

Case No. 18-55717

In the United States Court of Appeals
for the Ninth Circuit

MICHELLE FLANAGAN, et al.,
Plaintiffs-Appellants,

v.

XAVIER BECERRA, et al.,
Defendants-Appellees.

On Appeal from the United States District Court
for the Central District of California
(CV 16-06164-JAK-AS)

**APPELLANTS' EXCERPTS OF RECORD
VOLUME VIII OF X**

C. D. Michel
Sean A. Brady
Anna M. Barvir
MICHEL & ASSOCIATES, P.C.
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
(562) 216-4444
cmichel@michellawyers.com

Paul D. Clement
Counsel of Record
Erin E. Murphy
KIRKLAND & ELLIS LLP
655 Fifteenth Street, NW
Washington, DC 20005
(202) 879-5000
paul.clement@kirkland.com

Counsel for Plaintiffs-Appellants

October 2, 2018

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EXHIBIT 3

California Department of Finance
Demographic Research Unit

Report E-1

Population Estimates for Cities, Counties, and the State
January 1, 2016 and 2017

Released: May 1, 2017

Table of Contents (links to internal worksheets)

[City and County Population Estimates, January 1, 2016 and 2017](#)

[County and State Population Estimates, January 1, 2016 and 2017](#)

For more information:

<http://dof.ca.gov/Forecasting/Demographics/Estimates/E-1/>

Data Prepared by:

Demographic Research Unit
California Department of Finance
e-mail: ficalpop@dof.ca.gov
phone: 916-323-4086

About the Data

E-1: State/County Population Estimates with Annual Percent Change
January 1, 2016 and 2017

State/County	Total Population		Percent Change
	1/1/2016	1/1/2017	
California	39,189,035	39,523,613	0.9
Alameda	1,629,233	1,645,359	1.0
Alpine	1,160	1,151	-0.8
Amador	37,667	38,382	1.9
Butte	224,703	226,404	0.8
Calaveras	45,246	45,168	-0.2
Colusa	21,965	22,043	0.4
Contra Costa	1,126,824	1,139,513	1.1
Del Norte	27,006	27,124	0.4
El Dorado	184,371	185,062	0.4
Fresno	985,079	995,975	1.1
Glenn	28,639	28,731	0.3
Humboldt	135,557	136,953	1.0
Imperial	186,080	188,334	1.2
Inyo	18,632	18,619	-0.1
Kern	886,803	895,112	0.9
Kings	149,822	149,537	-0.2
Lake	64,790	64,945	0.2
Lassen	30,841	30,918	0.2
Los Angeles	10,182,961	10,241,278	0.6
Madera	154,933	156,492	1.0
Marin	263,150	263,604	0.2
Mariposa	18,167	18,148	-0.1
Mendocino	88,771	89,134	0.4
Merced	271,547	274,665	1.1
Modoc	9,620	9,580	-0.4
Mono	13,654	13,713	0.4
Monterey	438,171	442,365	1.0
Napa	141,888	142,408	0.4
Nevada	98,609	98,828	0.2
Orange	3,172,152	3,194,024	0.7
Placer	376,203	382,837	1.8
Plumas	19,837	19,819	-0.1
Riverside	2,348,213	2,384,783	1.6
Sacramento	1,496,619	1,514,770	1.2
San Benito	56,621	56,854	0.4
San Bernardino	2,135,724	2,160,256	1.1
San Diego	3,286,717	3,316,192	0.9
San Francisco	864,889	874,228	1.1
San Joaquin	735,677	746,868	1.5
San Luis Obispo	278,480	280,101	0.6

San Mateo	765,895	770,203	0.6
Santa Barbara	447,295	450,663	0.8
Santa Clara	1,922,619	1,938,180	0.8
Santa Cruz	275,557	276,603	0.4
Shasta	178,232	178,605	0.2
Sierra	3,194	3,207	0.4
Siskiyou	44,722	44,688	-0.1
Solano	430,972	436,023	1.2
Sonoma	502,604	505,120	0.5
Stanislaus	541,466	548,057	1.2
Sutter	96,614	96,956	0.4
Tehama	63,942	63,995	0.1
Trinity	13,647	13,628	-0.1
Tulare	466,563	471,842	1.1
Tuolumne	54,949	54,707	-0.4
Ventura	853,893	857,386	0.4
Yolo	215,522	218,896	1.6
Yuba	74,328	74,577	0.3

Department of Finance
Demographic Research Unit
Phone: (916) 323-4086

For more information: <http://www.dof.ca.gov/research/demographic/reports/estimates/e-1/view.php>
Released on May 1, 2017

EXHIBIT 4

THE
GRANTS, CONCESSIONS,
AND
ORIGINAL CONSTITUTIONS
OF THE PROVINCE OF
NEW JERSEY
THE
A C T S

Passed during the Proprietary Governments, and other
material Transactions before the Surrender
thereof to Queen Anne.

The Instrument of Surrender, and her formal Accept-
ance thereof

Lord CORNBURY'S COMMISSION and Instructions Conse-
quent thereon,

Collected by some Gentlemen employed by the General Assembly,
And afterwards

Published by virtue of an Act of the Legislature of the said Province
With proper Tables alphabetically Digested, containing the prin-
cipal Matters in the Book.

By AARON LEAMING and JACOB SPICER.

PHILADELPHIA:

Printed by W. BRADFORD, Printer to the King's Most Excellent
Majesty for the Province of New Jersey.

NOTE TO SECOND EDITION.

THE original edition of this volume of GRANTS AND CONCESSIONS was printed by William Bradford, of Philadelphia, as the imprint states; but the exact year is unknown. Griffith, in his *Law Register*, vol. iv., states that it was "about 1751 or 1752," which is, perhaps, as nearly correct as can now be ascertained. It is the second, in order, of the compilations of the laws of New Jersey—the first being *Kinsey's Acts*, of 1732.

In reprinting the original GRANTS AND CONCESSIONS, copies of which have become scarce, we have endeavored to make the work an exact duplicate of the Bradford edition in the paging, spelling and punctuation. In a few instances, errors clearly typographical, as misplacement of letters, have been corrected; but the unique and inconsonant spelling, and the equally curious punctuation, have been, as a rule, strictly maintained. The only perceptible difference is in capitalization and italicizing. It was thought unnecessary and unwise to follow the original in these respects, because of the greater difficulty in reading the text, and because no one, in any printed quotations from such old works, at this day, would retain those particular typographical oddities.

It is true the original edition had, as is believed, some slight errors in it, which were the fault of the transcribers from the English or Colonial records, or of the printer, or both; but these we have not undertaken to correct, inasmuch as only a comparison of every word with the ancient documents themselves (could they be found) would enable one to discover wherein the 1752 edition was at fault. This no person is likely ever to undertake: and the utmost that will be expected of the present publishers is, that this edition shall conform to that of 1752.

HONEYMAN & COMPANY.

SOMERVILLE, N. J., July, 1881.

STANFORD VA
The Honeyman & Company
SOMERVILLE, N. J.

Laws passed in 1686. 289

ny persons as they shall think fit, not exceeding seven, to make orders from time to time, such as may be suitable and beneficial for every town, village, hamlet, or neighbourhood, for preventing all harms by swine, in town, meadows, pastures and gardens, in any respect, and to impose penalties according to their best discretions.

Chap. VIII.

An Act appointing some new Commissioners of the Highways.

WHEREAS there was an act made in the year 1682, for the county of Monmouth, to enable Col. Lewis Morris, John Bound, and Joseph Parker, to lay out highways, passages, ferry's, and making bridges and such like; there being three of those persons disabled for the true performance of the said services, *be it therefore enacted* by the Governor, Council and Deputies now met and assembled, and by the authority of the same, that John Frogmerton, John Slocame, and Nicholas Brown, in the stead and room of Col. Lewis Morris, John Bound, and Joseph Parker, be made capable and hereby invested with the same power to all intents and purposes in the said premises, as the aforesaid Col. Lewis Morris, John Bound, and Joseph Parker, were by the said acts.

Chap. IX.

An Act against wearing Swords, &c.

WHEREAS there hath been great complaint by the inhabitants of this Province, that several persons wearing swords, daggers, pistols, dirks, stilladoes, skeines, or any other unusual or unlawful weapons, by reason of which several persons in this Province, receive great abuses, and put in great fear and quarrels, and challenges made, to the great abuse of the inhabitants of this Province. *Be it therefore enacted* by the Governor, and Council, and Deputies now met in General Assembly, and by authority of the same, that no person or persons within this Province, presume to send any challenge in writing, by word of mouth,

290 Laws passed in 1686.

or message, to any person to fight, upon pain of being imprisoned during the space of six months, without bail or mainprize, and forfeit ten pounds; and whosoever shall except of such challenge, and not discover the same to the Governor, or some publick officer of the peace, shall forfeit the sum of ten pounds; the one moiety of the said forfeiture to be paid unto the Treasurer for the time being, for the public use of the Province, and the other moiety to such person or persons as shall discover the same, and make proof thereof in any court of record within this Province, to be recovered by the usual action of debt, in any of the said courts. *And be it further enacted* by the authority aforesaid, that no person or persons after publication hereof, shall presume privately to wear any pocket pistol, skeines, stillanders, daggers or dirks, or other unusual or unlawful weapons within this Province, upon penalty for the first offence five pounds, and to be committed by any justice of the peace, his warrant before whom proof thereof shall be made, who is hereby authorized to enquire of and proceed in the same, and keep in custody till he hath paid the said five pounds, one half to the public treasury for the use of this Province, and the other half to the informer: And if such person shall again offend against this law, he shall be in like manner committed (upon proof thereof before any justice of the peace) to the common gaol, there to remain till the next sessions, and upon conviction thereof by verdict of twelve men, shall receive judgment to be in prison six month, and pay ten pounds for the use aforesaid. *And be it further enacted* by the authority aforesaid, that no planter shall ride or go armed with sword, pistol, or dagger, upon the penalty of five pounds, to be levied as aforesaid, excepting all officers, civil and military, and soldiers while in actual service, as also all strangers, travelling upon their lawful occasions thro' this Province, behaving themselves peaceably.

A
COLLECTION
OF
ALL SUCH
ACTS
OF THE
GENERAL ASSEMBLY
OF
VIRGINIA,
OF A PUBLIC AND PERMANENT NATURE, AS
ARE NOW IN FORCE;

WITH A
NEW AND COMPLETE INDEX.

TO WHICH ARE PREFIXED THE DECLARATION OF RIGHTS,
AND CONSTITUTION, OR FORM OF GOVERNMENT.

PUBLISHED PURSUANT TO AN ACT OF THE GENERAL ASSEMBLY,
PASSED ON THE TWENTY-SIXTH DAY OF JANUARY, ONE
THOUSAND EIGHT HUNDRED AND TWO.

RICHMOND,
PRINTED BY SAMUEL PLEASANTS, JUN. AND HENRY PAGE.

M,DCCC,III.

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1786.

30 IN THE ELEVENTH YEAR OF THE COMMONWEALTH.

interposition disarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them :

No man compelled to frequent or support any religious worship. All men free to profess, and by argument to maintain their religious opinions.

Declaration that the rights by this Act asserted, are of the natural rights of mankind.

II. *BE it enacted by the General Assembly*, That no man shall be compelled to frequent or support any religious worship, place, or Ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

III. AND though we well know that this Assembly elected by the people for the ordinary purposes of legislation only, have no power to restrain the Acts of succeeding Assemblies, constituted with powers equal to our own, and that therefore to declare this Act to be irrevocable, would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby asserted, are of the natural rights of mankind, and that if any Act shall be hereafter passed to repeal the present, or to narrow its operation, such Act will be an infringement of natural right.

General Assembly, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 16th Day of *October*, in the Year of our Lord, 1786.

CHAP. XXI.

An Act forbidding and punishing Affrays. †

[Passed the 27th of November, 1786. †]

Punishment of persons going armed before Courts of Justice, or the Ministers of Justice, or in fairs or markets in terror of the Country.

BE it enacted by the General Assembly, That no man, great nor small, of what condition soever he be, except the Ministers of Justice in executing the precepts of the Courts of Justice, or in executing of their office, and such as be in their company assisting them, be so hardy to come before the Justices of any Court, or either of their Ministers of Justice, doing their office, with force and arms, on pain, to forfeit their armour to the Commonwealth, and their bodies to prison, at the pleasure of a Court; nor go nor ride armed by night nor by day, in fairs or markets, or in other places, in terror of the Country, upon pain of being arrested and committed to prison by any Justice on his own view, or proof by others, there to abide for so long a time as a Jury, to be sworn for that purpose by the said Justice, shall direct, and in like manner to forfeit his armour to the Commonwealth; but no person shall be imprisoned for such offence by a longer space of time than one month.

CHAP. XXII.

An Act against Conspirators.

[Passed the 27th of November, 1786. †]

Who shall be deemed Conspirators.

BE it declared and enacted by the General Assembly, That Conspirators be they that do confederate and bind themselves by oath, covenant, or other alliance, that every of them shall aid and bear the other falsely and maliciously, to move or cause to be moved any indictment or information against another on the part of the Commonwealth, and those who are convicted thereof at the suit of the Commonwealth, shall be punished by imprisonment and amercement, at the discretion of a Jury.

CHAP. XXIII.

An Act prescribing the Punishment of those who sell unwholesome Meat or Drink.

[Passed the 27th of November, 1786. †]

Punishment of those who sell unwholesome

BE it enacted by the General Assembly, That a Butcher or other person that selleth the flesh of any animal dying otherwise than by slaughter, or slaught-
† 1786, ch. 49. † Commenced 1 July, 1787. † 1786, ch. 50. † 1786, ch. 53.

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The Revised Code
OF THE
LAWS OF VIRGINIA :
BEING
A COLLECTION OF ALL SUCH ACTS.
OF THE
GENERAL ASSEMBLY,
OF A PUBLIC AND PERMANENT NATURE, AS ARE NOW IN FORCE ;
WITH A GENERAL INDEX.

TO WHICH ARE PREFIXED,
THE CONSTITUTION OF THE UNITED STATES ;
THE DECLARATION OF RIGHTS ;
AND
THE CONSTITUTION OF VIRGINIA.

Published pursuant to an act of the General Assembly, entitled "An act providing for the re-publication of the Laws of this Commonwealth," passed March 12, 1819.

VOLUME I.

RICHMOND :
PRINTED BY THOMAS RITCHIE,
PRINTER TO THE COMMONWEALTH.

.....
1819.

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Affrays.—Sabbath Breakers, &c.

C. 140.

A. D. 1786.
A. R. C. 11.

*An act forbidding and punishing Affrays.**

[Passed November 27, 1786.]

Punishment of persons going armed before courts of justice, or the ministers of justice, or in fairs or markets, in terror of the country. St. Northamp. 2 Ed. 3, c. 3.

Be it enacted by the General Assembly, That no man, great nor small, of what condition soever he be, except the ministers of justice in executing the precepts of the courts of justice, or in executing of their office, and such as be in their company assisting them, be so hardy to come before the justices of any court, or other of their ministers of justice, doing their office, with force and arms, on pain to forfeit their armour to the Commonwealth, and their bodies to prison, at the pleasure of a court; nor go nor ride armed by night nor by day, in fairs or markets, or in other places, in terror of the country, upon pain of being arrested and committed to prison by any justice on his own view, or proof by others, there to abide for so long a time as a jury, to be sworn for that purpose by the said justice, shall direct, and in like manner to forfeit his armour to the Commonwealth; but no person shall be imprisoned for such offence by a longer space of time than one month.

C. 141.

A. D. 1792.
A. R. C. 17.

An act for the effectual suppression of vice, and punishing the disturbers of religious worship, and Sabbath Breakers.†

[Passed December 26, 1792.]

Punishment for profane swearing, cursing, or drunkenness.

1. *Be it enacted by the General Assembly, That, if any person or persons shall profanely swear or curse, or shall be drunk, he, she or they so offending, for every such offence, being thereof convicted by the oath of one or more witnesses, (which oath any justice of the peace is hereby empowered and required to administer,) or by confession before one or more justice or justices of the peace in the county or corporation where such offence shall be committed, shall forfeit and pay the sum of eighty-three cents for every such offence; or, if the offence or offences be committed in the presence and hearing of one or more justice or justices of the peace, or in any court of record in this Commonwealth, the same shall be a sufficient conviction without any other evidence, and the said offender shall, upon such conviction, forfeit and pay the sum of eighty-three cents for every such offence; and, if any person or persons shall refuse to make present payment, or give sufficient security for the payment of the same in a reasonable time, not*

* 1786, c. 49; 1792, ed. 1794, 1803, and '14, c. 21; took effect July 1, 1787; *vid.* acts of 1786, c. 115, § 5; *ante.* c. 43.

