

**An act concerning the proof of the descent and succession to real estate in cases of intestacy.**

Approved March 12, 1880.

P. L. 1880, p. 290.

**15. SEC. 1.** That in the case of the death of any person intestate, seized in fee or otherwise of real estate, within the state, it shall be lawful for the heir or heirs-at-law of such person, or any of them, or any person interested in such estate, to make an affidavit or petition setting forth the fact of such death, the last place of residence of said intestate, the number of heirs, their names, ages and respective places of residence and relationship to the deceased, and as nearly as possible describing such real estate and the respective interest of such heirs or parties interested.

Proof of descent and succession to real estate in cases of intestacy, by whom and how made.

**16. SEC. 2.** That such application when so made shall be presented to the orphans' court of the county in which such real estate is situated or to the orphans' court of any one of such counties, where said real estate may be situated in one or more counties, and the said orphans' court shall thereupon examine any witnesses under oath or take such other proof as is usual and admissible in other legal proceedings, and in like manner and with like powers and jurisdiction, as to the truth of the matters in such application set forth, and upon being duly satisfied as to the truth of all such matters shall indorse upon such application the certificate of said court, or of its then presiding officer, and thereupon the said petition or affidavit and all proofs and proceedings so taken shall be recorded in the county clerk's office of the county or counties in which said lands are situated, or in the office of any register of deeds for such county, in the same books and in like manner as deeds are now recorded; and from the date of such record, such record or roll shall be regarded and taken in all courts and legal proceedings in the state in respect to the descent and succession of said real estate as presumptive evidence of the matters and facts therein contained and by this act required to be stated.

Application to be presented to the orphans' court.

Orphans' court to examine witnesses, &c.

Petition, affidavits, &c., to be recorded in county clerk's or register's office.

**17. SEC. 3.** That the orphans' courts shall, from time to time, make such rules and regulations in pursuance and furtherance of this act as may be deemed necessary or expedient.

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## Disorderly Persons.

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## I. Who are disorderly persons.

## An act concerning disorderly persons.

Revision—Approved April 9, 1875.

R. S. 564.

P. L. 1867, p. 273.  
 " 1868, p. 1124.  
 " 1871, p. 24, 64.  
 " 1872, p. 21, 34.

Who shall be adjudged to be disorderly persons.  
 R. S. 564, § 1.

1. That all paupers, who shall unlawfully return to the city or township from which they were legally removed, without a certificate from the city or township to which they belong, or who shall leave their places of legal settlement; and all persons who shall go about from door to door, or place themselves in streets, highways or passages, to beg, crave charity or collect alms, or who shall wander abroad and lodge in taverns, inns, beer-houses, outhouses, houses of entertainment, market-houses, barns or other places, or in the open air, and not give a good account of themselves, or who shall wander abroad, and beg or solicit charity, under pretense of being or having been soldiers, mariners or seafaring men, or of loss by fire or other casualty, or of loss by the Indians, or by war, or other pretense or thing; and all persons who shall leave, or threaten to leave their families to be maintained by the city, township or county, or to become chargeable thereto, or who, not having sufficient property or means for their subsistence or support, shall live idle, or not engage in some honest employment, or not provide for themselves or families; and all persons who shall use, or pretend to use, or have any skill in physiognomy, palmistry, or like crafty science, or who shall pretend to tell destinies or fortunes; and all runaway servants or apprentices, and all vagrants or vagabonds, common drunkards, common thieves, burglars or pickpockets, common night walkers, and common prostitutes, shall be deemed and adjudged to be disorderly persons.

2. *And whereas*, divers ill-disposed persons are frequently apprehended, having upon them implements for house-breaking, or offensive weapons, or are found in or upon houses, warehouses, stables, barns or outhouses, areas of houses, coach-houses, smoke-houses, inclosed yards, or gardens belonging to houses (as well as in places of public resort or assemblage), with intent to commit theft, misdemeanors or other offenses; and although their evil purposes are thereby manifested, the power of the justices of the peace to demand of them sureties for their good behavior hath not been of sufficient effect to prevent them from carrying their evil purposes into execution; if any person shall be apprehended, having upon him or her any picklock, key, crow, jack, bit or other implement with an intent to break and enter into any building; or shall have upon him or her any pistol, hanger, cutlass, bludgeon, or other offensive weapon, with intent to assault any person; or shall be found in or near any dwelling-house, warehouse, stable, barn, coach-house, smoke-house or outhouse, or in any inclosed yard or garden, or area belonging to any house, or in any place of public resort or assemblage for business, worship, amusement, or other lawful purposes, with an intent to steal any goods or chattels, then he or she shall be deemed and adjudged to be a disorderly person.

