, by virtue of any of the provisions herein contained; shall disobey the orders or directions of the said supervisor; it shall be lawful for the said supervisor, to commit such person or persons to the jail of the county, there to remain until the expiration of the time, for which such person or persons, may have been sentenced to labor on the highway; and the said supervisor shall endorse his order of commitment, on the magistrate's warrant, and transmit the same to the jailor, who is hereby directed on the receipt thereof, to receive such person or persons, and commit him or them accordingly.

For the same term for which he was sentenced to labor. Manner of committment.

Tearing down or defacing publications set up by authority.

§ 14. If any person or person shall wilfully and maliciously deface, obliterate, tear down, or destroy, in part, or in the whole, any copy or transcript of, or extract from, any act or law, passed by the legislature of this Territory, or by the legislative authority of the United States, or proclamation of the President of the United States, or of the Governor and Commander in Chief of this Territory; the same being officially fixed up in some conspicuous place by public authority, for general information; every person so offending, shall on conviction before a magistrate, forfeit, and pay to the use of the Territory, for eve-

How punished.

ry such offence, a sum not exceeding three dollars, besides costs, or be set in the stocks, at the discretion of such magistrate, for a space not exceeding three hours; or in case the offender shall be unable, or refuse to pay such fine [he being fined] then he shall be set in the stocks, for a space not exceeding three hours, and be afterwards discharged on paying costs only.

Tearing down or defacing banns of matrimony.

§ 15. If, as aforesaid, any person shall wilfully and maliciously deface, obliterate, tear down or destroy, in part, or in the whole, any publication of the banns of matrimony, or advertisement respecting estrays, or any other notification, set up in pursuance of any act or law, now, or which here-

after may be in force within this Territory; such offender shall for every such offence, of which he may be convicted, as aforesaid, be set in the stocks for three hours, and pay costs, or stand committed to prison till the same are paid; any thing in this, or any other act or law, to the contrary, notwithstanding. **How punished.**

§ 16. No person in order to raise money, or other property for himself or another shall publicly or privately put up a lottery of blanks and prizes, to be drawn or adventured for, or any prize or thing to be raffled or played for; whoever shall offend herein, shall forfeit to the use of the Territory, the whole sum of money, or property proposed to be raised or gained. **No lotteries to be carried on.** **Under what penalty.**

§ 17. The presiding Judge or Justice in the several courts of law, shall at every **Courts to give this act in charge to juries.**

court, give this act in charge to the Grand Jury, as soon as sworn.

GENL. W. JOHNSTON.
Speaker pro tempore, of the House of Representatives.

B. CHAMBERS,
President of the Council.

Approved—17th September, 1807.

WILLIAM HENRY HARRISON.

CHAPTER XXXVIII.

An Act establishing Courts for the trial of Small Causes.

§ 1. EVERY action of debt or other demand (except such actions as are herein after excepted) shall be, and the same is hereby made cognizable before any Justice of the Peace or magistrate in the township, either where the debt or cause of action was contracted, or arose, where the plaintiff resides, or where the defendant may be found; and the said Justices are hereby authorised to hold a court, to hear, try and determine the same, according to law; and the jurisdiction of every Justice of the Peace under this act, shall be co-extensive with the limits of his county, and his writs, precepts, and process, authorised by this **What actions cognizable before J. P. & where.**