† Former general law touching these subjects; 1792, ed. 1794, 1803, and 1814, c. 138.

THE
Perpetual Laws
OF THE
COMMONWEALTH
OF
MASSACHUSETTS,

From the ESTABLISHMENT of its CONSTITUTION,
IN THE YEAR 1780,
To the END of the YEAR 1800;
WITH THE
CONSTITUTIONS of the UNITED STATES of AMERICA,
and of the COMMONWEALTH, prefixed.

8064

TO WHICH IS ADDED,
AN APPENDIX,

CONTAINING
ACTS AND CLAUSES OF ACTS, FROM THE LAWS OF THE LATE
COLONY, PROVINCE AND STATE OF MASSACHUSETTS,
WHICH EITHER ARE UNREVISED OR RESPECT
THE TITLE TO REAL ESTATE.

IN THREE VOLUMES.

VOL. II.

Containing the LAWS from JUNE, 1788, to JUNE, 1798,
inclusively.

Ignorantia legis neminem excusat.
The Ignorance of Law is an Excuse for no One.
The Law is the Subject's best Birthright.

PRINTED AT BOSTON,
By I. THOMAS AND E. T. ANDREWS.
Sold by them, at their Bookstore, No. 45, Newbury-Street; and by said THOMAS,
at his Bookstore, in WORCESTER.
MARCH, 1801.

Ch. 23—25.] **Crim. Offenders.** Anno 1794. 459

CHAP. XXIII.

An Act to incorporate certain Persons by the name of The Northwest Congregational Society in Northyarmouth. Passed June 26, 1794.

[SPECIAL.]

CHAP. XXIV.

An Act for incorporating certain Land in Dedham and Sharon, in the County of Norfolk, into a Common Field. Passed January 22, 1795.

[SPECIAL.]

CHAP. XXV.

An Act for repealing an Act, made and pass'd in the year of our Lord, one Thousand six Hundred and Ninety two, entitled "An Act for punishing Criminal Offenders," and for reenacting certain Provisions therein.

1. **B**E it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That the said act be, and hereby is repealed, and made wholly null and void. All repealed.

2. *And be it further enacted by the authority aforesaid,* That every Justice of the Peace, within the county for which he may be commissioned, may cause to be laid and arrested, all affrayers, rioters, disturbers, or breakers of the peace, and such as shall ride or go armed offensively, to the fear or terror of the good citizens of this Commonwealth, or such others as may utter any menaces or threatening speeches, and upon view of such Justice, confession of the delinquent, or other legal conviction of any such offence, shall require of the offender to find sureties for his keeping the Peace, and being of the good behaviour; and in want thereof, to commit him to prison until he shall comply with such requisition; And may further punish the breach of the Peace in any person that shall assault or strike another, by fine to the Commonwealth, not exceeding *twenty shillings*, and require sureties, as aforesaid, or bind the offender, to appear and answer for his offence at the next Court of General Sessions of the Peace, as the nature or circumstances of the case may require. Justice of the Peace empowered.

[Passed January 29, 1795.]

CHAP.

A
MANUAL
OF THE
LAWS OF NORTH-CAROLINA,
ARRANGED UNDER
DISTINCT HEADS IN ALPHABETICAL ORDER;
WITH
REFERENCES
FROM ONE HEAD TO ANOTHER,
WHEN A SUBJECT IS MENTIONED IN ANY OTHER PART OF THE BOOK
THAN UNDER THE DISTINCT HEAD WHERE IT IS PLACED.

BY
BY JOHN HAYWOOD, ESQ.
LATE ONE OF THE JUDGES OF THE SUPREME COURTS OF LAW,
AND EQUITY.

VOLUME II.
SECOND EDITION, CORRECTED TO THE PRESENT TIME

Raleigh:
PRINTED AND SOLD BY J. GALE AND W. HOYLAN, AND MAY BE
HAD OF THE PRINTERS AND BOOKSELLERS IN ALL THE
TOWNS IN THE STATE.
1808.

OATHS AND AFFIRMATIONS.

and by all other persons who shall hereafter be chosen or appointed to any office of trust or profit within this State, before they enter upon the execution of the office to which they have been chosen or appointed: "I, A. B. do solemnly swear or affirm (as the case may be) that I will support the Constitution of the United States."

The oath to be taken by a Jury for laying off a Road.

XXII. I, A. B. do solemnly swear, that I will lay out ^{Of a jury} the road now directed to be laid out by the court of pleas ^{to lay off a} and quarter sessions, to the greatest ease and advantage of the inhabitants, and with as little prejudice to inclosures as may be, without favor or affection, malice or hatred, and to the best of my skill and knowledge.—So help me God.

The oath of a Constable.

XXIII. You shall swear that you will well and truly serve the State of North Carolina in the office of a constable, you shall see and cause the peace of the State to be well and duly preserved and kept according to your power, you shall arrest all such persons as in your sight shall ride or go armed offensively, or shall commit or make any riot, affray or other breach of the peace; you shall do your best endeavor, upon complaint to you made, to apprehend all felons, and rioters, or persons riotously assembled; and if any such offender shall make resistance with force, you shall make hue and cry, and shall pursue them according to law: You shall faithfully, and without delay, execute and return all lawful precepts to you directed: You shall well and duly, according to your knowledge, power and ability, do and execute all other things belonging to the office of a constable, so long as you shall continue in this office. So help you God.

The oath of a Processioner.

XXIV. I, A. B. do solemnly swear or affirm (as the case may be) that I will well and truly execute the duty and trust enjoined by the acts for proccessioning land in this State, according to the best of my skill and ability, without favor or partiality to any person or persons whatsoever.—So help me God.

The oath of a Standard-Keeper.

XXV. You shall swear that you will not stamp, seal, or give any certificate, for any steel-yards, weights or measures, but such as shall, as near as possible, agree with the standard in your keeping; and that you will in all respects truly and faithfully discharge and execute the power and trust by this act reposed in you, to the best of your ability and capacity. So help you God.

Maine laws, statutes, etc.

LAWS

OF THE

STATE OF MAINE;

TO WHICH ARE PREFIXED

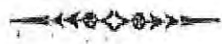
THE

4952

CONSTITUTION OF THE UNITED STATES

AND OF SAID STATE,

WITH AN APPENDIX.



HALLOWELL:

PRINTED AND PUBLISHED BY GLAZIER, MATTERS & Co.
No. 1, Kennebec-Row.

1830.

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POWER OF JUSTICES.

CHAPTER LXXVI.

An Act describing the power of Justices of the Peace in Civil and Criminal Cases,

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That it shall be within the power, and be the duty of every Justice of the Peace within his county, to punish by fine not exceeding five dollars, all assaults and batteries that are not of a high and aggravated nature, and to examine into all homicides, murders, treasons, and felonies done and committed in his county, and commit to prison all persons guilty, or suspected to be guilty of manslaughter, murder, treason or other capital offence; and to cause to be staid and arrested, all affrayers, rioters, disturbers or breakers of the peace, and such as shall ride or go armed offensively, to the fear or terrour of the good citizens of this State, or such others as may utter any menaces or threatening speeches; and upon view of such Justice, confession of the delinquent, or other legal conviction of any such offence, shall require of the offender to find sureties to appear and answer for his offence, at the Supreme Judicial Court, or Circuit Court of Common Pleas, next to be held within or for the same county, at the discretion of the Justice, and as the nature or circumstances of the case may require; and for his keeping the peace, and being of the good behaviour, until the sitting of the Court he is to appear before; and to hold to bail all persons guilty or suspected to be guilty of lesser offences which are not cognizable by a Justice of the Peace; and require sureties for the good behaviour of dangerous and disorderly persons; and commit all such persons as shall refuse so to recognize, and find such surety or sureties as aforesaid; and take cognizance of, or examine into all other crimes, matters and offences, which by particular laws are put within his jurisdiction.

General jurisdiction of Justices of the Peace, and their duty in criminal cases, in arresting, trying, recognizing and committing offenders.

SEC. 2. *Be it further enacted,* That all fines and forfeitures accruing for the breach of any by-law, in any town within this State, may be prosecuted for, and recovered before any Justice of the Peace in the town or county where the offence shall be committed, by complaint or information, in the same way and manner other criminal offences are prosecuted before the Justices of the Peace within this State.

Branches of the by-laws of towns may be prosecuted before Justices of the Peace.

SEC. 3. *Be it further enacted,* That any person aggrieved at the sentence given against him, by any justice of the Peace, may appeal therefrom to the next Circuit Court of Common Pleas to be held within the same county, and shall, before his appeal is granted, recognize to the State in such reasonable sum, not less than twenty dollars, as the Justice shall order, with sufficient surety or sureties for his prosecuting his appeal; and shall be held to produce the copy of the whole process, and all writings filed before the Justice, at the Court appeal-

Persons aggrieved may appeal to the C. Court of Com. Pleas. Must recognize with sureties, and produce copies of case at C. C. Common Pleas.

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POWER OF JUSTICES.

Failing to prosecute his appeal, his default to be entered. Court may order such case to be laid before Grand Jury, or arrest appellant, and affirm sentence, &c.

Justices may command assistance of sheriff, deputies and constables at riots, affrays, &c.

Justices may, on their own view, (in absence of sheriff, deputies or constables,) require any person to apprehend offenders.

Penalty for refusing to obey such Justice.

If the Justice be known or declared—plea of ignorance of his office not admissible.

Justices may grant subpoenas for witnesses in criminal cases:

But not on behalf of the State without consent of Attorney General, or County Attorney, except before himself.

Justices to account annually to State, County and Town Treasurers for all fines, &c.

Penalty for neglect.

od to. And if he shall not there prosecute his appeal, and produce the copies as aforesaid, the Court shall order his default to be noted upon their record. And the said Court may order the same case to be laid before the Grand Jury, or may issue an attachment against the body of such appellant, and cause him thereby to be brought before them, and when he is so in Court, shall affirm the sentence of the Justice against him, with all additional costs.

Sec. 4. *Be it further enacted,* That each Justice shall have authority to command the assistance of every Sheriff, Deputy Sheriff, Constable, and all other persons present at any affray, riot, assault or battery, and may fine any person refusing such assistance, in a sum not exceeding six dollars; to be disposed of for the use of the town where the offence shall be committed; and levied by warrant of distress on the offender's goods and chattels, and for want thereof on his body.

Sec. 5. *Be it further enacted,* That any Justice of the Peace for the preservation thereof, or upon view of the breach thereof, or upon view of any other transgression of law, proper to his cognizance, done or committed by any person or persons whatever, shall have authority, (in the absence of the Sheriff, Deputy Sheriff or Constable,) to require any person or persons to apprehend and bring before him such offender or offenders. And every person so required, who shall refuse or neglect to obey the said Justice, shall be punished in the same manner as for refusing or neglecting to assist any Sheriff, Deputy Sheriff or Constable in the execution of his office as aforesaid. And no person who shall refuse or neglect to obey such Justice, to whom he shall be known, or declare himself to be a Justice of the Peace, shall be admitted to plead excuse on any pretence of ignorance of his office.

Sec. 6. *Be it further enacted,* That Justices of the Peace within their respective counties, be, and they are hereby authorized and empowered to grant subpoenas for witnesses in all criminal causes pending before the Supreme Judicial Court and Circuit Court of Common Pleas, and before themselves or any other Justice: *Provided,* That no Justice of the Peace shall grant subpoenas for witnesses to appear in any Court, except before himself, to testify on behalf of the State, unless by the request of the Attorney General or County Attorney. And all Sheriffs, Constables and other officers are directed and empowered to serve any warrant issuing from a Justice of the Peace.

Sec. 7. *Be it further enacted,* That the Justices of the Peace shall account annually with the Treasurer of the State, the Treasurer of their respective counties, and the town Treasurer, as the case may be, for all fines by them received or imposed, upon pain of forfeiting the sum of thirty dollars, to be sued for and recovered by the Treasurer of the State, the county or town Treasurer for the time being, to which the said fines may respectively belong.

Handwritten signature

POWER OF JUSTICES.

Sec. 8. *Be it further enacted,* That all civil actions, where- in the debt or damage does not exceed twenty dollars, (and wherein the title of real estate is not in question, and specially pleaded by the defendant,) shall, and may be heard, tried, adjudged and determined by any Justice of the Peace within his county; and the Justices are severally empowered to grant summons, capias and attachment, at the request of any person applying for the same, directed to some proper officer within the same county, empowered by law to execute the same. And such sommons or capias and attachment shall be duly served by such officer, seven days at the least before the day therein set for trial, otherwise the party sued shall not be held to answer thereon; and if after such process shall be duly served, the party sued, after being duly called, shall not appear to answer to the same suit, the charge against him in the declaration shall be taken to be true, and the Justice shall give judgment against him for such damages as he shall find the plaintiff to have sustained, with costs; and if the person sued shall appear to defend the suit or oppose the same, the Justice shall award such damages as he shall find the plaintiff to have sustained: *Provided,* That no more damages than the sum of twenty dollars shall be awarded in any action originally brought or tried before a Justice of the Peace; but if the plaintiff shall not support his action, shall fail to prosecute, or become nonsuit, the Justice shall award to the party sued, his reasonable costs, taxed as the law directs. And upon all judgments given by a Justice of the Peace in civil actions, he shall award execution thereon in form by law prescribed.

Justice's jurisdiction in civil actions, (where title to real estate is not in question,) to extend to 20 dollars.

Justices may issue summons, capias, attachment, &c.

—to be served seven days before trial.

Proceedings before Justice.

Judgment, &c. if plaintiff prevail.

Damages not to exceed 20 dollars.

Judgment in case defendant prevail.

Execution.

Sec. 9. *Be it further enacted,* That the amount of the sum or several sums, specified, expressed or supposed to be demanded by the plaintiff in his declaration, shall not be considered as any objection against the Justice's jurisdiction, provided the ad damnum, or damage is not laid or stated to exceed twenty dollars.

Justice to have jurisdiction where the ad damnum does not exceed 20 dollars.

Sec. 10. *Be it further enacted,* That any party aggrieved at the judgment of any Justice of the Peace, in a civil action, where both parties have appeared and plead, may appeal therefrom to the next Circuit Court of Common Pleas to be held within the same county; and shall, before his appeal is allowed, recognize with a surety or sureties, in such reasonable sum as the Justice shall order, not exceeding thirty dollars, to pay all intervening damages and costs, and to prosecute his appeal with effect; and shall be held to produce a copy of the whole case, at the Court appealed to, and both parties shall be allowed to offer any evidence upon the trial at the Circuit Court of Common Pleas, in the same manner as if the cause had been originally commenced there. And no other appeal shall be had on such action after one trial at the Circuit Court of Common Pleas. And the Circuit Court of Common Pleas, when any person recognized as before men-

Party aggrieved may appeal to C. C. Com. Pleas.

—Must recognize to prosecute.

and produce copies at C. C. Com. Pleas. Proceedings in that Court.

No further appeal.

Defendant in trespass failing to bring for-

ward the action according to his recognizance.—Plaintiff to have his damages.

Appellant failing to prosecute, on complaint judgment may be affirmed.

In action of trespass when defendant pleads title to real estate—mode of proceeding before Justice.

Appeal allowed in such cases from C. C. C. Pleas to S. J. Court.

General issue may be plead in all actions before Justices and special matter gives in evidence except where title to real estate is relied on by defendant.

Justices may grant subpoenas in all civil actions.

May adjourn their Courts by proclamation :

No Justice to be of counsel in any suit before himself.

tioned to bring forward an action of trespass, doth neglect to do it, upon complaint thereof made in writing by the plaintiff, shall give judgment for such sum in damages, as the plaintiff hath declared for, together with all reasonable costs which accrued both in the same Court and before the Justice. And the Circuit Court of Common Pleas shall, when any appellant thereto shall fail to prosecute his appeal, or if he shall neglect to produce a copy of the case, affirm the former judgment upon the appellee's complaint, and award such additional damages as shall have arisen in consequence of the said appeal, and cost.