3. That whenever any person, according to the provisions of this act, shall be convicted of being a common drunkard, or of deserting or willfully refusing or neglecting to provide for or maintain his family, and it shall appear to the satisfaction of said justices that the cause of such neglect is the habitual excessive use of intoxicating liquor by said convict, it shall be the duty of said justice or justices to make an order directed to the overseer of the poor of said township in which said conviction shall be made, warning all persons selling intoxicating liquor, to desist from selling any intoxicating liquor to said convict, and it shall be the duty of said overseer within five days after the receipt by him of said order, to serve a copy of

Further description of disorderly persons.  
 Ib., § 2.

Liquor not to be sold to habitual drunkards.  
 Dealers to be warned.  
 P. L. 1857, p. 273, § 1.

said order upon all dealers of intoxicating liquor, from whom said convict would be liable to procure such liquor, and also to post up in three of the most public places in said township a copy of said order, and to make and preserve a record of the time and places when and where said copies were posted, and of the time and persons when and on whom said copies were served.

4. That if any innkeeper, distiller, grocer, or other person, shall sell, furnish or supply any intoxicating liquor to any habitual drunkard, or to any person for him or her, and take in exchange or pledge therefor, any article of wearing apparel belonging to the wife or children of the said habitual drunkard, or any article of fuel, or any article of provision or household goods, for the comfort and sustenance of the said habitual drunkard, or his or her family, or any other goods or chattels belonging to said habitual drunkard, and necessary for the comfort and support of said habitual drunkard, or his or her family; such innkeeper, distiller, grocer, or other person shall be deemed guilty of a disorderly act, and may be proceeded against by warrant in manner and form as authorized for proceeding against disorderly persons, under this act, and upon conviction of such disorderly act, may be adjudged to pay for each such disorderly act, a fine of not less than five, and not over twenty dollars, or to be imprisoned in the county jail or workhouse of the county, for any time, not to exceed two months, and to stand committed until the fines and costs are paid.

Penalty for selling or furnishing liquor to habitual drunkards.  
Ib., § 2.

5. [Amended by Sec. 33, *post.*]

6. That any person or persons who shall loiter or assemble on the streets, at the corners of the streets, or in the public places of any city, village, borough, or township of this state, being under the influence of intoxicating liquor, or who not being under such influence shall indulge in and utter loud and offensive or indecent language, or shall address or make audible and offensive remarks or comments upon any person passing along such streets or public places, or shall obstruct or interfere with any person or persons lawfully being in and upon such streets or public places, shall be deemed and adjudged to be disorderly, and may be apprehended in the manner hereinafter described in this act, and taken before any justice of the peace of the county, or police justice of any city where such person may be apprehended; and it shall be the duty of such justice to commit such disorderly person, when convicted before him by the confession of the offender, or by the oath or affirmation of one or more witnesses, to the county jail of such county, there to be kept at hard labor, for any time not exceeding thirty days, or fine such person in a sum not exceeding twenty dollars. (a)

Loiterers, &c., to be adjudged disorderly.  
P. L. 1871, p. 64.

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7. That any person who shall enter the buildings or go upon the lands belonging to any public school district of this state, or used and occupied for school purposes by any public school in this state, and shall break, injure or deface such building or any part thereof, or the fences or out-houses belonging to or connected with such building or lands, or shall disturb the exercises of such public school, or molest or give annoyance to the children attending such school, or any teacher therein, shall be deemed and adjudged to be a disorderly person, and may be apprehended in the manner hereafter described in this act, and taken before any justice of the peace of the county where such person may be apprehended; and it shall be the duty of the said justice to commit such disorderly person, when convicted before him by the confession of the offender, or by the oath or affirmation of one or more witness or witnesses, to the county jail of such county, there to be kept at hard labor for any term not exceeding thirty days.

Penalties.

Persons injuring school property or disturbing schools adjudged disorderly.  
P. L. 1871, p. 24.

(a) A conviction under the act must set out the evidence, so that the court in review can see whether the judgment is well founded. *Lions v. Spaulford*, 14 Vr. 376. Under section 6, a complaint which conforms in substance to the language of the act, and is specific as to time, locality and language used, is good. *Bassette v. State*, 22 Vr. 502. Trial by jury is not a right of the defendant under the act. *Ib.* (See, however, Sec. 21, *post*,

and *Griffin v. Mills*, 10 Vr. 587.) The right of appeal is not dependent upon the action of the justice who heard the cause. *Ib.* The conviction should contain the complaint or information, or its substance; the issuing or return of process; the appearance of the person charged and his defense or confession; if he has not confessed, the evidence produced and the judgment. *Preusser v. Cass*, 25 Vr. 532.

## DISORDERLY PERSONS.

Disturbing quiet and good order of public library, &c., disorderly.  
P. L. 1872, p. 34.

Penalty.

Professional pickpockets and thieves.  
P. L. 1872, p. 21.

Amended.

Summary conviction of.

**8.** That any person who shall, by noisy or disorderly conduct in any public library or reading-room in this state, disturb or interrupt the quiet and good order of those who resort to and use said library or reading-room for reading or study, may, upon conviction thereof, before any justice of the peace or police court within the city or town where said library or reading-room is established, be fined to an amount not exceeding twenty dollars, or imprisoned in the county jail not exceeding ten days, at the discretion of said court or magistrate.

**9.** That if any person shall be arrested at any steamboat landing, railroad depot, church, banking institution, broker's office, place of public amusement, auction-room, store or crowded thoroughfare, or other place of public resort or assemblage for business, worship, amusement, or other lawful purpose, in any city, town or county in this state, and shall be proven to the satisfaction of any justice of the peace before whom such person shall be brought, to be a common thief, burglar or pickpocket, and to have been frequenting or attending such place or places for an unlawful purpose, he or she shall be convicted and adjudged to be a disorderly person and committed by the said justice of the peace to the jail of the county or city in which he or she may have been arrested, for a term not exceeding ninety days, there to be kept at hard labor; or, in the discretion of the said justice of the peace, he or she shall be required to enter security for his or her good behavior for a period not exceeding one year. (a)

## II. Proceedings against.

**10.** [Amended by Sec. 36, *post.*]

Justice to issue process.  
R. S. 564, § 4.

**11.** That it shall be the duty of every justice of the peace of the proper county to issue, on information, or his own view, his warrant or process to apprehend any disorderly person, within the intent and meaning of this act. (b)

Children of vagrants, &c., may be bound apprentices or servants.  
Ib., § 5.

**12.** That it shall be lawful for any two justices of the peace, at their discretion, to bind out the child of any beggar, vagrant, vagabond, common drunkard, or common prostitute, or of any person who shall not provide for such child, as a servant or apprentice to any person who may be willing to take such child, till the age of twenty-one years, if a male, or eighteen years, if a female, or for a less time.

Husbands or fathers deserting family, how proceeded against.  
P. L. 1868, p. 1124, § 2.

**13.** That upon receiving such complaint against any husband or father provided for in section five of this act, the said justice before whom such complaint is made shall issue his warrant, directed to any constable of the county, for the immediate apprehension of the person so complained of and for bringing him before such justice, upon the return of which warrant said justice shall cause such person to enter into a bond to said overseer, in any sum not exceeding five hundred dollars, with good security, conditioned for his appearance before said justice at a time therein named, to answer said complaint, and to abide all orders, judgments and decrees that may be made against him touching said complaint; and in default of such person entering into such bond, and giving such security, said justice shall commit him to the county jail, to await the investigation of said complaint.

Bound over or appearance or committed to jail.

Justice to try complaint.  
Ib., § 3.  
Amended.

**14.** That at the time of appearance mentioned in said bond, or times appointed for such investigation, the justice shall proceed to hear the witnesses produced to substantiate and rebut the said complaint, and shall decide whether such person is guilty or not guilty thereof; if he decides such person guilty, he shall judge him to be a disorderly person, and in lieu of the penalties now prescribed for disorderly persons, such justice may make an order requiring such person to pay such sum weekly to said overseer, for the support and maintenance of his family as to said justice

(a) Under this section several persons may be jointly tried on the charge of being common thieves. When the offense is of a nature to be several exclusively, an allegation that several committed such act is, in substance, equivalent to a charge that each of the persons did it. This case distinguished from *Handin* ads.

*State*, 1 Har. 96. *Griffin v. Mills*, 10 Vr. 587. The defendants having been present at the trial, and put in their defense without demanding a jury trial, are held to have waived their right to a jury trial. *Id.*

(b) *Freusser v. Cass*, 25 Vr. 532.

may seem proper; but if such person acknowledges himself guilty, then said justice may forthwith make such adjudication and order.

15. That at any time previous to the hearing of said complaint, in the last two sections mentioned, either party may demand a trial by jury, whereupon said justice shall issue a venire facias, to summon a jury of twelve men competent as jurymen to try said complaint, and to decide whether the person complained of as aforesaid be guilty or not guilty: and such venire shall be issued and returned, and such jury shall be impaneled and sworn, and such complaint tried as in courts for the trial of small causes; and in case said jury decide such person guilty, then said justice shall proceed as though he had decided such person guilty, if no jury had been demanded.

Trial by jury may be demanded by either party. *Ib.*, § 4.

16. That either party, upon paying all costs incurred, and by filing with said justice within ten days after trial before him a written notice of his intention to appeal from the decision of said justice or jury, may appeal to the next court of general quarter sessions of the peace, and may there demand a trial by jury, which said court shall proceed to try the same and to make such adjudication and order thereon as is herein provided, in case of such trial before said justice; and any order made by said court shall be held to commence to run from the date of the trial before said justice.