Sec. 11. *Be it further enacted*, That when an action of trespass shall be brought before any Justice of the Peace, and the defendant shall plead the general issue, he shall not be allowed to offer any evidence that may bring the title of real estate in question. And when the defendant in any such action shall plead the title of himself or any other person in justification, the Justice upon having such plea plead, shall order the defendant to recognize to the adverse party in a reasonable sum, with sufficient surety or sureties to enter the said action at the next Circuit Court of Common Pleas to be holden within the same county, and to prosecute the same in the same manner as upon an appeal from a Justice's judgment; and if such pleader shall refuse so to recognize, the Justice shall render judgment against him, in the same manner as if he had refused to make answer to the same suit. And either party in such cause, shall be allowed to appeal from the judgment of the Circuit Court of Common Pleas, in the same manner as if the suit had been originally commenced there.

Sec. 12. *Be it further enacted*, That in all civil actions triable before a Justice of the Peace, except such actions of trespass wherein the defendant means to avail himself, by pleading the title of himself or any other person under whom he claims in justification of the trespass or trespasses alleged to be committed on real estate; the defendant shall be entitled to all evidence, under the general issue, which by law he might avail himself of under any special plea in excuse or justification, any law, usage or custom to the contrary notwithstanding.

Sec. 13. *Be it further enacted*, That each Justice of the Peace may grant subpoenas for witnesses in all civil actions and causes pending before the Supreme Judicial Court, Circuit Court of Common Pleas, Court of Sessions, and before him or any other Justices, and in all civil actions and causes pending before arbitrators or referees. And every Justice of the Peace shall have power by public proclamation to adjourn the trial of any action brought before him, from time to time, when equity may require it; but he shall not be of counsel to either party, or undertake to advise or assist any party in suit before him.

m. m. S. S. S. S.

POWER OF JUSTICES.

Sec. 14. *Be it further enacted,* That when an executor or administrator shall be guilty of committing waste, whereby he is rendered unable to pay the judgment recovered before any Justice of the Peace, against the goods and estate of the deceased in his hands, out of the same, the Justice may proceed against the proper goods and estate of such executor or administrator, in the same manner as the Circuit Court of Common Pleas are empowered to do.

In case of waste by executor or administrator, Justice may proceed as C. C. Pleas may in such cases.

Sec. 15. *Be it further enacted,* That each Justice of the Peace shall keep a fair record of all his proceedings; and when any Justice of the Peace shall die before a judgment given by him is paid and satisfied, it shall be in the power of any Justice of the Peace in the same county to grant a scire facias upon the same judgment, to the party against whom such judgment was rendered up, for him to show cause if any he hath, why execution should not be issued against him.

Justice to keep record of his proceedings. When Justice shall die before a judgment given by him is satisfied, what proceedings to be had.

And although the costs and debt awarded by the deceased Justice when added together, shall amount to more than twenty dollars, it shall be no bar upon such scire facias, but judgment shall be given thereon for the whole debt and cost, together with the cost arising upon the scire facias. *Provided always,* That either party may appeal from the judgment

Appeal allowed to either party.

as in other personal actions, where judgment is given by a Justice of the Peace. And every Justice of the Peace who shall have complaint made to him, that a judgment given by a Justice of the same county then deceased, remains unsatisfied, shall issue his summons to the person in whose possession the record of the same judgment is, directing him to bring and to produce to him the same record; and if such person shall contemptuously refuse to produce the same record, or shall refuse to be examined respecting the same, upon oath, the Justice may punish the contempt by imprisonment, until he shall produce the same, or until he submits to be examined as aforesaid; and when the Justice is possessed of such record, he shall transcribe the same upon his own book of records, before he shall issue his scire facias; and shall deliver the original back again to the person who shall have produced it, and a copy of such transcription, attested by the transcribing Justice, shall be allowed in evidence in all cases, where an authenticated copy of the original might be received.

Justice to whom complaint is made in such cases, may summon the person possessing the record to produce it.

Punishment for refusal so to do.

Duty of the Justice when the record is produced, to transcribe it into his own records.

Copy of such transcript to be evidence.

Sec. 16. *Be it further enacted,* That all Justices of the Peace before whom actions may be commenced under former commissions, and such commissions shall expire before judgment shall be rendered thereon, or judgment being rendered, the same remains in whole or in part unsatisfied, such Justices of the Peace who shall hereafter have their said commissions seasonably renewed, and being duly qualified agreeably to the Constitution of this State, to act under such commissions, be and they hereby are authorized and empowered to render judgment, and issue execution on all such

Justices, whose commissions expire before judgment or satisfaction, may proceed under a new commission, seasonably obtained, to render judgments &c.

RECOVERY OF DEBTS.

actions, commenced as aforesaid, in the same manner as if the commissions under which such actions may be commenced, were in full force.

[Approved March 15, 1821.]

CHAPTER LXXVII.

An Act providing a speedy Method of recovering Debts, and for preventing unnecessary costs attending the same.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That every Justice of the Peace in this State shall have power within his county to take recognizances for the payment of debts of any person who shall come before him for that purpose: which recognizance may be in substance as follows:—

Justices may take recognizances for debts.

Form of recognizance.

Know all men, that I, A. B. of , in the County of , do owe unto C. D. of , the sum of , to be paid to the said C. D. on the day of ; and if I shall fail of the payment of the debt aforesaid, by the time aforesaid, I will and grant that the said debt shall be levied of my goods and chattels, lands and tenements, and in want thereof of my body. Dated at , this day of , in the year of our Lord . Witness, my hand and seal. A. B.

ss. Acknowledged the day and year last abovesaid. Before E. F. Justice of the Peace.

To be recorded by the Justice.

Execution may issue thereon within 3 years.

SEC. 2. *Be it further enacted,* That every Justice of the Peace taking any such recognizance, shall immediately record the same at large in a book to be kept by him for that purpose; and after the same is recorded, may deliver it to the Conusee; and upon the Conusee's lodging the same with the said Justice, at any time within three years from the time when the same is payable, and requesting a writ of execution, it shall be the duty of such Justice to issue a writ of execution thereon for such sum as shall appear to be due on the same; which writ of execution shall be in substance as follows:

State of Maine.

(SEAL.) To the Sheriff of the County of , or his deputy, or either of the Constables of the town of , in said County, Greeting.

Form of execution.

Because A. B. of , in the County of , on the day of , in the year of our Lord , before E. F. Esq. one of the Justices of the Peace for the said County of , acknowledged that he was indebted to C. D. of , in the county of in the sum of which he ought to have paid on the day of , and remains unpaid as it is said

: We command you therefore, that of the goods, chattels or real estate of the said A. B. within your precinct, you cause to be paid and satisfied unto the said C. D. at the value

THE
REVISED STATUTES

OF THE
STATE OF *MAINE* *1847*
MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of *Maine*,

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

APPENDIX.

SECOND EDITION.

PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF JUNE 22, 1846.

HALLOWELL:
GLAZIER, MASTERS & SMITH.
1847.

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shall place the same on file with the indictment, and subjoin to the record of the sentence a brief abstract of the sheriff's return on the warrant. CHAP. 169.

[See additional act, Stat. 1871, ch. 101.]

CHAPTER 169.

OF PROCEEDINGS FOR PREVENTION OF CRIMES.

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| <p>SECT. 1. Of the commencement of criminal proceedings.</p> <p>2. Magistrates may require sureties for the peace and good behavior</p> <p>3. Of the examination of the complainant</p> <p>4. When a warrant may issue.</p> <p>5. In certain cases sureties required, for keeping the peace, &c, without binding to appear at any court.</p> <p>6. Party to be discharged, on complying.</p> <p>7. On refusal, to be committed to the county jail; but still entitled to a hearing on his appeal.</p> <p>8. Proceedings, if the complaint be not sustained. Costs, if malicious or frivolous.</p> | <p>SECT. 9. When party, complained of shall pay costs.</p> <p>10. Appeal to the next district court.</p> <p>11. Proceedings upon the appeal.</p> <p>12. Consequences, if the appellant fail to prosecute.</p> <p>13. Recognizance may be taken, after commitment.</p> <p>14. Return of such recognizance.</p> <p>15. When magistrate may require sureties, without a formal complaint.</p> <p>16. Persons going armed, without reasonable cause.</p> <p>17. Power of court, to remit the penalty of a recognizance.</p> <p>18. Sureties on recognizances may surrender their principals, as in case of bail in civil actions.</p> |
|---|---|

SECTION 1. No person shall be held to answer in any court for an alleged crime or offence, other than contempt of court, unless upon an indictment by a grand jury, except in the following cases; Of the commencement of criminal proceedings.

First. When a prosecution by information is expressly authorized by statute.

Second. In proceedings before a municipal or police court, or a justice of the peace.

Third. In proceedings before courts martial.

SECT. 2. The justices of the supreme judicial court, of the district court, justices of municipal courts and police courts in vacation, as well as in open court, and justices of the peace, in their respective counties, shall have power to cause all laws made for the preservation of the public peace to be kept; and, in the execution of that power, may require persons to give security to keep the peace, or be of the good behavior, or both, in the manner provided in this chapter. Magistrates may require sureties for the peace and good behavior.

SECT. 3. Any such magistrate, on complaint made to him, that any person has threatened to commit an offence against the person or property of another, shall examine the complainant on oath, and also any witnesses who are produced, and reduce the complaint to writing, and cause the complainant to subscribe the same. Of the examination of the complainant.

SECT. 4. If there should appear to such magistrate, on an examination of the facts, that there is just cause to apprehend and fear the commission of such offence, he shall issue a warrant under his hand and seal, containing a recital of the substance of the com- When a warrant may issue. 1821, 56. § 1.

CHAP. 169. **plaint, and commanding the officer to whom the same may be directed, forthwith to arrest the person complained of, and bring him before such magistrate or court, having jurisdiction of the case.**

In certain cases, sureties required, for keeping the peace, &c. without binding to appear at any court. 1821, 76, § 1. 1 Fedr. 225.

SECT. 5. When the person, complained of, is brought before the magistrate, he may be required, after his defence has been heard, to enter into a recognizance with sufficient sureties, in such sum as shall be ordered, to keep the peace towards all the people of the state, and especially towards the person requiring the security, for such term as the magistrate may order, not exceeding one year, but shall not be bound over to any court, unless he is also charged with some specific and other offence, for which he ought to be held to answer at such court.

Party to be discharged, on complying. 1821, 76, § 1.

SECT. 6. If the person complained of shall comply with the order of such magistrate, he shall be discharged.

On refusal, to be committed to the county jail, but still entitled to a hearing on his appeal. 1821, 76, § 1.

SECT. 7. If the person shall refuse or neglect so to recognize, the magistrate shall commit him to the county jail during the period for which he was required to find sureties, or till he shall so recognize; and the magistrate shall state in the warrant the cause of commitment, and also the time and the sum for which security was required. The magistrate shall also return a copy of the warrant to the district court, next to be holden in the same county, and such court shall have cognizance of the case in the same manner, as if the party accused had appealed to said court.

Proceedings, if the complaint be not sustained. Costs, if malicious or frivolous.

SECT. 8. When the magistrate, on examination of the facts, shall not be satisfied, that there is just cause to fear the commission of any such offence, he shall immediately discharge the party complained of; and, if the magistrate shall judge the complaint unfounded, malicious, or frivolous, he may order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and officer for their fees, as for his own debt.

When party, complained of, shall pay costs.

SECT. 9. When the person complained of is required to give security for the peace, or for his good behavior, the court or magistrate may further order, that the costs of prosecution, or any part thereof, shall be paid by such person, who shall stand committed until such costs are paid, or he is otherwise discharged.

Appeal, to the next district court.

SECT. 10. Any person, aggrieved by the order of such judge of a municipal or police court, or justice of the peace, in requiring him to recognize as aforesaid, may, on giving the security required, appeal to the next district court in the same county.

Proceedings upon the appeal.

SECT. 11. When an appeal is taken from an order of such justice or court, the magistrate shall require such witnesses, as he may think necessary, to recognize for their appearance at the court appealed to; and such court may affirm the order of the judge or justice, or discharge the appellant, or require him to recognize anew with sufficient sureties, as the court may deem proper; and make such order as to the costs, as may be deemed reasonable.

Consequences, if the appellant fail to prosecute.

SECT. 12. If the appellant shall fail to prosecute his appeal, his recognizance shall remain in full force, as to any breach of the condition, without an affirmation of the judgment or order, and stand as a security for any costs, which may be ordered by the court to be paid by the appellant.

Recognizance

SECT. 13. Any person committed for not finding sureties or

refusing to recognize, as required by the court or magistrate, may be discharged by any judge or justice of the peace, on giving such security, as was required. CHAP. 169. may be taken after commitment.

SECT. 14. Every recognizance, taken pursuant to the foregoing provisions, shall be transmitted to the district court, on or before the first day of the next ensuing term, and shall there be filed by the clerk, as of record. Return of such recognizance.

SECT. 15. Whoever, in the presence of any magistrate, mentioned in the second section of this chapter, or before any court of record, shall make any affray or threaten to kill or beat another, or commit any violence against his person or property, or shall contend, with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace, or being of the good behavior for a term, not exceeding three months, and, in case of refusal, may be committed to prison as before directed. When magistrate may require sureties, without a formal complaint, &c.

SECT. 16. Any person, going armed with any dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without a reasonable cause to fear an assault on himself, or any of his family or property, may, on the complaint of any person having cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace for a term, not exceeding one year, with the right of appeal as before provided. Persons going armed, without reasonable cause. 1821, 76, § 1.

SECT. 17. In a suit, on such recognizance taken in a criminal case, if a forfeiture is found or confessed, the court, on petition, may remit the penalty, or such part of it as they may think proper, on such terms as they may think right. Power of court, to remit the penalty of a recognizance. 1821, 50, § 4.

SECT. 18. Any surety in a recognizance may surrender the principal in the same manner, as if he had been his bail in a civil cause, and, on such surrender, shall be discharged from all liability for any act of the principal after such surrender, which would be a breach of the recognizance; and, upon such surrender, the principal may recognize anew with sufficient surety or sureties for the residue of the term, before any justice of the peace, and shall thereupon be discharged. Sureties on recognizances may surrender their principals as in case of bail in civil actions.

CHAPTER 170.

OF THE POWER AND PROCEEDINGS OF JUSTICES OF THE PEACE IN CRIMINAL CASES.

- | | |
|---|---|
| <p>SECT. 1. Justices may require aid, on view, without a warrant.</p> <p>2. Their jurisdiction.</p> <p>3. When a justice shall issue his warrant.</p> <p>4. Examination, or trial, of the party accused.</p> <p>5. Of commitment or binding over to a higher court.</p> | <p>SECT. 6. Duty of justices, as to arrests, and examinations into treason, felonies, &c.</p> <p>7. Trial and sentence within their jurisdiction.</p> <p>8. Respondent may appeal; but required to recognize.</p> <p>9. To carry up copies of the case.</p> |
|---|---|

THE
STATUTE LAWS
OF THE
STATE OF TENNESSEE,

OF A
PUBLIC AND GENERAL NATURE,

REVISED AND DIGESTED

BY

JOHN HAYWOOD AND ROBERT L. COBBS,

BY ORDER OF THE GENERAL ASSEMBLY.

VOL. I.

KNOXVILLE, T.

F. S. HEISKELL, PRINTER AND PUBLISHER,

1831.

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ARMIES—ARMS.

they may require; and it shall be the duty of any constable of the county where such witnesses may reside, to execute and make return thereof, and the witnesses shall receive the same pay, to be paid by the party against whom the award may be made; and they shall be subject to the same penalties for non-attendance as in similar cases; and the officer summoning such witnesses, shall receive the same fees as for summoning witnesses to attend before a justice of the peace.

ARMIES—STANDING.

Con. art. 11. § 21. The sure and certain defence of a free people is a well regulated militia; and as standing armies in time of peace are dangerous to freedom, they ought to be avoided as far as the circumstances and safety of the community will admit: and in all cases the military shall be kept in strict subordination to the civil authority.

ARMS.

Con. art. 11. § 20. The freemen of this state have a right to keep and to bear arms for their common defence.

§ 23. No citizen of this state shall be compelled to bear arms, provided he will pay an equivalent to be ascertained by law.