Appeal to quarter sessions. *Ib.*, § 5.

Jury in sessions.

When order to run from.

17. That any justice before whom any such complaint as aforesaid shall be made, is authorized to issue writs of subpoena, and to make adjournments; and the jurymen and witnesses shall receive such pay, and be subject to such fines and punishments, and the justices and constables shall receive such fees for their services as are allowed them for like services in courts for the trial of small causes; the overseer shall be entitled to the sum of one dollar for his fees, both in the court below and on appeal; and the justice shall be entitled to the like sum for making the adjudication and order, the losing party to pay all costs of suit.

Justices to issue subpoenas.

Adjournments, costs, fines. *Ib.*, § 6.

18. That all orders made against any such husband or father under the provisions of this act shall continue in force for the term of one year from the time when the payments therein directed commence to run; but such order shall not be a bar to a subsequent complaint after the expiration of said term, and upon all trials both the wife of the person complained of and himself may be witnesses. (a)

Order to continue in force one year. *Ib.*, § 7.

Who may be witnesses.

19. That where any order last aforesaid shall be made in pursuance of this act, the person against whom the same is made shall be required to execute a bond with good security to the overseer of the poor of the township or city, to stand to and obey such order and such other orders as may be made in case an appeal be taken, and in default thereof the accused shall be committed to the county jail until such bond shall be given; *provided*, that the justice before such appeal be taken, or such court of quarter sessions thereafter, or a judge thereof, in vacation, upon being satisfied that further imprisonment will fail to produce support for the family aforesaid of the accused, or security therefor, may discharge the accused from further imprisonment, but no such discharge shall be granted until the accused shall have first paid all previous costs; *and provided further*, that in case the bond be given as required by the thirteenth section hereof, that no further bond shall be necessary, but the same shall bind the security for the faithful obedience of the accused to all orders and decrees made in pursuance of this act.

Appeal bond. *Ib.*, § 8.

Commitment to jail.

Discharge from jail.

### III. Remedies against persons supplying drink to convicted disorderly persons.

20. That any innkeeper, distiller, grocer, or other persons who, having had notice of any order of any justice or justices, made pursuant to this act, shall sell or in any manner furnish or supply any intoxicating liquor to any person convicted under this act as a disorderly person, or knowingly

Penalty for selling liquor to convicted disorderly persons, after notice. P. L. 1887, p. 273, § 2.

(a) This order does not absolve the husband or father from all liability after the expiration of the year mentioned in the order; nor can such order be set up as a bar to subsequent proceedings. *Culford v. Overseer of Frankford*, 8 Vr. 152.

## DISORDERLY PERSONS.

How recovered.	to any member of the family of said convict, or to any person for him, or who shall knowingly and willingly allow any intoxicating liquor sold or furnished by him to be drank in and upon his premises by such convict, shall be deemed guilty of an offense, and shall for each such offense forfeit and pay the sum of ten dollars, to be sued for and recovered in an action of debt, with costs of suit, before any justice of the peace in and for the county in which said offense is committed; the said suit to be brought by the overseer of the poor of the township in which the person convicted shall at the time of his conviction reside, and in the corporate name of said township; and the penalty so recovered shall go to the use of said township, except when the convict has a family residing in said township, then in that case one-half of said penalty shall go to the township and the other half to the family of said convict.
To whom penalty paid.	
When suit to be commenced. Ib., § 3. Amended.	<b>21.</b> That the overseer of the poor, when applied to for such purpose, by one or more credible person or persons, giving information sufficient to warrant the commencement of a prosecution under this act, shall forthwith commence such action, and that said overseer shall be entitled to receive as his compensation for each action brought under this act and successfully prosecuted to a judgment, four dollars, and for each copy made by him of the order of said justice or justices, five cents, and for serving and posting the copies of said order a reasonable compensation, all to be allowed and paid by the township committee of said township, from funds of the township not otherwise appropriated; and that the justice or justices for making the order to the overseer of the poor shall be allowed fifty cents, to be paid by the township committee from funds of the township not otherwise appropriated; and in all cases under this act where, upon conviction, the magistrate may in his discretion commit the offender to the common jail, he shall have the right of trial by jury. (a)
Fees in such suit.	
How paid.	
Execution to issue against body and goods. Ib., § 4.	<b>22.</b> That on a judgment obtained for any penalty under this act, an execution may be issued against the body as well as the goods and chattels of the defendant, and for the want of goods and chattels whereupon to levy, to make the amount of the said penalty and costs, the body of the defendant may be committed to the common jail of the county, there to remain until the amount thereof is paid.