1801, c. 23. Persons going armed, bound to good behaviour on justice's own view or information

§ 6 If any person or persons shall publicly ride, or go armed to the terror of the people or privately carry any dirk, large knife, pistol or any other dangerous weapon, to the fear or terror of any person, it shall be the duty of any judge or justice on his own view, or upon the information of any other person on oath, to bind such person or persons to their good behaviour, and if he or they fail to find securities, commit him or them to jail; and if such person or persons shall continue so to offend, he or they shall not only forfeit their recognizance, but be liable to an indictment, and be punished as for a breach of the peace, or riot at common law.

1821, c. 13. Fine for carrying weapons

Each and every person so degrading himself by carrying a dirk, sword-cane, spanish stiletto, belt or pocket pistols, either public or private, shall pay a fine of five dollars for every such offence, which may be recovered by warrant before any justice of the peace, in the name of the county and for its use, in which the offence may have been committed; and it shall be the duty of a justice to issue a warrant on the application, on oath, of any person applying; and it shall be the duty of every judge, justice of the peace, sheriff, coroner and constable within this state, to see that this act shall have its full effect; provided, nevertheless, that nothing herein contained shall effect any person that may be on a journey to any place out of his county or state.

1825, c. 19. Sheriff, coroner or constable to arrest persons suspected.

§ 1. When any sheriff, coroner or constable, shall know, of his own knowledge, or upon the representation of any person, or if he or they shall have good reason to suspect any person of being armed with the intention of committing a riot or affray, or of wounding or killing any person, it shall be the duty of all such officers, immediately to arrest all such persons, so suspected, and return them before some justice of the peace, whose duty it shall be, upon proof being made that there was reasonable ground to suspect such person or persons for being armed, with intent to disturb or commit a breach of the peace, to bind such person or persons in a bond, with two or more good and sufficient securities, in a sum of not less than two hundred and fifty dollars, and not exceeding two thousand dollars, conditioned for his or their good behaviour and peaceable deportment for the term of twelve months thereafter.

Justice to bind to good behaviour.

Justice to have arrested, &c.

§ 2. If any justice of the peace shall know of his own knowledge, or have reasonable cause to suspect any person or persons of being armed, with intent to commit a breach of the peace, it shall be the duty of such justice of the peace, to cause such offender or offenders

1001-24 5/12/16

ATTACHMENT.

to be arrested and immediately brought before him or some other justice for examination, and upon its being satisfactorily made to appear that such person or persons was armed, or about to be armed, with intent to commit a breach of the peace, such justice shall bind such offender or offenders in bond and security, as specified in the first section of this act.

§ 3. The bonds by this act required to be given, shall be made payable to the chairman of the county court of the county in which the same shall be executed, and his successors in office, and shall be filed in the office of the clerk of said court, and it shall be the duty of the solicitor for the state, when he shall believe such bond to be forfeited, to issue *scire facias* thereon against such offender and his securities, and the amount collected shall be, by the sheriff, paid to the county trustee for county purposes.

Bond payable to chairman.

Solicitor to issue sci. fac.

§ 4. Any justice of the peace, sheriff, coroner or constable, when acting under the provisions of this act, shall have power and authority to summon as many persons as they may think proper, to assist in arresting and securing any such offender, and any person so summoned and shall fail or refuse to assist such officer for the purposes aforesaid, shall forfeit and pay the sum of ten dollars and cost, to be recovered before any justice of the peace, for the use of the county; and it shall be the duty of such officer, when he may have summoned any person as aforesaid, and such person shall fail or refuse to obey such summons, to prosecute such defaulter before some justice of the peace, for the above penalty, and give evidence of such summons and default.

Officers to summon persons to assist.

§ 5. When any person shall be brought before any justice of the peace as required by the first and second sections of this act, and shall fail or refuse to give the security required, it shall be the duty of such justice to commit such offender to the nearest sufficient jail, for safe keeping, until such security is given or he shall be discharged by due course of law.

Persons refusing to give bond to be committed.

§ 6. If any sheriff, coroner or constable, shall knowingly fail or refuse to perform any of the duties required by this act, it shall be deemed a misdemeanor in office, and upon conviction thereof, shall be fined, at the discretion of the court, in a sum not exceeding fifty nor less than ten dollars, and shall furthermore be removed from office and be disqualified from holding the same office for five years.

Officers punished for neglect, by fine, removal, &c.

ATTACHMENT.

§ 19. Upon any complaint being made on oath to any of the judges of the superior courts of this state, or to any justice of any of the county courts, by any person or persons, his, her or their attorney, agent or factor, that any person hath removed or is removing him or herself out of the county privately, or so absconds or conceals him or herself, that the ordinary process of law cannot be served on such debtor; and if such plaintiff, his, her or their attorney, agent or factor, further swears to the amount of his, her or their debt, or demand, to the best of his, her or their knowledge and belief, it shall be lawful for such judge or justice, and he is hereby empowered and required to grant an attachment against the estate of such debtor, wherever the same may be found, or in the hands of any person or persons indebted to, or having any of the effects of the defendant, or so much thereof as shall be of value sufficient to satisfy the debt or demand and costs of such complaint; which attachment shall be returned to the court where the suit is cognizable, and shall be deemed a leading process in such action; and the same proceedings shall be had thereon as on judicial attachments; provided always, that every such judge or justice, before granting such attachment, shall take bond and security of the party for whom the same shall be issued, his, her or their attorney, agent or factor, payable to the defendant, in double the sum

1794, c. 1. When attachments may issue upon affidavit.

Plaintiff to give bond.

Michigan, Laws, Statutes, etc.

THE

16712

REVISED STATUTES

OF THE

STATE OF MICHIGAN,

PASSED AND APPROVED MAY 18, 1846.

Printed and published in pursuance of an Act of the Legislature, approved May 18, 1846, under
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SANFORD M. GREEN.



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BAGG & HARMON, PRINTERS TO THE STATE,

1846.

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TITLE XXXI.
CHAPTER 102.

PREVENTION OF CRIME.

TITLE XXXI.

OF PROCEEDINGS IN CRIMINAL CASES.

- Chapter 162. Of Proceedings to prevent the Commission of Crime.
- Chapter 163. Of the Arrest and Examination of Offenders, commitment for Trial and taking Bail.
- Chapter 164. Of Indictments and Proceedings before Trial.
- Chapter 165. Of Trials in Criminal Cases.
- Chapter 166. Of new Trials and Exceptions in Criminal Cases.
- Chapter 167. Of Coroners' Inquests.
- Chapter 168. Of Judgments in Criminal Cases and the Execution thereof.
- Chapter 169. Of Fees of Officers and Ministers of Justice in Criminal Cases.
- Chapter 170. Miscellaneous Provisions concerning Proceedings in Criminal Cases.

CHAPTER 162.

OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIME.

Officers authorized to keep the peace.

SECTION 1. The justices of the supreme court, judges of county courts, circuit court commissioners, all mayors and recorders of cities, and all justices of the peace, shall have power to cause all laws made for the preservation of the public peace, to be kept, and in the execution of that power, may require persons to give security to keep the peace, in the manner provided in this chapter.

Complaint, how made.

SEC. 2. Whenever complaint shall be made in writing and on oath, to any such magistrate, that any person has threatened to commit any offence against the person or property of another, it shall be the duty of such magistrate to examine such complainant, and any witnesses who may be produced, on oath, to reduce such examination to writing, and to cause the same to be subscribed by the parties so examined.

Arrest.

SEC. 3. If it shall appear from such examination, that there is just reason to fear the commission of any such offence, such magistrate shall issue a warrant under his hand, directed to the sheriff or any constable of the county, reciting the substance of the complaint, and commanding him forthwith to apprehend the person so complained of, and bring him before such magistrate.

Trial, recognizance.
4 Mass., 497.
8 do., 73.
2 N. & A., 278.

SEC. 4. When the party complained of is brought before the magistrate, he shall be heard in his defence, and he may be required to enter into a recognizance with sufficient sureties, in such sum as the magistrate shall direct, to keep the peace towards all the people of

PREVENTION OF CRIME.

691

this state, and especially towards the person requiring such security, for such term as the magistrate may order, not exceeding one year, but shall not be bound over to the next court, unless he is also charged with some other offence, for which he ought by law to be held to answer at such court.

TITLE XXXI.
CHAPTER 102.

Sec. 5. Upon complying with the order of the magistrate, the party complained of shall be discharged.

Party, when discharged.

Sec. 6. If the person so ordered to recognize, shall refuse or neglect to comply with such order, the magistrate shall commit him to the county jail, during the period for which he was required to give security, or until he shall so recognize; stating in the warrant the cause of commitment, with the sum and the time for which such security was required.

Refusing to recognize, to be committed.

Sec. 7. If, upon examination, it shall not appear that there is just cause to fear that any such offence will be committed by the party complained of, he shall be forthwith discharged; and if the magistrate shall deem the complaint unfounded, frivolous or malicious, he shall order the complainant to pay the costs of the prosecution, who shall thereupon be answerable to the magistrate and the officer (officers) for their fees, as for his own debt.

Complainant, when to pay costs.

Sec. 8. When no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecutions; but in all cases where a person is required to give security to keep the peace, the court or magistrate may further order that the costs of prosecution, or any part thereof, shall be paid by such person, who shall stand committed, until such costs are paid, or he is otherwise legally discharged.

Payment of cost in other cases.

Sec. 9. Any person aggrieved by the order of any justice of the peace, requiring him to recognize as aforesaid, may, on giving the recognizance to keep the peace required by such order, appeal to the circuit court for the same county.

Appeal allowed.

Sec. 10. The justice from whose order an appeal is taken, shall require such witnesses as he may think necessary to support the complaint, to recognize for their appearance at the court to which the appeal is made.

Witnesses to recognize.

Sec. 11. The court before which such appeal is prosecuted, may affirm the order of the justice, or discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum, and for such time, not exceeding one year, as the court shall think proper, and may also make such order in relation to the costs of prosecution, as may be deemed just.

Court may affirm order of justice, or discharge appellant, &c.

Sec. 12. If any party appealing shall fail to prosecute his appeal, his recognizance shall remain in full force and effect, as to any breach of the condition, without an affirmation of the judgment or order of the justice, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.

Recognizance, when it remain in force.

Sec. 13. Any person committed for not finding sureties, or refusing to recognize, as required by the court or magistrate, may be discharged by any judge, circuit court commissioner or justice of the peace, on giving such security as was required.

Person committed how discharged.

Sec. 14. Every recognizance, taken pursuant to the foregoing provisions, shall be transmitted by the magistrate to the clerk of the circuit court for the county, within twenty days after the taking thereof, and on or before the next term of such court, and shall be filed by such clerk.

Recognizance to be transmitted to clerk of court.

ARREST &c. OF OFFENDERS.

TITLE XXXI.
CHAPTER 181.

Breach of peace
in presence of
magistrate, &c.

SEC. 15. Every person who shall, in the presence of any magistrate mentioned in the first section of this chapter, or before any court of record, make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, and every person who, in the presence of such court or magistrate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace, for a term not exceeding six months, and in case of refusal, may be committed as before directed.

Persons going
armed to hold en-
tries for the
peace.

SEC. 16. If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury, or violence to his person, or to his family or property, he may, on complaint of any person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.

Court may remit
part of penalty.
Mass., 1897.

SEC. 17. Whenever upon a suit brought on any recognizance entered into in pursuance of this chapter, the penalty thereof shall be adjudged forfeited, the court may remit such portion of the penalty, on the petition of any defendant, as the circumstances of the case shall render just and reasonable.

Surety may sur-
render his principal,
effect of
surrender.

SEC. 18. Any surety in a recognizance to keep the peace, shall have the same authority and right to take and surrender his principal as in other criminal cases, and upon such surrender shall be discharged and exempt from all liability for any act of the principal subsequent to such surrender, which would be a breach of the condition of the recognizance; and the person so surrendered may recognize anew, with sufficient sureties, before any justice of the peace or circuit court commissioner for the residue of the term, and shall thereupon be discharged.

CHAPTER 163.

OF THE ARREST AND EXAMINATION OF OFFENDERS, COMMITMENT FOR TRIAL AND TAKING BAIL.

What officers
may issue pro-
cess for the arrest
of offenders, &c.

SECTION 1. For the apprehension of persons charged with offences, excepting such offences as are cognizable by justices of the peace, the justices of the supreme court, judges of the county courts, circuit court commissioners, mayors and recorders of cities, and all justices of the peace, shall have power to issue process and to carry into effect the provisions of this chapter.

Complaint, &c.
to be examined.

SEC. 2. Whenever complaint shall be made to any such magistrate, that a criminal offence, not cognizable by a justice of the peace, has been committed, he shall examine on oath the complainant, and any witnesses who may be produced by him.

Proceedings if it
appear that an
offence has been
committed.

SEC. 3. If it shall appear from such examination, that any criminal offence, not cognizable by a justice of the peace, has been committed, the magistrate shall issue a warrant, directed to the sheriff or any constable of the county, reciting the substance of the accusation, and

Handwritten signature or initials.

REVISED STATUTES

OF

THE STATE OF DELAWARE,

TO THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND FIFTY-TWO, INCLUSIVE;

TO WHICH ARE ADDED, THE

CONSTITUTIONS OF THE UNITED STATES AND OF THIS STATE;

THE DECLARATION OF INDEPENDENCE;

AND

AN APPENDIX;

&c. &c.

PUBLISHED BY AUTHORITY OF THE GENERAL ASSEMBLY.

DOVER, DEL.
PRINTED BY SAMUEL KIMMEY,
1852.

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LAWS OF THE

TITLE FIFTEENTH

Of Justices of the Peace.

CHAPTER 97. General powers, duties and jurisdiction of justices in criminal cases.

- 98. Jurisdiction in bastardy cases.
99. Justices' jurisdiction in civil cases of debt.
100. Justices' jurisdiction in trespass cases.
101. Justices' jurisdiction in cases of forcible entry and detainer; and of holding over.

CHAPTER 97.

GENERAL POWERS, DUTIES AND JURISDICTION OF JUSTICES IN CRIMINAL CASES.

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4. To issue subpoenas.
5. To administer oaths.
6. To punish contempts.
7. To arrest without warrant.
To commit or bind to appear.
Form of commitment.
Form of binding to keep the peace.
8. Power to punish assaults and batteries.
Form of binding to answer charges.
Binding witnesses to appear.
9. To permit parties to settle cases of assault and battery.
10. Not to receive fine or costs.
To put it in charge of a constable.
11. To certify fines to the auditor. Penalty.
12. Power to bind over for the next term.
13. To cause arrests of peace breakers, &c., &c.
14. To fine drunkards and swearers.
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Binding witnesses.
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26. Capital cases; when bail may be taken.
27. Bail in other cases; how determined.
28. How taken by sheriff, &c.
29. Search warrants, when and how to be issued.
Complaint must be in writing.
Warrant; how directed.
When it may be executed at night.
30. Power of justice to try certain offences by slaves.
31. Power of two justices to try slaves.
Order on master to pay restitution, &c.
Service of notice on master; verification.
32. Power to punish Sabbath breaking.
33. Duty of representatives of a deceased justice to deliver records; penalty.
34. Duty of justice to give transcripts, copies, &c.; penalty.
Originals may be required by the court.
35. Duty to attend elections; penalty.

Number.

2003 Number.

New Castle.

Kent. Sussex.

SEC. 1. The number of justices of the peace now allowed by the constitution and laws, shall, two-thirds of each house of the legislature concurring, continue to be in the several counties, as follows: in New Castle county twenty, of whom one shall reside in Red Lion-hundred, within one mile of Delaware City, one in the town of St. Georges, and one in Christiana hundred; in Kent county eighteen; and in Sussex county twenty, one of whom shall reside within two miles of Cannon's Ferry.

General powers and duties.

2004 May issue process. Forms.

SEC. 2. Justices of the peace may issue all writs, warrants and process proper to carry into effect the powers granted to them; and when no form is prescribed by statute, they shall frame one in con-

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STATE OF DELAWARE.

formity with the law, in substance; and, when substantially right, such process shall not be invalid for any defect in form. All sheriffs, deputy-sheriffs, coroners and constables are required duly to serve all legal writs, warrants and process to them directed by any justice of the peace.

SEC. 3. Each justice of the peace shall keep a record of all his judicial proceedings in criminal as well as civil cases.

2005
Records.

He shall have power to adjourn cases on trial before him, taking security for the appearance of the party complained against.

2004
Adjourn-
ments.

SEC. 4. He may issue summonses for witnesses in all cases pending before him, and in all civil cases pending before any magistrates, referees, arbitrators, or other persons authorized to examine witnesses.

2007
Subpoenas.

SEC. 5. He may administer oaths in all cases where an oath is required by law.

2008
Oaths.

SEC. 6. Every justice of the peace may punish such disorderly conduct as shall interrupt any judicial proceedings before him, or before referees appointed by him, or which shall be a contempt of his authority, by fine not exceeding ten dollars, or by imprisonment in the jail of the county not exceeding ten days.

2009
Power to ar-
rest con-
tempt.

SEC. 7. Every justice of the peace may, as a conservator of the peace, upon view of any affray, riot, assault, or battery, within his county, without any warrant in writing command the assistance of any sheriff, deputy-sheriff, coroner, or constable, and of all other persons present, for suppressing the same, and arresting all who are concerned therein, and may commit or bind them to surety of the peace and for their appearance at the proper court.

2010
Power to ar-
rest without
warrant.

A commitment may be in this form:—

2011
Commit-
ment.

County, ss. The State of Delaware: To A. B., constable, and to the keeper of the jail of said county: this is to command you the said constable forthwith to convey and deliver into the custody of the keeper of said jail the body of C. D. charged, before E. F. a justice of the peace for said county, on oath by G. H. with (here state the offence), and you the said keeper of the jail are hereby required to receive the said C. D. into your custody in said jail, and him there safely keep until he be thence delivered by due course of law.

{ L. H. } Given under my hand and seal this — day of —
{ — } A. D., 18—. J. P.

Binding to keep the peace and for appearance at court may be in this form:

2012
Binding to
keep the
peace.

County, ss. State of Delaware. BE IT REMEMBERED, that C. D., of — hundred, and R. S. and T. W., of — hundred, in said county, personally appeared before E. F., a justice of the peace for said county, and acknowledged to owe the State of Delaware the sum of — dollars, to be levied on their goods and chattels, lands and tenements respectively, for the use of the said State: UPON CONDITION, that if the above bound C. D. do and appear before the next Court of General Sessions of the Peace and Jail Delivery, to be held

Handwritten signature

at ———, for the county aforesaid, there to answer such matters as shall be objected against him by G. H., and shall in the mean time keep the peace and be of good behavior towards all the people of this State, and especially towards the said G. H., and shall not depart the court without leave thereof, then this recognizance to be void, otherwise to be in full force and virtue.

Taken, signed and acknowledged before F. F., a justice of the peace for said county, the ——— day of ———, A. D., 18—.

2013
Power to
punish as-
saults and
batteries.

Sec. 8. Every justice of the peace may punish by fine, not exceeding ten dollars, all assaults and batteries, and other breaches of the peace punishable by any law of the State, when the offence is not of a high or aggravated nature: *provided*, that the defendant shall, in writing, submit to his decision: *and provided also*, that after hearing, he shall consider that the case ought not to be submitted to a higher jurisdiction; otherwise he shall commit, or bind, the defendant for his appearance at the proper court to answer the charge, and shall also bind the witnesses for their appearance and may require surety of them, if necessary. He may also punish, by such fine, any offence against an authorized ordinance of a city, or town.

2011
Binding to
ANSWER
CHARGE.

Binding for appearance to answer may be thus:—

——— county, ss. The State of Delaware: BE IT REMEMBERED, that C. D., of ——— hundred, and R. S. and T. W., of ——— hundred, in said county, personally appeared before E. F., a justice of the peace for said county, and acknowledged to owe the State of Delaware the sum of ——— dollars, to be levied on their goods and chattels, lands and tenements respectively for the use of the said State: Upon condition, that if the above bound C. D., be and appear before the next Court of General Sessions of the Peace and Jail Delivery, to be held at ———, for the county aforesaid, there to answer such matters and things as shall be objected against him, and particularly touching a charge (here state the offence charged) said to have been committed by the said C. D., at ——— hundred, in said county, on the ——— day of ———, and shall not depart the court without leave thereof; then this recognizance to be void, otherwise to be in full force and virtue.

Taken, signed and acknowledged before E. F., a justice of the peace for said county, the ——— day of ———, A. D., 18—.

2015
Binding a
witness to
appear.

Binding a witness for appearance may be in the same form, substituting for the words "there to answer such matters," &c., down to "and shall not depart the court," the words "as a witness for the State." A recognizance, when taken by a justice of the peace, or a judge out of court, shall be signed by the parties bound.

2016
Parties may
settle as-
saults and
batteries.

Sec. 9. In every case of assault and battery the justice may permit the parties to settle the matter; and either discontinue the proceedings or annul any recognizance, on payment of costs.

2017
Not to re-
ceive fees.

Sec. 10. He shall, in no case, receive a fine, or costs, imposed by him; but upon imposing any fine, he shall charge a constable present with the defendant, and enter the constable's name on his docket,

signed in Court

STATE OF DELAWARE.

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and if the fine and costs be not paid, the constable shall convey said defendant to jail, for which a copy of the judgment shall be a sufficient warrant.

SEC. 11. Every justice of the peace shall transmit to the auditor of accounts, by mail, on the first Tuesday of April and October in each year, a duly certified list of the cases in which any fine, or forfeiture, has been imposed by him before that time; stating the party, the fine, and the name and place of residence of the constable chargeable. Any neglect of this duty shall be deemed a misdemeanor, and shall be punished by fine not exceeding one hundred dollars; and the court shall, on conviction of such justice, transmit a copy of the record to the general assembly. 2018
To certify
fines to au-
ditor.

SEC. 12. Whoever shall threaten to kill, or wound, another, or to injure him in person, or estate, shall, on proof of such threats, before a justice of the peace, either by the oath of the party threatened, or otherwise, and on affidavit, by the said party, that he believes, from such threatening, he is in danger to be hurt in body, or estate, be bound to surety of the peace, and for his appearance at the next Court of General Sessions for the county. 2010
Power to
bind over
for ruzate

SEC. 13. Any justice of the peace may also cause to be arrested and bind to surety of the peace all affrayers, rioters, breakers and disturbers of the peace, and all who go armed offensively to the terror of the people, or are otherwise disorderly and dangerous. 2030
To cause ar-
rests.

SEC. 14. He may also cause to be arrested any drunken person, or any person who, in his hearing, shall profanely swear by the name of God, Christ Jesus, or the Holy Spirit; and such person, being thereof convicted by view of the justice, or other proof, shall be fined by him fifty cents for every such profane oath, and fifty cents for every such offence of being drunk. 2021
Drunkards;
swearers.

SEC. 15. If any person, arrested by warrant, or order, of any court of justice, magistrate, or justice of the peace, shall use abusive, railing, or threatening speeches against such court, magistrate, or justice, or shall resist, or assault, any person executing, or aiding in the execution of any such warrant, or order, he shall be fined by such court, magistrate, or justice, any sum not exceeding fifteen dollars. 2022
To punish
those who
resist au-
thority.

SEC. 16. When complaint is made in due form to a justice, alleging that an offence has been committed, the justice shall carefully examine the complainant on oath, or affirmation, and if he considers there is probable ground for the accusation, he shall issue his warrant. 2023
Proceed-
ings in cri-
minal cases;
complaint.

A warrant of arrest may be in this form:

2011
Warrant of
arrest.

County, ss. *The State of Delaware,*
To my constable of said county, greeting:

Whereas G. H. of _____ hath upon oath (or affirmation) before me, a justice of the peace of said county declared that on the _____ day of _____ at _____ (state the offence charged) and that he hath just cause to suspect and doth suspect C. D. of _____ hundred, of committing the said offence: You are therefore hereby commanded to take the said

C. D. and bring him before me, or some other justice of the peace of the county, forthwith, to answer said charge.

{ L. S. } Witness the hand and seal of the said justice, the ——— day of ——— A. D. 18—.

2025 How directed. 2026 Proceeding on arrest.

In case of emergency, the warrant may be directed to the sheriff, or coroner, or to any person the justice may name.

SEC. 17. Upon the arrest of any person so charged, the justice, before whom he is brought in the county where the offence was committed, shall try the case so far as to determine whether the defendant ought to be discharged, or bound for his appearance at court, or held to answer finally before the justice; in which last case, the justice shall proceed to hear fully and to determine the case. But if the matter be not properly cognizable before the justice for final decision, he shall commit, or bind the party for his appearance at the court having cognizance of the case.

2027 Examination. Voluntary declarations

SEC. 18. He shall examine the party accused, taking his voluntary declarations, without threats, or promises, and shall also examine the witnesses in the presence of the accused.

2028 In felonies to be in writing.

If the offence is a felony, he shall reduce the examination of the accused to writing, and read it to him, and offer it for his signature. The justice shall sign it.

2029 Testimony in writing.

He shall also reduce to writing the testimony of each witness, if material, read it to him in the presence of the accused, sign it, and require the witness to sign it. In case of the death of the witness, it shall be evidence on the trial.

2030 Commitment; or binding to appear.

SEC. 19. If he considers there is probable ground for the accusation, he shall, in case of a capital crime, commit the accused for trial, and in any other case bind him, with sufficient surety, for his appearance at the next Court of General Sessions of the Peace and Jail Delivery for the county where the offence is alleged to have been committed; and, if he do not give such surety, shall commit him for trial. But when the accused is carried before a justice in another county than that wherein the warrant was issued, he shall be held to surety for his appearance, of course.

2031 Binding the witnesses.

He shall also bind material witnesses for their appearance, without surety, unless he believes the witness will not appear, and that the loss of his testimony ought not to be risked; in which case, he may require surety and may commit the witness if it be not given.

2032 [2014, &c.]

Such binding of the accused, and of the witnesses, shall be by recognizance, as provided in section 8.

2033 To deliver recognizance, &c.

SEC. 20. Each justice of the peace shall deliver every recognizance, examination and deposition, by him taken, touching any offence, to the clerk of the peace of his county ten days before the next Court of General Sessions, if the court do not sit sooner; and if so, then at the session of the court. For this service, he shall receive one dollar from the county if the service be rendered ten days before the court.

2034 Names of witnesses to be indorsed.

SEC. 21. He shall indorse on the recognizance the names of the material witnesses, and the clerk shall issue subpoenas for their ap-

STATE OF DELAWARE.

pearance on the first day of the court, or otherwise as the attorney general may direct.

SEC. 22. Every justice shall cause to be arrested, on proper complaint, all persons found within his county charged with any offence; and all persons who, after committing any offence in such county, shall escape out of the same. ²⁰³⁵ Duty to arrest persons complained against.

SEC. 23. A warrant of arrest, issued by a justice in one county, may be executed in any county of the State; and the constable, or officer, having it in hand, may command aid as in his own county; but he shall, upon request, carry the defendant before some justice of the county, where he is arrested, to be bailed, if he offer sufficient bail and the offence is bailable; otherwise he shall convey him from the county in execution of his warrant. ²⁰³⁶ Warrant, where executed.

SEC. 24. In criminal cases, bail for the appearance of the accused, except when taken by the sheriff, or officer to whom process is directed, and security for the appearance of a witness, shall be given by recognizance. Each judge of the Superior Court, and every justice of the peace shall have authority to take such recognizance; and when so taken out of court, the recognizance shall be signed by the recognizors. When a person is committed for want of bail, or security, the sum required shall be set down on the commitment. ²⁰³⁷ Bail for appearance, how taken. By whom. Commitment.

SEC. 25. A person, so committed, shall be discharged upon giving sufficient bail, or security; and any judge, or justice, may require such person to be brought before him for that purpose. ²⁰³⁸ How discharged.

SEC. 26. A capital offence shall not be bailable; but the Court of General Sessions of the Peace and Jail Delivery, when in session, or any judge thereof in vacation, may admit to bail a person accused of such offence before indictment found, if, upon full inquiry, it appears that there is good ground to doubt the truth of the accusation. On such inquiry, the justice, or officer who committed the accused, shall be summoned, and care shall be taken to hear the proper witnesses. ²⁰³⁹ Capital cases. When bail may be taken.

SEC. 27. When a person arrested by virtue of process issued upon an indictment, or presentment, except for a capital crime, and except process returnable forthwith, offers sufficient bail, it shall be taken, and the person discharged. The court awarding the process, or any judge thereof, or the attorney general, may determine the sum in which bail shall be taken, and set it down on the process; or if no sum be so determined, the officer issuing the process shall set down what sum he deems reasonable for bail. ²⁰⁴⁰ Bail in other cases. How determined.

SEC. 28. Bail shall be taken by the sheriff, or officer to whom the process is directed, by a joint and several bond executed, by the accused and his bail, to the State, in the sum set down for bail upon the process, with condition, in substance, that if the accused shall appear in the court, mentioned in the process, at the place and time of the return thereof, to answer as expressed therein, and shall not depart the court without leave, the said bond shall be void. Bond so taken, shall be returned with the process, and, if default be made, it shall be recorded thereon in the same manner as in the case of a recognizance. ²⁰⁴¹ How taken by sheriff.

2042
Search war-
rants, when
and how to
be issued.

SEC. 29. Any justice of the peace, or other magistrate authorized to issue warrants in criminal cases, may, within the limits of his jurisdiction, issue his warrant to search any house, or place, for property stolen, or concealed, or for forged, or counterfeited coins, bank bills, or other writings, or for any instrument, or materials, for making the same, and in other cases and for persons when such search is authorized by law, in the manner prescribed by this section and not otherwise, namely:

2043
Complaint
in writing.

The application, or complaint, shall be in writing, signed by the complainant and verified by his oath, or affirmation. It shall designate the house, or place, to be searched, and the owner, or occupant thereof (if any), and shall describe the things, or persons sought, as particularly as may be, and shall substantially allege the offence committed by, or in relation to such person, or thing, or the cause for which said search is made, and that the complainant has probable cause to suspect, and does suspect that the same is concealed in the house, or place, designated.

2044
How direct-
ed.

The warrant may be directed to any proper officer, or to any other person by name, for service; it shall recite the essential facts alleged in the complaint, and may be made returnable before the magistrate, or justice, issuing it, or before any other magistrate, or justice, before whom it shall also direct to be brought the person, or thing, searched for, if found, and the person in whose custody, or possession, the same may be found, to be dealt with according to law.

2045
When it
may be exe-
cuted at
night.

A search warrant shall not authorize the person executing it to search any dwelling-house in the night time, unless the magistrate, or justice, shall be satisfied that it is necessary in order to prevent the escape, or removal, of the person, or things, to be searched for; and then the authority shall be expressly given in the warrant.

2046
Power to try
offences by
§ 1,472a.

SEC. 30. Justices of the peace shall severally have jurisdiction to try and punish any slave who shall join, or be wilfully present at any riot, rout, or unlawful assembly, or who shall commit an assault and battery on any person, or who shall, without the special permission of his master, go armed with any dangerous weapon. In every case of conviction under this section, the justice shall give judgment against the master for the costs of the prosecution, and may issue execution thereon as upon a judgment for debt.

Judgment
for costs.

2047
Power of
two justices
to try offen-
ces by
§ 1,472a.

SEC. 31. Any two justices of the peace for the county shall have jurisdiction to try and punish any slave for the offence of stealing, taking and carrying away any goods, chattels effects, bank note, money, bill, promissory note, check, order, bond, or written contract for the payment of money, or delivery of goods, or of receiving, or concealing, any such stolen property knowing it to be stolen, or taken by robbery.

2048
Order on
master to
pay costs,
&c.

The justices, on conviction of such slave, shall assess the value of the property, so stolen or concealed, unless it shall have been restored, and tax the costs; and shall make an order that the master pay the same, and shall commit the slave until payment, or sale, as provided in chapter 80.

(1577.)

STATE OF DELAWARE.

They shall indorse on any process for the arrest of a slave under this section, an order that the constable shall serve a copy of such process on the master as provided in respect to an original summons.

2040
Service on
master.
[2026]

The trial shall not proceed, without the appearance of the master, until the return of the service of such copy is duly verified.

2050
To be veri-
fied.

Sec. 32. Justices of the peace shall severally have jurisdiction of the several offences mentioned in section 4, of chapter 131, being violations of the Sabbath day; and may proceed therein upon their own view, or on other competent evidence.