## IV. Supplements.

P. L. 1877, p. 186.	Supplement.	Approved March 9, 1877.
	<b>23.</b> SEC. 1. [Amended by Sec. 27, <i>post.</i> ]	
P. L. 1878, p. 11.	Supplement.	Approved January 29, 1878.
	<b>24.</b> SEC. 1. [Amended by Sec. 25, <i>post.</i> ]	
P. L. 1878, p. 187. Fees of justice of the peace, magistrate, constable, &c.	Supplement.	Approved March 21, 1878.
	<b>25.</b> SEC. 1. That section one of the act to which this is a supplement, which section as amended by supplement approved January twenty-ninth, one thousand eight hundred and seventy-eight [see Sec. 24, <i>ante</i> ], reads: that the fees of the justice of the peace and constables or police officers for arresting and committing disorderly persons under the provisions of the act to which this is a supplement, shall be twenty-five cents to the justice of the peace, and fifty cents to the constable or police officer making the arrest, and no more [see P. L. 1878, p. 11], shall be amended to read as follows: that the fees of the justice of the peace, magistrate or alderman for committing, and constable or police officer making the arrest, shall be twenty-five cents to the justice of the peace, magistrate or alder-	

(a) Where the defendants are present at the trial, and put in their defense without demanding a jury trial, held a waiver of their right to a jury. *Griffin v. Mills*, 10 Vr. 587.

man for committing, and fifty cents to the constable or police officer making the arrest, and the sums herein stated shall be in full of all other fees and charges whatsoever.

**26. SEC. 2.** That all acts inconsistent with this act are hereby repealed, and this act shall take effect immediately. Repealer.

An act to amend an act entitled "A supplement to the act entitled 'An act concerning disorderly persons,' approved April ninth, one thousand eight hundred and seventy-five," which supplement was approved March ninth, one thousand eight hundred and seventy-seven.

Approved March 11, 1880. P. L. 1880, p. 210.

**27. SEC. 1.** That the first section of the act of which this is amendatory [see Sec. 23, *ante*] be and the same is hereby amended to be and read in the words following, to wit:

[That in all cities in this state having police courts or police justices, or a recorder's court, or in any city which may hereafter have such courts, or either of them, all persons arrested for any violation of the provisions of the act entitled "An act concerning disorderly persons," approved April ninth, one thousand eight hundred and seventy-five, or for any violation of the provisions of the act entitled "An act to define and suppress tramps," approved April nineteenth, one thousand eight hundred and seventy-six, shall be taken for a hearing before such police court, or police justice, or such recorder's court, and that in all such cities no justice of the peace shall have power to hear, try or determine such cases, any law, custom or usage to the contrary notwithstanding; and where the police justice or the recorder is paid a fixed salary out of the city treasury, all fees received by him for services under the aforesaid acts shall be paid into the city treasury; and where the arrests are made by any police officer of the city, receiving a fixed salary out of the city treasury, all fees to which he would be entitled for services under the said acts shall be paid into the city treasury; and all fines collected by any such salaried police justice or recorder under the aforesaid acts shall be paid into the city treasury once a month.] (a)

In cities, persons arrested to be taken before police court, police justice or recorder.

When fees to be paid into the city treasury.

#### Supplement.

Approved March 17, 1882. P. L. 1882, p. 140.

**28. SEC. 1.** That where any husband or father who deserts or willfully refuses or neglects to provide for and maintain his wife or other family and his said wife or other family shall be a public charge in any poorhouse of this state, then proceedings may be had and taken for the better relief of the board of chosen freeholders or other authority or authorities having the direction and government of such poorhouse, upon application of the director or any member of the poorhouse committee of said board of freeholders, or any officer or keeper of any such poorhouse, in the same manner as by said act may be had for the relief of any township or city in which any such wife or other family might become chargeable.

Proceedings when wife or family are a public charge in a poorhouse.

**29. SEC. 2.** That if any such husband or father shall be or reside in any other county of this state than that in which said warrant shall be issued, the justice issuing the same shall, in writing, thereupon direct the sum in which any bond shall be taken of the party so charged, and it shall be the duty of the constable to carry it to some justice of the county wherein such person resides or can be found; the justice to whom the same shall be presented, on proof being made to him of the handwriting of the justice who issued such warrant, shall indorse his name thereon, with an authority to arrest such person in the county where the justice so indorsing shall reside, which shall be a sufficient authority to the constable bringing such warrant in the county where it shall be indorsed.

When husband or father resides out of county how warrant shall issue.

Justice to cause person to be arrested.

(a) See *Duffy v. Britton*, 18 Vr. 252.

Party apprehended to give bond for appearance.

Condition of bond.

Proceedings in case of default of person to give bond.

**30. SEC. 3.** That the party so charged, being apprehended, shall be taken before the justice who indorsed said warrant; or some other justice of the same county, who may take from such person a bond to the state of New Jersey, with good and sufficient surety or sureties, to be approved by said justice, in the sum so directed on said warrant, conditioned for his appearance before said justice who issued said warrant, at a time therein to be named, to answer said complaint and to abide all orders, judgments and decrees that may be made against him touching said complaint.