2051
[2002, &c.]

Sec. 33. Upon the death of a justice, or expiration of his term of office, and the appointment of another, it shall be the duty of such justice, or his executors, or administrators, to deliver all his docket and records, within three months, to his successor in office, if appointed within that time; and if not, then with one of the nearest justices of the same county. The neglect of this duty shall be a misdemeanor punishable by fine of fifty dollars; and the Superior Court may name the justice to whom the delivery shall be made, and enforce an order for such delivery by fine and imprisonment.

2052
Duty of ex-
ecutors of a
justice in
respect to
his records.

Penalty.

Sec. 34. It is the duty of a justice of the peace, upon request and payment, or tender, of the legal fee, to make and certify, under his hand and seal, a true transcript of all the docket entries in any cause before him, or upon any record in his possession, or if specially required, a full and true copy of all the records, entries, process and papers in or touching such cause; and such transcript, or copy, shall be received in evidence in any court.

2053
Duty of jus-
tice to give
transcript.

Or full
copies.

Upon an appeal, a transcript shall be sufficient, unless a full copy be specially requested. Upon a certiorari, the justice shall make a full copy of the entire record and proceedings.

2054
On appeals.
On certiora-
ri.

If any justice of the peace shall, upon such request and payment, or tender, of the lawful fees, refuse or neglect to perform the duty above required, or shall falsely certify any such transcript, or full copy, or shall use any fraud, falsehood, or deceit, in making the same, he shall be deemed guilty of a misdemeanor, and shall be fined not exceeding one hundred dollars, and shall be liable to the party aggrieved in double damages.

2055
Penalties.

The Superior Court may, in a proper case, supported by affidavit, require the production of the original record.

2056
Originals
may be re-
quired.

Sec. 35. Every justice of the peace shall attend, at the place of election in his hundred, on the day of every general election, or special election, from the opening to the closing of the poll, and shall take care that the peace shall be kept, and that the election shall not be interrupted, or disturbed.

2057
Duty to at-
tend elec-
tions.

If any justice shall refuse, or wilfully neglect, to perform this duty, or to obey the lawful commands of the inspector of such election, he shall be deemed guilty of a misdemeanor and shall be fined one hundred dollars.

2058
Penalty.

Richard C. Coughlin

THE

STATUTES

OF

OREGON,

ENACTED AND CONTINUED IN FORCE BY THE

LEGISLATIVE ASSEMBLY,

^{5th}
AT THE SESSION COMMENCING

5th December, 1853.

OREGON:

ABRAHAM BUSH, PUBLIC PRINTER.

1854.

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CHAPTER 16.

CHAPTER XVI.

PROCEEDINGS TO PREVENT COMMISSION OF CRIMES.

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- 2. Proceedings when complaint is made to magistrate.
- 3. Magistrate when to issue warrant.
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- 6. Recognizance, when required.
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- 9. In other cases, costs, how and when paid.
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- 16. When person may be ordered to recognize without warrant.
- 17. Armed persons, when required to find sureties.
- 18. Bail on recognizance.
- 19. Surety may surrender principal.

Keeping the peace.

SEC. 1. The judges of the several courts of record, in vacation as well as in open court, and all justices of the peace, shall have power to cause all laws made for the preservation of the public peace, to be kept, and in the execution of that power, may require persons to give security to keep the peace, or for their good behavior, or both, in the manner provided in this chapter.

When sureties may be required. 17 Wap. 181: 22 do. 689.

SEC. 2. Whenever complaint shall be made to any such magistrate, that any person has threatened to commit an offence against the person or property of another, the magistrate shall examine the complainant, and any witness who may be produced on oath, and reduce such complaint to writing, and cause the same to be subscribed by the complainant.

Warrant to issue.

SEC. 3. If, upon examination, it shall appear that there is just cause to fear that such offence may be committed, the magistrate shall issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer to whom it may be directed, forthwith to apprehend the person complained of, and bring him before such magistrate, or some other magistrate or court having jurisdiction of the cause.

Examination

SEC. 4. The magistrate before whom any person is brought upon charge of having made threats as aforesaid, shall, as soon as may be, examine the complainant, and the witnesses to support the prosecution, on oath, in the presence of the party charged, in relation to any matters connected with such charge, which may be deemed pertinent.

Privilege of defendant.

SEC. 5. After the testimony to support the prosecution, the witnesses for the prisoner, if he have any, shall be sworn and examined, and he may be assisted by counsel in such examination, and also in the cross-examination of the witnesses in support of the prosecution.

Recognizance when required.

SEC. 6. If, upon examination, it shall appear that there is just cause to fear that any such offence will be committed by the party

PROCEEDINGS TO PREVENT COMMISSION OF CRIMES.

complained of, he shall be required to enter into recognizance with sufficient sureties, in such sum as the magistrate shall direct, to keep the peace towards all the people of this territory, and especially towards the person requiring such security, for such term as the magistrate shall order, not exceeding six months; but he shall not be ordered to recognize for his appearance at the district court, unless he is charged with some offence for which he ought to be held to answer at said court.

CHAP. 18.

SEC. 7. If the person so ordered to recognize, shall refuse or neglect to comply with such order, the magistrate shall commit him to the county jail during the period for which he was required to give security, or until he shall so recognize, stating in the warrant the cause of commitment, with the sum and time for which security was required.

When to be committed. See Wm. 689.

SEC. 8. If, upon examination, it shall not appear that there is just cause to fear that any such offence will be committed by the party complained of, he shall be forthwith discharged; and if the magistrate shall deem the complaint unfounded, frivolous or malicious, he shall order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and the officer for their fees, as for his own debt.

Complainant when to pay costs.

SEC. 9. When no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecutions; but in all cases where a person is required to give security for the peace, or for his good behavior, the magistrate may further order the costs of prosecution, or any part thereof, to be paid by such person, who shall stand committed until such costs are paid, or he is otherwise legally discharged.

Costs.

SEC. 10. Any person aggrieved by the order of any justice of the peace, requiring him to recognize as aforesaid, may, within ten days after the decision of the justice, on giving the security required, appeal to the district court, next to be holden in the same county, or that county to which said county is attached for judicial purposes.

Appeal.

SEC. 11. The magistrate, from whose order an appeal is to be taken, shall require such witnesses as he may deem necessary to support the complaint, to recognize for their appearance at the court to which appeal is made.

Witnesses when to recognize.

SEC. 12. The court before which such appeal is prosecuted, may affirm the order of the justice, or discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court shall think proper, and may also make such order in relation to the costs of prosecution, as it may deem just and reasonable.

Power of appellate court

SEC. 13. If any party appealing, shall fail to prosecute his appeal, his recognizance shall remain in full force and effect, as to any breach of the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as security for any cost which shall be ordered by the court appealed to, to be paid by the appellant.

Failing to prosecute appeal.

SEC. 14. Any person committed for not finding sureties, or refusing to recognize as required by the court or magistrate, may be dis-

Discharge of party committed.

CHAP. 17. charged by any judge or justice of the peace, on giving such security as was required.

Recognizance when to be transmitted. SEC. 15. Every recognizance taken in pursuance of the foregoing provisions, shall be transmitted by the magistrate to the district court for the county, on or before the first day of the next term, and shall be there filed of record by the clerk.

Order to recognize without warrant. SEC. 16. Any person, who shall, in the presence of any magistrate mentioned in the first section of this chapter, or before any court of record, make an affray, or threaten to kill, or beat another, or to commit any violence or outrage against his person or property, and every person, who, in the presence of such court or magistrate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace, and being of good behavior for a term not exceeding six months, and in case of a refusal, may be committed as before directed.

Armed persons, when required to find sureties. SEC. 17. If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault, injury, or other violence to his person, or to his family or property, he may, on complaint of any other person, having reasonable cause to fear an injury, or breach of the peace, be required to find sureties for keeping the peace for a term not exceeding six months, with the right of appealing as before provided.

Bail on recognizance. SEC. 18. Whenever on a suit brought on any such recognizance, the penalty thereof shall be adjudged forfeited, the court may remit such portion of the penalty on the petition of any defendant, as the circumstances of the case shall render just and reasonable.

Surety may surrender principal. SEC. 19. Any surety in a recognizance to keep the peace, or for good behavior, or both, shall have the same authority and right to take and surrender his principal, as if he had been bail for him in a civil case, and upon such surrender, shall be discharged and exempted from all liability for any act of the principal, subsequent to such surrender, which would be a breach of the condition of the recognizance; and the person so surrendered, may recognize anew with sufficient sureties, before any justice of the peace for the residue of the term, and thereupon shall be discharged.

CHAPTER XVII.

ARRESTS.

- Sec. 1. Arrest defined.
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- 7. When an officer or private person may arrest without warrant.
- 8. Arrest, how made in such case.
- 9. Escape and capture of prisoner.

Arrest. SEC. 1. Arrest is the taking a person into custody, that he may be held to answer for a public offence.

THE
REVISED CODE
OF THE
DISTRICT OF COLUMBIA.
1857.

Sec. 2. On the trial of every indictment, the party accused shall be allowed to be heard by counsel, and he may defend himself, and he shall have a right to produce witnesses and proofs in his favor, and to be confronted with the witnesses who are produced against him.

Sec. 3. No person indicted for an offence shall be convicted thereof, unless by confession of his guilt in open court, or by admitting the truth of the charge against him by his plea or demurrer, or by the verdict of a jury, accepted and recorded by the court.

Sec. 4. No person shall be held to answer on a second indictment for any offence of which he has been acquitted by the jury, upon the facts and merits, on a former trial; but such acquittal may be pleaded by him in bar of any subsequent prosecution for the same offence, notwithstanding any defect in the form or in the substance of the indictment on which he was acquitted.

Sec. 5. No person who is charged with any offence against the law, shall be punished for such offence, unless he shall have been duly and legally convicted thereof in a court having competent jurisdiction of the cause and of the person.

CHAPTER 141.

OF PROCEEDINGS TO PREVENT AND DETECT THE COMMISSION OF CRIMES.

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SECTION 1. The judge of the criminal court, or any judge of the circuit court, in vacation as well as in term, and also all justices of the peace, shall have power to cause all laws made for the preservation of the public peace to be kept, and, in the execution of that power, may require persons to give security to keep the peace, or for their good behavior, or both, in the manner provided in this chapter.

SEC. 2. Whenever complaint shall be made to any such magistrate that any person has threatened to commit an offence against the person or property of another, the magistrate shall examine the complainant, and any witness who may be produced, on oath, and reduce such complaint to writing, and cause the same to be subscribed by the complainant. A wife may pray surety of the peace against her husband, or anybody else may pray such surety, in her behalf, against him, and such person shall, in such proceeding, be deemed the complaining witness.

SEC. 3. If, upon examination, it shall appear that such affidavit is made only to secure the protection of the law, and not from anger or malice, and that there is just cause to fear that any such offence may be committed, the magistrate shall issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer to whom it may be directed forthwith to apprehend the person complained of and bring him before such magistrate, or some other magistrate or court having jurisdiction of the cause.

SEC. 4. When the party complained of is brought before the magistrate, he shall be heard in his defence, and he may be required to enter into a recognizance, with sufficient sureties, in such sum as the

magistrate shall direct, to keep the peace towards all the people of this District, and especially towards the person requiring such security, for such term as the magistrate may order, not exceeding one year, but shall not be bound over to the next court, unless he is also charged with some other offence for which he ought to be held to answer at such court.

Sec. 5. Upon complying with the order of the magistrate, the party complained of shall be discharged.

Sec. 6. If the person so ordered to recognise shall refuse or neglect to comply with such order, the magistrate shall commit him to the county jail during the period for which he was required to give security, or until he shall so recognise; stating in the warrant the cause of commitment, with the sum and the time for which security was required.

Sec. 7. If, upon examination, it shall not appear that there is just cause to fear that any such offence will be committed by the party complained of, he shall be forthwith discharged; and if the magistrate shall deem the complaint unfounded, frivolous, or malicious, he shall order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and the officer for their fees as for his own debt.

Sec. 8. When no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecution; but in all cases where a person is required to give security for the peace, or for his good behavior, the court or magistrate may further order that the costs of prosecution, or any part thereof, shall be paid by such person, who shall stand committed until such costs are paid, or he is otherwise legally discharged.

Sec. 9. Any person aggrieved by the order of any justice of the peace requiring him to recognise as aforesaid, may, on giving the security required, appeal to the criminal court at its next session to be discharged therefrom.

Sec. 10. The magistrate from whose order an appeal is so taken shall require such witnesses as he may think necessary to support the complaint, to recognise for their appearance at the court to which the appeal is made.

Sec. 11. The criminal court may affirm the order of the justice or

discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court shall think proper, and may also make such order in relation to the costs of prosecution as may be deemed just and reasonable.

Sec. 12. If any party appealing shall fail to prosecute his appeal, his recognizance shall remain in full force and effect, as to any breach of the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.

Sec. 13. Any person committed for not finding sureties, or refusing to recognise, as required by the court or magistrate, may be discharged by any judge or justice of the peace on giving such security as was required.

Sec. 14. Every recognizance taken pursuant to the foregoing provisions shall be transmitted by the magistrate to the criminal court on or before the first day of the next term, and shall be there filed by the clerk.

Sec. 15. Every person who shall, in the presence of any officer mentioned in the first section of this chapter, make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, and every person who, in the presence of such officer, shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognise for keeping the peace, or being of good behavior, for a term not exceeding one year, and in case of refusal may be committed as before directed.

Sec. 16. If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury or violence to his person, or to his family or property, he may, on complaint of any person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace for a term not exceeding six months, with the right of appealing as before provided.

Sec. 17. If any justice of the peace suspect any person of selling, by retail, wine or ardent spirits, or a mixture thereof, contrary to law, he shall summon the person and such witnesses as he may think

proper, to appear before him; and, upon such person appearing, or failing to appear, if the justice, on examining the witnesses on oath, find sufficient cause, he shall inform the district attorney, or other proper officer, that a prosecution or suit may be instituted, and shall recognise the material witnesses to appear at the next term of the court before which the case is heard. Such justice may also require the person suspected to enter into a recognizance to keep the peace and be of good behavior for any time not exceeding one year. If such recognizance be given, the condition thereof shall be deemed to be broken if, during the period for which it is given, such person shall sell, by retail, wine or ardent spirits, or a mixture thereof, contrary to law.

SEC. 18. Any surety in a recognizance to keep the peace, or for good behavior, or both, shall have authority and right to take and surrender his principal, and, upon such surrender, shall be discharged and exempt from all liability for any act of the principal, subsequent to such surrender, which would be a breach of the condition of the recognizance. Such person may recognise anew, with sufficient sureties, before any justice of the peace, for the residue of the term, and be thereupon discharged.

SEARCH WARRANTS.

SEC. 19. When complaint shall be made on oath to any magistrate authorized to issue warrants in criminal cases, that personal property has been stolen or embezzled, or obtained by false tokens or pretences, and that the complainant believes that it is concealed in any particular house or place, the magistrate, if he be satisfied that there is reasonable cause for such belief, shall issue a warrant to search for such property.

SEC. 20. Any such magistrate may also, upon a like complaint made on oath, issue search warrants, when satisfied that there is reasonable cause, in the following cases, to wit:

First, to search for and seize any counterfeit or spurious coin, forged bank notes, and other forged instruments, or any tools, machines, or materials, prepared or provided for making either of them;

Secondly, to search for and seize any books pamphlets, ballads, printed papers, or other things containing obscene language, or obscene prints, pictures, figures, or descriptions, manifestly tending

to corrupt the morals of youth, and intended to be sold, loaned, circulated or distributed, or to be introduced into any family, school or place of education ;

Thirdly, to search for and seize lottery tickets, or materials for a lottery, unlawfully made, provided, or procured, for the purpose of drawing a lottery ;

Fourthly, to search for and seize any gaming apparatus or implements used, or kept and provided to be used, in unlawful gaming, in any gaming house, or in any building, apartment, or place resorted to for the purpose of unlawful gaming ;

Fifthly, to search for any harbored runaway slave.

Sec. 21. All search warrants shall be directed to the marshal of the District, or his deputy, or to any constable, commanding such officer to search, in the day time, the house or place where the stolen property or other things, for which he is required to search, are believed to be concealed, which place and property or things to be searched for shall be designated and described in the warrant ; and to bring such stolen property or other things, when found, and the persons in whose possession the same shall be found, before the magistrate who issued the warrant, or before some other magistrate or court having cognizance of the case.