**31. SEC. 4.** That in default of such person giving such bond, with surety or sureties to the satisfaction of the justice before whom he shall be brought, then the constable having the warrant shall take such person before the justice who issued said warrant; but if such bond is given as aforesaid, the justice taking the same shall discharge the person so apprehended from arrest, shall indorse on the warrant a certificate to that effect, and deliver the warrant, with the bond taken by him, to the constable who brought said warrant, who shall deliver said warrant and said bond to the justice who issued said warrant, who shall proceed thereon in the same manner as if such bond had been taken by him.

#### Supplement.

Approved January 31, 1884.

P. L. 1884, p. 13.

Person committed to county jail or workhouse for deserting or refusing to provide for his wife or family shall be kept at hard labor.

**32. SEC. 1.** That any husband or father who deserts or willfully refuses or neglects to provide for and maintain his wife or other family, and who shall, in consequence thereof, be adjudged a disorderly person and be committed to the workhouse or county jail of the county, as provided by the act to which this is a supplement, shall be put and kept at hard labor by the board of chosen freeholders of the county, in the same manner as other prisoners committed to such jail or workhouse are put and kept at hard labor.

#### Supplement.

Approved April 25, 1884.

P. L. 1884, p. 259.

Husband or father deserting wife or family adjudged a disorderly person.

Complaint by overseer of the poor.  
P. L. 1868, p. 1124,  
1.

**33. SEC. 1.** That section five of said act be amended so as to read as follows:

[That any husband or father who deserts or willfully refuses or neglects to provide for and maintain his wife or other family, shall be deemed and adjudged a disorderly person, and whenever any overseer of the poor of the township or city within which any husband or father resides, or the overseer of the poor of the place of legal settlement of such husband or father, believes that such person does desert or willfully refuse or neglect to provide for and maintain his said family, and that by reason thereof such family may become chargeable to such township or city, it shall be his duty to make complaint thereof, under oath, before some justice of the peace in either the township or city where said disorderly person resides or the place of his legal settlement.] (a)

(a) It is discretionary with the overseer to make complaint to compel a husband to provide for his family if he believes the application is not a proper one. *State, Treadwell v. Fowless*, 8 Vr. 145. The justice, or the sessions on appeal, must first decide, either by their own determination or the verdict of a jury (when demanded), whether the person charged is guilty of the matter charged in the complaint of the overseer. Unless such a determination appears, there is no power to adjudge him a disorderly person or to direct him to pay money for the support of his family. *O'Shaughnessy v. McLorinan*, 14 Vr. 410. By section 5 a person is declared to be disorderly when he either deserts or willfully refuses or neglects to provide for his family. Where the complaint is for willful refusal or neglect to provide, a verdict or finding that the person is a disorderly person under the provisions of the act, or under the fifth section, is not sufficient. *Ib.* An adjudication that the defendant is a disorderly person must follow the verdict or finding, and is requisite before an order for the payment of money for the support of the family

can be made. *Ib.* The complaint of the overseer of the poor, under section 5, must contain the averment that, by reason of the desertion, the township may become chargeable, and to justify conviction, the allegation must be established at the trial. *Gedney v. Dey*, 15 Vr. 576. Where, in proceedings under this section, after the conviction of the defendant by the jury, of desertion and willful refusal and neglect to provide for his family, the justice failed to adjudge the defendant to be a disorderly person, the quarter sessions cannot, on appeal, reverse the justice's judgment, and dismiss the appeal for want of such adjudication. *McLorinan v. Reyno*, 20 Vr. 603. The appeal to the quarter sessions is from the decision of the justice or the jury, and brings the whole case before that court for the trial *de novo* of the issue of fact, and a new determination and order based upon the facts found. *Ib.* The complaint of the overseer of the poor must aver that the township may become chargeable. *Heller v. Brown*, 28 Vr.

DISORDERLY PERSONS.

1205

Supplement.

Approved April 20, 1885.

P. L. 1885, p. 264.

34. SEC. 1. That it shall be lawful for any constable having a warrant issued for the apprehension of any husband or father as mentioned in the fifth section of the act and the supplements thereto, to which this act is a supplement, to arrest such person on the first day of the week, commonly called Sunday.

Person may be arrested on Sunday.

35. SEC. 2. That it shall be lawful for said constable to convey such person so arrested before the magistrate issuing the warrant, on the first day of the week, commonly called Sunday, whereupon all proceedings taken and had before such magistrate shall be as valid and legal as if had on any other day, and if a bond be given, it shall be of the same force and effect as if given on any other day.

May be taken before magistrate on Sunday.

Supplement.

Approved March 26, 1888.

P. L. 1888, p. 249.

36. SEC. 1. That section ten of the act to which this is a supplement be and is hereby amended so as to read as follows :

[That it shall be the duty of every constable, and lawful for any other person to apprehend, without warrant or process, any disorderly person of the description aforesaid, and to take him or her before any justice of the peace of the county where apprehended; and it shall be the duty of the said justice to commit such disorderly person, when convicted before him by the oath or affirmation of one or more creditable witnesses other than the officer making the arrest, to the workhouse of the city, town or county, there to be kept at hard labor for any time not exceeding three calendar months, except when otherwise herein particularly described; *provided*, that this and the succeeding section shall not apply to the persons described in section five of this act.] (a)

Disorderly persons to be apprehended, taken before justice and punished.

Proviso.

37. SEC. 2. That all acts and parts of acts inconsistent with this act, be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

Supplement.

Approved March 29, 1892.

P. L. 1892, p. 353.

38. SEC. 1. That if any person shall be apprehended in any city of this state, having concealed upon his or her person any offensive weapon, then he or she shall be deemed and adjudged to be a disorderly person; *provided*, that this act shall not apply to sheriffs, under sheriffs, deputy sheriffs, constables, policemen or other peace officers, nor to any person having a written permit from the police authorities of such city to carry such weapon.

Person carrying a concealed weapon shall be deemed a disorderly person.

Proviso.

V. Miscellaneous acts.

An act empowering justices of the peace and others to commit to the county jail in lieu of the workhouse in certain cases.

Approved March 9, 1877.

P. L. 1877, p. 110.

39. SEC. 1. That wherever, under any existing law of the state, it may be required of, or may become the duty of any justice of the peace, or other person of competent authority, to commit any person for any offense to the workhouse of the county, there being no workhouse at that time in such county, then it shall be lawful for the justice of the peace, or other person having authority as aforesaid, to commit such person to the common jail of said county, for such term and upon such conditions as are required where a workhouse may exist or has been established in any county. (b)

Where no workhouse in a county, commitments may be made to the county jail.

1205-39  
R98-957

(a) See *Shumar v. Applegate*, 22 Vt. 117.

(b) This act authorizes magistrates, in counties which have no workhouse legally established, to commit offenders against the "act concerning disorderly persons" to the county jail. *Bingham v. Gibbs*, 17 Vt. 513. The sheriff of any such county is entitled to receive, and the county authorities to pay for keeping, such prisoners when regularly committed upon convictions that remain unreversed. *Id.*

## DISORDERLY PERSONS.

## An act to prevent trespasses on railroad cars or trains.

P. L. 1878, p. 310.

Approved April 5, 1878.

Preamble.

WHEREAS, It has become a common practice with many persons, not passengers, of jumping on and off railroad cars or trains on their approach, during their stay, or on their leaving railroad stations or depots, to the annoyance and discomfort as well as actual danger of passengers either on or for such trains; therefore,

**40. SEC. 1.** [Amended by Sec. 41, *post.*]

1206-40  
RWS 98-958

## Amendatory act.

P. L. 1881, p. 49.

Approved March 2, 1881.

**41. SEC. 1.** That the first section of the act of which this is amendatory, shall be and is hereby amended so as to read as follows:

Penalty for jump-  
ing on and off  
railroad cars.

[That if any person, not being a passenger or employe, shall be found trespassing upon any railroad car or train of any railroad in this state, by jumping on or off any car or train, on its arrival, stay or departure at or from any station or depot of such railroad, or on the passage of any such car or train over any part of any such railroad, such person so offending shall be deemed a disorderly person, and on conviction as such shall be punished by a fine not exceeding twenty-five dollars, or by an imprisonment in the county jail not exceeding thirty days, or both.]

An act entitled "An act to provide for the review by the justices of the supreme court of this state of summary convictions by justices of the peace, police justices and recorders of cities in this state."

P. L. 1880, p. 58.

Approved February 27, 1880.

Complaint, &c., in  
cases of summary  
conviction to be  
filed in the county  
clerk's office.

**42. SEC. 1.** That it shall be the duty of all justices of the peace, police justices and recorders of cities in this state, in all cases of summary convictions had before them, within three days after each and every such conviction, to file the complaint, warrant and record of the proceedings and conviction of the offender in the office of the county clerk of their respective counties, there to be and remain of record.

1206-42  
RWS 98-958Justice of supreme  
court may review  
the proceedings  
upon application.

**43. SEC. 2.** That it shall be lawful for the justice of the supreme court holding the circuit in each of the counties of this state, upon application made to him for that purpose by any person convicted as aforesaid, who may desire to have the legality of his conviction reviewed, to order the said complaint, warrant, proceedings and record of conviction to be forthwith brought before him, that the legality of said proceedings and conviction may be reviewed and determined; and if such proceedings and conviction shall thereupon be found to be illegal, forthwith to set aside the same and to order the discharge of said offender from custody.