Sec. 22. If there be satisfactory evidence that any property stolen or embezzled, or obtained by false tokens or pretences, or that any of the other things for which a search warrant may be issued by the provisions of this chapter, are concealed, kept, prepared or used, in any particular house or place, a warrant may be issued by any two magistrates, to authorize a public officer to search such house or place in the night time, and to bring the property or things described in the warrant, if found, and the persons in whose possession the same shall be found, before either of the magistrates who issued the warrant, or before some other magistrate or court having cognizance of the case.

Sec. 23. If any such search warrant be executed by the seizure of a runaway slave, he shall be returned to the owner, or committed to jail as a runaway, by the justice before whom he is brought ; and if it be executed by the seizure of other property, or of any of the things aforesaid, the same shall be safely kept by order of the justice, to be used in evidence ; and as soon afterwards as may be, such stolen

or embezzled property shall be restored to its owner, and the other things specified burnt or otherwise destroyed under the direction of such justice.

CORONERS' INQUESTS.

SEC. 24. Coroners shall take inquests upon the view of the dead bodies of such persons only as shall be supposed to have come to their death by violence, and not when death is believed to have been occasioned by casualty, or to have happened in a course of nature.

SEC. 25. As soon as the coroner shall have notice of the dead body of any person, supposed to have come to his death by violence, found or lying within this county, he shall make his warrant to a constable requiring him forthwith to summon six good and lawful men of the county to appear before such coroner, at the time and place expressed in the warrant, which may be issued with or without a seal, and in substance as follows:

_____, ss.

To A B, constable of _____, Greeting :

You are hereby required immediately to summon six good and lawful men of the county of _____, to appear before me, _____, coroner of said county, at the dwelling house of _____, (or at a place called _____,) within the city, (or town, or county) of _____, at the hour of _____, then and there to inquire, upon the view of the body of _____, there lying dead, when, how, and by what means he came to his death. Hereof fail not.

Given under my hand the _____ day of _____, in the year _____.
_____, Coroner.

SEC. 26. The constable to whom such warrant shall be directed and delivered shall forthwith execute the same, and shall, at the time mentioned in the warrant, repair to the place where the dead body is, and make return thereof to the coroner, and of his doings thereon, under his hand; and any constable who shall unnecessarily neglect or fail to execute or return such warrant, shall be fined the sum of twenty dollars; and if any person summoned as a juror shall fail to appear, without reasonable excuse therefor, he shall be fined the sum of ten dollars. If the six jurors returned shall not all appear, the coroner may require the constable, or any other officer whom he shall appoint, to return other jurors, from the body of the county, and not from hyataunders, to complete the number.

Sec. 27. When the jurors who have been summoned appear, the coroner shall call over their names, and then, in view of the body, he shall administer to them the following oath:

You solemnly swear that you will diligently inquire, and true presentment make, on behalf of the United States, when, how, and by what means, the person, whose body lies here dead, came to his death; and you shall return a true inquest thereof, according to your knowledge and such evidence as shall be laid before you: So help you God.

Sec. 28. The coroner may issue subpoenas for witnesses, returnable forthwith, or at such time and place as he shall therein direct; and the attendance of all persons served with such subpoena may be enforced in the same manner, by the coroner, and subject to the same penalties, as if they had been served with a subpoena to attend a court of justice.

Sec. 29. An oath to the following effect shall be administered to the witnesses by the coroner:

You solemnly swear that the evidence which you shall give to this inquest, concerning the death of the person here lying dead, shall be the truth, the whole truth, and nothing but the truth: So help you God.

Sec. 30. The coroner, in all cases where the cause of death shall be doubtful, shall call to his aid some competent surgeon, who, when he may deem the same necessary, shall make a post mortem examination of the body, and report, in writing, signed by him, the condition of the same, together with his opinion as to the cause of death. The coroner shall also cause to be made, by a competent person, an analysis of the stomach and its contents, when poison is supposed to have been taken or administered; and a like report shall be made by the chemist or other person employed, as is required of a surgeon. Fees for said services shall be paid out of the treasury of the United States, and shall, within the following limits, be determined by the judge of the criminal court. For the external examination of the body, from five to ten dollars; for dissection of body before interment, from ten to twenty dollars; for dissection of body after disinterment, from twenty to thirty dollars; for making a chemical analysis, from ten to forty dollars. The expenses of analysis, apart from the fee, shall be paid in like manner, but shall in no case exceed the sum of

ten dollars, unless previously sanctioned by the judge of the criminal court.

Sec. 31. The testimony of all witnesses examined before any inquest shall be reduced to writing by the coroner, or some other person by his direction, and be subscribed by the witnesses.

Sec. 32. The jury, upon the inspection of the dead body, and after hearing the testimony of the witnesses, and making all needful inquiries, shall draw up and deliver to the coroner their inquisition, under their hands, in which they shall find and certify when, how, and by what means the deceased person came to his death, and his name, if it was known, a minute description of his person, together with all the material circumstances attending his death; and if it shall appear that he was killed feloniously, the jurors shall further state who were guilty, either as principals or accessories, if known, or were in any manner the cause of his death; which inquisition may be, in substance, as follows:

— — *vs.* An inquisition taken at — —, in the county of — —, on the — — day of — —, in the year — —, before — —, corner of the said county, upon the view of the body of — —, (or a person,) there lying dead, by the oaths of the jurors whose names are hereunto subscribed, who, being sworn to inquire, on behalf of the United States, when, how, and by what means the said — — (or person) came to his death, upon their oaths do say, (then insert description of person, and when, how, and by what persons, means, weapon, or instrument he was killed.) In testimony whereof, the said coroner and the jurors of this inquest have hereunto set their hands, the day and year aforesaid.

Sec. 33. If the jury find that any murder, manslaughter, assault, or other offence has been committed on the person of the deceased, the coroner shall bind over, by recognizance, such witnesses as he shall think proper, to appear and testify at the next session of the criminal court; he shall also return to the same court the inquisition, written evidence, and all recognizances and examinations by him taken, and may commit to jail any witnesses who shall refuse to recognise in such manner as he shall direct.

Sec. 34. If any person charged by the inquest with having committed such offence shall not be in custody, the coroner shall have the same power as a justice of the peace to issue process for his

apprehension, and such warrant shall be made returnable before any justice of the peace, or other magistrate or court having cognizance of the case, who shall proceed therein as if such person had been arrested on complaint duly made.

SEC. 35. When the coroner shall take an inquest upon the view of the dead body of a stranger, or, being called for that purpose, shall not think it necessary, on view of such body, that any inquest should be taken, he shall cause, in the absence of other provision, the body to be decently buried; and if the coroner shall certify that, to the best of his knowledge and belief, the person found dead was a stranger, not belonging to this District, the expenses of burial, with the coroner's fees, and all the expenses of the inquisition, if any was taken, shall be paid to the coroner from the treasury of the United States, the account of such expenses being first examined and allowed by the judge of the criminal court; in all other cases the expenses of the inquisition only shall be paid, in like manner, by the United States.

SEC. 36. The coroner shall require the jury empaneled, to make a report, signed by them and the coroner, and to be returned with the inquisition, giving the amount of money or other valuables found on or with the dead body, and such money or other property, if there be no person to take charge of the same, shall be placed in the hands of the judge of the orphans' court, and by him paid over to the person authorized to receive the same, on being called for. But so much thereof as may be necessary may, in the event of the deceased being a stranger, be appropriated to paying his burial expenses.

SEC. 37. In case the body shall not be identified, it shall be the duty of the coroner to publish, in some newspaper printed in this District, a description of the deceased, and the amount of money or other valuables found in his possession. And though the body may be identified, if money or other valuables be found thereon, and no person entitled thereto shall claim the same within sixty days, it shall be the duty of the coroner to give public notice, as aforesaid, of the facts. The cost of such advertising shall be paid in like manner as the expense of the inquisition.

SEC. 38. It shall be the duty of the said judge, if said money shall not be called for within one year from the time of his receiving the

same, to loan it out on the most advantageous terms he can, taking bond and good security, and the proceeds therefrom shall be applied to the maintenance of the public schools, in the manner hereinbefore provided with regard to fines. Such money, without interest, may be claimed at any time thereafter by the parties entitled to the same.

Sec. 39. If any coroner shall fail to pay to the judge of the orphan's court the money or other property which may come into his hands as aforesaid, within three months of its receipt, it shall be the duty of said judge to sue for and collect the same in his own name, annexing his title, before the circuit court; and for such delinquency the coroner shall be fined a sum not exceeding five hundred dollars.

Sec. 40. The judge of the orphans' court shall cause to be sold, as property is sold on execution, by the marshal, all property found on a dead body and remaining unclaimed sixty days, and the proceeds of such sale shall be disposed of as is required in case of money so found.

Sec. 41. When the coroner shall be absent from the District, or unable to attend, any justice of the peace may hold the inquest, and shall proceed in all respects as coroners are directed by the foregoing provisions, and subject to the same penalties.

CHAPTER 142.

OF THE ARREST AND EXAMINATION OF OFFENDERS, COMMITMENT FOR TRIAL, AND TAKING BAIL.

SECTION

- 1. Officers empowered to act under this chapter.
- 2. Complaint, warrant, and summonses for witnesses.
- 3. What officers may bail, and when.
- 4. Prisoners; when to be brought before magistrate, on arrest, &c.
- 5. Magistrate, if he take bail, to return the recognizance to court, &c.
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- 7. In case of default, magistrate to certify recognizance to criminal court.

SECTION

- 8. Proceedings when the party fail to recognize.
- 9. } Manner of conducting the examination.
- 10. }
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- 15. Testimony may be reduced to writing.
- 16. Prisoner; when to be discharged.
- 17. Prisoner; when to be bailed, or committed.
- 18. Witnesses to recognize.



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THE
REVISED STATUTES
OF THE
STATE OF WISCONSIN:

PASSED AT THE
ANNUAL SESSION OF THE LEGISLATURE COMMENCING
JAN. 13, 1858, AND APPROVED MAY 17, 1858.

TO WHICH ARE REFINED
THE DECLARATION OF INDEPENDENCE
AND THE
CONSTITUTIONS OF THE UNITED STATES AND THE
STATE OF WISCONSIN.

With an Appendix,
CONTAINING CERTAIN ACTS REQUIRED TO BE PUBLISHED THEREWITH.

Printed and Published pursuant to Law under the Superintendence of one of the Clerks.

CHICAGO, ILL.:
PUBLISHED BY W. B. KEEN.
1858.

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CHAPTER CLXXV.

OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIME.

SECTION 1. The judges of the several courts of record, in vacation as well as in open court, court commissioners, and all justices of the peace, shall have power to cause all laws made for the preservation of the public peace to be kept, and in the execution of that power may require persons to give security to keep the peace, or for their good behavior, or both, in the manner provided in this chapter.

Officers authorized to preserve the peace.

SECTION 2. Whenever complaint shall be made to any such magistrate, that any person has threatened to commit an offense against the person or property of another, the magistrate shall examine the complainant and any witness who may be produced, on oath, and reduce such complaint to writing, and cause the same to be subscribed by the complainant.

Complaint how made.

SECTION 3. If, upon examination, it shall appear that there is just cause to fear that any such offense may be committed, the magistrate shall issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer to whom it may be directed forthwith to apprehend the person complained of, and bring him before such magistrate, or some other magistrate or court having jurisdiction of the cause.

Warrant and arrest.

SECTION 4. The magistrate before whom any person is brought upon a charge of having made threats as aforesaid, shall, as soon as may be, examine the complainant and the witnesses to support the prosecution, on oath, in the presence of the party charged, in relation to any matters connected with such charge, which may be deemed pertinent.

Examination of complainant and witnesses.

SECTION 5. After the testimony to support the prosecution, the witnesses for the prisoner, if he have any, shall be sworn and examined, and he may be assisted by counsel in such examination, and also in the cross examination of the witnesses in support of the prosecution.

Id. of witnesses for prisoner.

SECTION 6. If, upon examination, it shall appear that there is just cause to fear that any such offense will be committed by the party complained of, he shall be required to enter into a recognizance, and with sufficient sureties in such sum as the magistrate shall direct, to keep the peace toward all the people of this state, and especially toward the person requiring such security, for such term as the magistrate shall order, not exceeding six months; but he shall not be ordered to recognize for his appearance at the circuit court, unless he is also charged with some offense for which he ought to be held to answer at said court.

When prisoner required to give recognizance, &c.

SECTION 7. Upon complying with the order of the magistrate, the party complained of shall be discharged.

When discharged.

SECTION 8. If the person so ordered to recognize shall refuse or neglect to comply with such order, the magistrate shall commit him to the county jail during the period for which he was required to give security, or until he shall so recognize, stating in the warrant the cause of commitment, with the sum and time for which security was required.

To be committed if he refuse to recognize.

SECTION 9. If, upon examination, it shall not appear that

When dis-

CHAP. 175.
charged, and
which con-
plaintant to pay
costs.

there is just cause to fear that any such offense will be committed by the party complained of, he shall be forthwith discharged, and if the magistrate shall deem the complaint unfounded, frivolous, or malicious, he shall order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and the officer for their fees, as for his own debt.

Payment of
costs in other
cases.

SECTION 10. When no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecutions, but in all cases where a person is required to give security for the peace, or for his good behavior, the magistrate may further order the costs of prosecution, or any part thereof, to be paid by such person, who shall stand committed until such costs are paid, or he is otherwise legally discharged.

Appeal
allowed.

SECTION 11. Any person aggrieved by the order of any justice of the peace, requiring him to recognize as aforesaid, may, on giving the security required, appeal to the circuit court next to be holden in the same county, or that county to which said county is attached for judicial purposes.

Witnesses to
recognize on
appeal.

SECTION 12. The magistrate from whose order an appeal is so taken, shall require such witnesses as he may think necessary to support the complaint, to recognize for their appearance at the court to which appeal is made.

Proceedings on
appeal.

SECTION 13. The court before which such appeal is prosecuted, may affirm the order of the justice, or discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court shall think proper, and may also make such order in relation to the costs of prosecution, as he may deem just and reasonable.

Recognizances
when to re-
main in force.

SECTION 14. If any party appealing shall fail to prosecute his appeal, his recognizance shall remain in full force and effect as to any breach of the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.

Not recogni-
zing, how af-
terward dis-
charged.

SECTION 15. Any person committed for not finding sureties, or refusing to recognize as required by the court or magistrate, may be discharged by any judge or justice of the peace, on giving such security as was required.

Recognizance
to be transmit-
ted to court.

SECTION 16. Every recognizance taken in pursuance of the foregoing provisions, shall be transmitted by the magistrate to the circuit court for the county, on or before the first day of the next term, and shall be there filed of record by the clerk.

When required
to recognize on
view of court.

SECTION 17. Any person who shall, in the presence of any magistrate mentioned in the first section of this chapter, or before any court of record, make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, and every person who in the presence of such court or magistrate shall contend, with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace and being of good behavior, for a term not exceeding six months, and in case of a refusal, may be committed as before directed.

Handwritten signature

SECTION 18. If any person shall go armed with a dirk, dagger, sword, pistol or pistols, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury or violence to his person, or to his family or property, he may, on complaint of any other person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.

CHAP. 176.
Persons going armed to give security, &c.

SECTION 19. Whenever, upon an action brought on any such recognizance, the penalty thereof shall be adjudged forfeited, the court may remit such portion of the penalty, on the petition of any defendant, as the circumstances of the case shall render just and reasonable.

Court may remit penalty.

SECTION 20. Any surety in a recognizance to keep the peace, or for good behavior, or both, shall have the same authority and right to take and surrender his principal, as if he had been bail for him in a civil cause, and upon such surrender, shall be discharged and exempt from all liability for any act of the principal subsequent to such surrender, which would be a breach of the condition of the recognizance, and the person so surrendered may recognize anew, with sufficient sureties, before any justice of the peace, for the residue of the term, and thereupon shall be discharged.

Surety may surrender principal.