Offender to be  
discharged if con-  
viction found to  
be illegal.Fees of justice of  
supreme court.

**44. SEC. 3.** That the said justice of the supreme court, for each case brought before him under the provisions of this act, shall be entitled for his services therein the sum of two dollars, to be paid by the applicant, and said fees when paid to such justice or to any clerk shall be disposed of as now required by law.

## Supplement.

P. L. 1890, p. 149.

Passed March 31, 1890.

Law or president  
judges of courts of  
common pleas to  
have concurrent  
jurisdiction with  
justice of the  
supreme court  
holding the  
circuit.

**45. SEC. 1.** That the law or president judge of any court of common pleas in any county in this state shall have concurrent jurisdiction in his county with the justice of the supreme court as shall hold the circuit in said county to order the complaint, warrant, proceedings and record of conviction in all cases of summary convictions to be forthwith brought before him, and review and determine the legality of the same, and, if found illegal, forthwith to set aside the same and to order the discharge of such offender from custody.

1206-45  
32V-437

An act to enable justices of the peace, police justices, recorders and other magistrates before whom disorderly persons are tried, to fine and imprison such persons.

Approved May 6, 1889. P. L. 1889, p. 345.

46. SEC. 1. That in all cases where any person is convicted of having violated any of the provisions of the disorderly act, approved April ninth, eighteen hundred and seventy-five, and the supplements thereto, it shall and may be lawful for the magistrate before whom such person was convicted, to sentence such person to the workhouse or common jail of the county in which such person may be convicted, for a period not to exceed ninety days, or to impose a fine not exceeding twenty-five dollars on such person.

Magistrates empowered to fine or imprison persons convicted under the disorderly act.

1207-46  
R98-958

47. SEC. 2. That after such person in default of paying such fine shall have been committed to said workhouse or jail, it shall be lawful for the magistrate to discharge such person on receiving such fine or portion thereof, as he may see fit.

May discharge prisoner upon payment of fine.

48. SEC. 3. That this act shall in nowise affect the proceedings against persons referred to in the fifth section of the disorderly act.

Act not to affect certain proceedings.

49. SEC. 4. That all acts or parts of acts inconsistent herewith be and the same are hereby repealed.

Repealer.

### Distress.

1. Distress to be reasonable.
2. Not wrongful, or driven out of county.
3. What not liable to distress.
4. Beasts distrained, where impounded.
5. Goods not in different places.
6. Distrained for rent, appraised and sold.
7. What may be distrained.
8. Further specification.
9. Impounded and sold on premises.
10. Remedy for pound breach.
11. For wrongful distress.
12. For unlawful act after distress.
13. Pleas and evidence in such case.
14. Goods may be followed and seized.

15. Forfeit for carrying off goods.
16. Power to seize goods so taken.
17. May distrain after term ended.
18. Remedy after estate for life ended.
19. After estate in wife's right ended.
20. Remedy by executors, &c.
21. Distress for residue.
22. Under-tenant to pay rent to landlord after notice.
23. When justice may order sale.
24. Exemptions. Appraised and selected.
25. How exemptions selected if landlord fails to proceed.
26. Extends to under-tenant.
27. Fees.

### An act concerning distresses.

Revision—Approved March 27, 1874.

1. That all distresses made or taken, or to be made or taken for any cause whatsoever, shall be reasonable and not too great; and if any person shall take great and unreasonable distress or distresses, he or she shall answer the damages to the party aggrieved. (a)

2. That no person shall take any distress wrongfully, or cause any distress to be driven or conveyed out of the county where it shall be taken; and every person who shall do so of his or her own authority, and without judgment, shall answer the damages to the party aggrieved.

3. That no person shall be distrained for any cause whatsoever, by his or her beasts of the plow, or sheep, or by the implements of his or her trade, while other distress or chattels whereof the debt or demand may be levied, or sufficient for the same may be found; except the distraining and impounding beasts found on the ground of any person damage feasant.

4. That beasts, when they are distrained for any cause whatsoever, shall be put in open pound in the township or precinct where they shall be taken, and they to whom such beasts belong, may give them their feeding without disturbance, so long as they shall be impounded as aforesaid.

R. S. 63.

P. L. 1848, p. 224.  
" 1861, p. 347.

Distress to be reasonable.  
R. S. 63, § 1.

1207-1  
39v-350

Not wrongful, or driven out of county.  
Ib., § 2.

What not liable to distress.  
Ib., § 3.

Beasts distrained, where impounded.  
Ib., § 4.

(a) No precise act or form of words is essential to a distress, and a distress may be made without actual seizure. *Newell v. Clark*, 17 Vr. 364. Acts amounting to a distress. *Ib.*