SECTION 21. If any magistrate or officer mentioned in the first section of this chapter, shall have any knowledge that any assault and battery is about to be committed, or that any affray is about to occur, he shall forthwith issue a warrant and proceed as is directed when complaint has been made; and if any such offense is committed, threatened, or attempted in his presence, he shall immediately arrest the offender, or cause it to be done, and for this purpose no warrant or process shall be necessary, but the officer may summon to his assistance any sheriff, coroner, or constable, and all other persons there present, whose duty it shall be to aid the officer in preserving the peace, arresting and securing the offenders, and all such as obstruct or prevent the officer or any of his assistants in the performance of their duty, and any person who shall, when summoned to aid in arresting and securing an offender, refuse to give such assistance, shall forfeit the sum of five dollars.

When justice, &c., to issue warrant on his own knowledge.

CHAPTER CLXXVI.

OF THE ARREST AND EXAMINATION OF OFFENDERS, COMMITMENT FOR TRIAL, AND TAKING BAIL.

SECTION 1. For the apprehension of persons charged with offenses, the judges of the several courts of record, in vacation as well as term time, court commissioners, and all justices of the peace, are authorized to issue process to carry into effect the provisions of this statute.

Officer empowered to enforce provisions of this chapter.

SECTION 2. Upon complaint made to any such magistrate, Complaint

Penn. Laws, Statutes, etc.

A DIGEST

OF THE

LAWS OF PENNSYLVANIA,

FROM THE

YEAR ONE THOUSAND SEVEN HUNDRED

TO THE

TWENTY-FIRST DAY OF MAY, ONE THOUSAND EIGHT HUNDRED AND SIXTY-ONE.

ORIGINALLY COMPILED BY
JOHN PURDON, ESQ.

NINTH EDITION.

Revised, with Marginal References; Foot Notes to the Judicial Decisions; Analytical Contents;
a Digested Syllabus of each Title; and a New, Full and Exhaustive Index.

BY

FREDERICK C. BRIGHTLY, ESQ.,

ACTION OF "EQUITY JURISDICTIONS;" "UNITED STATES AGENT," ETC.

PHILADELPHIA:

KAY & BROTHER, 19 SOUTH SIXTH STREET,
LAW BOOKSELLERS, PUBLISHERS & IMPORTERS.

1862.

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THE OHIO STATE UNIVERSITY

Crim. Proc.—Criminal Procedure.

Acts of persons to be treated as felonies. 192. In all cases where a remedy is provided, or duty enjoined, or anything directed to be done by any act or acts of assembly of this commonwealth, the direction of the act shall be strictly pursued, and no penalty shall be inflicted, or anything done agreeably to the provisions of the common law in such cases, farther than shall be necessary for carrying such act or acts into effect. (a)

Meaning of general terms. 193. Whenever anything is forbidden or directed by the provisions of this code, by using the general terms, any one, any person, the person, every person and such person, or the relative pronouns he, referring to such general terms, the same prohibition or direction, if the contrary be not expressed, be extended to more persons than one, real or fictitious as well as males doing or omitting the same act. (b)

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A. PROCEEDINGS TO DETECT THE COMMISSION OF CRIMES.

1. The Judges of the supreme court, of the court of oyer and terminer and jail delivery, of the courts of quarter sessions, or any of them, shall and may direct their writs and precepts to the sheriffs and coroners of the several counties within this commonwealth, when need shall be, to take persons indicted for felonies, or other offences, before them, who may dwell, remove or be received into another county; and it shall and may be lawful for the said Judges, or any of them, to issue subpoenas into any county of the commonwealth, for summoning and bringing any person to give evidence in any matter or cause before them, or any of them, and to compel obedience to such writs, precepts or subpoenas, by attachment or otherwise, and under such pains and penalties as shall be provided by law.

2. The Judges of the supreme court, of the court of oyer and terminer and jail delivery, of the courts of quarter sessions, or any of them, shall and may direct their writs and precepts to the sheriffs and coroners of the several counties within this commonwealth, when need shall be, to take persons indicted for felonies, or other offences, before them, who may dwell, remove or be received into another county; and it shall and may be lawful for the said Judges, or any of them, to issue subpoenas into any county of the commonwealth, for summoning and bringing any person to give evidence in any matter or cause before them, or any of them, and to compel obedience to such writs, precepts or subpoenas, by attachment or otherwise, and under such pains and penalties as shall be provided by law.

Criminal Procedure.

penalties as other writs or subpoenas are or ought by law to be granted and awarded; and that it shall be lawful for said judges, or any of them, if they see fit to direct such writ, precept, summons, subpoena or attachments, to be executed by the sheriff of the county in which the same is awarded, which said writ, precept, summons or subpoena, shall be the sufficient warrant of such sheriff for executing the same throughout this commonwealth, as fully and effectually as if directed to, and executed by the sheriff of the proper county where issued: Provided, That the reasonable expenses of executing such process, when issued on behalf of the commonwealth, shall be paid out of the funds of the county where issued; and the expenses of removing any person charged with having committed an offence in one county into another county, or of transporting any person charged with having committed any offence in this state from another state into this state for trial, or for conveying any person, after conviction, to the penitentiary, shall be paid out of the treasury of the county where the offence is charged to have been committed.(a)

2. Where any person charged with having committed any felony, (b) in any city or county of this commonwealth, shall go or escape into any other county thereof, it shall and may be lawful for the president, or any judge of the court of common pleas in the county where the said person may be found, to issue his warrant, authorizing and requiring the sheriff of the said county, to take the said person and conduct him to the proper county, where the said felony is alleged to have been committed, the expenses of which shall be paid to the said sheriff by the county to which the said person is conducted.(c)

3. In case any person against whom a warrant may be issued by any judge or alderman of any city, or justice of the peace of any county in this commonwealth, for any offence there committed, shall escape, go into, reside or be in any other city or county out of the jurisdiction of the judge, alderman, justice or justices of the city or county granting such warrant as aforesaid, it shall and may be lawful for, and it is hereby declared to be the duty of any alderman, justice or justices of the city or county where such person shall escape, go into, reside or be, upon proof being made, upon oath or affirmation, of the handwriting of the judge, alderman, justice or justices granting such warrant, to indorse his or their name or names on such warrant, which shall be sufficient authority to the person or persons bringing such warrant, and to all other persons to whom such warrant was originally directed, to execute the same in such other city or county, out of the jurisdiction of the alderman, justice or justices, granting such warrant as aforesaid, and to apprehend and carry such offender before the alderman, justice or justices who indorsed such warrant, or some other alderman, justice or justices of such other city and county where such warrant was indorsed. And in case the offender for which such offender shall be so apprehended, shall be bailable in law by an alderman or justice of the peace, and such offender shall be willing and ready to give bail for his appearance at the next court of general jail delivery or quarter sessions, to be held in and for the city and county where the offence was committed, such alderman, justice or justices shall and may take such bail for his appearance, in the same manner as the alderman or justice of the peace of the proper city or county might have done; and the said alderman, justice or justice of the peace of such other city or county so taking bail, shall deliver or transmit such recognizance and other proceeding to the clerk of the court of general jail delivery or quarter sessions, where such offender is required to appear by virtue of such recognizance, and such recognizance and other proceedings shall be as good and effectual in law as if the same had been entered into, taken or acknowledged in the proper county where the offence was committed, and the same proceedings shall be had therein. And in case the offender for which such offender shall be apprehended in any other city or county, shall not be bailable in law by an alderman or justice of the peace, or such offender shall not give bail for his appearance at the proper court having cognizance of his crime, to the satisfaction of the alderman or justice before whom he shall be brought, then the constable or other person so apprehending such offender, shall carry and convey him before one of the aldermen or justices of the peace of the proper city or county where such offence was committed, there to be dealt with according to law.(d)

4. No action of trespass, or false imprisonment, or infamation, or indictment, shall be brought, sued, commenced, exhibited or prosecuted by any person, against the alderman, justice or justices, who shall indorse such warrant, for or by reason of his or their indorsing the same, but such person shall be at liberty to bring or prosecute his or their action or suit against the alderman or justice who originally granted the warrant.(e)

5. When any person shall be accused before a magistrate, upon oath or affirmation, that he has committed a misdemeanor in another county, and

(a) This section is composed of the 8th section of the act of 12th May 1823, § 30; of the 11th section of the act of 23d September 1821, § 30; and of the 2d section of the act of 23d April 1825, P. 10, 407. It is not proposed to amend all the 23d section of the act of 1822, because part of it equally applies to civil as well as criminal proceedings. Report on the Penal Code 25. The county is not liable for the expenses incurred in an unsuccessful attempt to arrest a fugitive from justice, who has taken refuge in another state. P. C. 442.
(b) This does not extend to misdemeanors; a fugitive charged with having committed a misdemeanor in another county can only be arrested under the provisions of the preceding section Grand 213.
(c) This section is taken from the 24 section of the act of 4th of April 1827, § 30, 302. Report on the Penal Code 26.
(d) A warrant issued by a justice of the peace in one county, and indorsed by a justice of another county, charging a misdemeanor to have been committed in the county where the warrant issued, will not justify the detention of the offender in the jail of the county where the warrant was indorsed. Grand 213.
(e) The 3d and 4th sections are taken from the act of 19th April 1827, § 30, 426. Report on the Penal Code 27.

Criminal Procedure.

supposed to be stolen, found in the possession of any person.

Torture.

Notice.

Restitution.

When to be delivered to county commissioners.

Disposition of proceeds.

Penalty of the peace.

Bail.

tion, of the crime of burglary, robbery or larceny, and the said magistrate shall have issued his warrant to apprehend such person or persons, or to search for such goods as have been described, on oath or affirmation, to have been stolen goods, if any shall be found in the custody or possession of such person or persons, or in the custody or possession of any other person or persons, for his, her or their use, and there is probable cause, supported by oath or affirmation, to suspect that other goods, which may be discovered on such search, are stolen, he shall and may be lawful for the said magistrate to direct the said goods to be seized, and to secure the same in his own custody, unless the person in whose possession the same were found shall give sufficient surety to produce the same at the time of his or her trial. And the said magistrate shall forthwith cause an inventory to be taken of the said goods, and shall file the same with the clerk of that court in which the accused person is intended to be prosecuted, and shall give public notice in the newspaper, or otherwise by advertising the same in three or more public places in the city or county where the offence is charged to have been committed, before the time of trial, noting in such advertisement the said inventory, the person charged and time of trial. And if, on such trial, the accused party shall be acquitted, and no other claimant shall appear or such be discontinued, then, at the expiration of three months, such goods shall be delivered to the party accused, and he, she or they shall be discharged, and the county be liable to the costs of prosecution; but if he be convicted of larceny only, and, after restitution made to the owner and the sentence of the court being fully complied with, shall claim a right in the residue of the said goods, and no other shall appear or claim the said goods, or any part of them, then it shall be lawful, notwithstanding the claim of the said party accused, to detain such goods for the term of nine months, to the end that all persons having any claim thereto may have full opportunity to come, and to the satisfaction of the court, prove their property in them; or, which proof the said owner or owners, respectively, shall receive the said goods, or the value thereof, if from their perishable nature it shall have been found necessary to make sale thereof, upon paying the reasonable charges incurred by the securing the said goods and establishing their property in the same; but if no such claim shall be brought and duly supported, then the person so convicted shall be entitled to the remainder of the said goods, or the value thereof, in case the same shall have been sold agreeably to the original inventory. But if, upon an attainder of burglary or robbery, the court shall, after due inquiry, be of opinion that the said goods were not the property of such burglar or robber, they shall be delivered, together with a certified copy of the said inventory, to the commissioners of the county, who shall indorse a receipt therefor on the original inventory, register the said inventory in a book, and also cause the same to be publicly advertised, giving notice to all persons claiming the said goods to prove their property therein to the said commissioners; and unless such proof shall be made within three months from the date of such advertisement, the said goods shall be publicly sold, and the net moneys arising from such sale shall be paid into the county treasury for the use of the commonwealth: *Provided always*, That if any claimant shall appear within one year, and prove his or her property in the said goods to the satisfaction of the commissioners, or in the case of dispute, shall obtain the verdict of a jury in favor of such claim, the said claimant shall be entitled to recover, and receive from the said commissioners, or treasurer, the net amount of the moneys paid as aforesaid into the hands of the said commissioners, or by them paid into the treasury of this commonwealth. (a)

6. If any person shall threaten the person of another to wound, kill or destroy him, or to do him any harm in person or estate, (b) and the person threatened shall appear before a justice of the peace, and attest, on oath or affirmation, that he believes that by such threatening he is in danger of being hurt in body or estate, such person so threatening as aforesaid, shall be bound over, with one sufficient surety, to appear at the next sessions, (c) according to law, and in the meantime to be of his good behavior, and keep the peace toward all citizens of this commonwealth. (d) If any person, not being an officer on duty in the military or naval service of the state or of the United States, shall go armed with a dirk, dagger, sword or pistol, or other offensive or dangerous weapon, without reasonable cause to fear an assault or other injury or violence to his family, person or property, he may, on complaint of any person having reasonable cause to fear a breach of the peace therefrom, be required to find surety of the peace as aforesaid. (e)

7. In all cases the party accused, on oath or affirmation, of any crime or misdemeanor against the laws, shall be admitted to bail by one or more sufficient sureties, to be taken before any justice, justice, mayor, recorder or alderman where the offence charged has been committed, except such persons as are precluded from being bailed by the constitution of this commonwealth: (g) *Provided also*, That persons accused as aforesaid, of

R. S. 11, Sec. 105, (R. S. 11, 104.)

1-1510, 1-1

(a) This section is taken from the 19th section of the act 22d September 1791, § 12. Except on the 19th July 1810.
 (b) Surety of the peace is demanded of right by any just person who will make the necessary oath. 1 U. S. 22, n. Sec 1 Act, 10, 2 P. 136.
 (c) A commission magistrate has no authority to bind a person to keep the peace or for his good behavior, longer than the next term of the next. 2 P. 418.
 (d) Surety for good behavior may be ordered by the court, since the requisition of a prisoner, in such case, and for such length of time, as the public safety requires. 2 U. S. 457, 10 Mar

229, 2 H. 29, 73-1. See 12 Reg. 1, 2 79, 404.
 (e) This section is copied from the act of 1790, 1 P. 57; the middle thereof, provided by 1814 section, against the offenders carrying deadly weapons, is borrowed from an obsolete statute, arising from their experience and observation. That of the 17th of the 17th.
 (g) A Justice may take bail for commitment for trial. 6 W. R. 314, 2 P. 305. And see 7 W. 131, (1 U. S. 14, 1) 204, 47, n. A magistrate may be a Justice to ensure the safety of arrest in cases, non felix, not 17th. 124, n. 17th, 2 U. S. Law 314, 210.

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murder or manslaughter, shall only be admitted to bail by the supreme court or one of the judges thereof, or a president or associate law judge of a court of common pleas: persons accused, as aforesaid, of arson, rape, mayhem, sodomy, luggery, robbery or burglary, shall only be bailable by the supreme court, the court of common pleas, or any of the judges thereof, or a mayor or recorder of a city. (a)

8. All sureties, sureties, and bail in criminal cases, whether bound in recognizance or for a particular matter or for all charges whatsoever, shall be entitled to have a writ of habeas corpus, duly certified by the proper officer or person before whom or in whose office the recognizance of such surety, sureties or bail shall be or remain, and upon such writ, by themselves, or their agents, to arrest and detain, and surrender their principals, with the like effect as in cases of bail in civil actions; (b) And such writs shall be a sufficient warrant or authority for the proper sheriff or jailer to receive the said principal, and have him forthcoming to answer the matter or matters alleged against him: Provided, That nothing herein contained shall prevent the person thus arrested and detained from giving new bail or sureties for his appearance, who shall have the same right of surrender hereinbefore provided. (c)

9. In all cases where a person shall, on the complaint of another, be bound by recognizance to appear, or shall, for want of security, be committed, or shall be indicted for an assault and battery or other misdemeanor, to the injury and damage of the party complaining, and not charged to have been done with intent to commit a felony, or not being an infamous crime, and for which there shall also be a remedy, by action, if the party complaining shall appear before the magistrate who may have taken recognizance or make the commitment, or before the court in which the indictment shall be, and acknowledge to have received satisfaction for such injury and damage, it shall be lawful for the magistrate, in his discretion, to discharge the recognizance which may have been taken for the appearance of the defendant, or in case of commitment, to discharge the prisoner, or for the court also where such proceeding has been returned to the court, in their discretion, to order a writ of habeas corpus to be entered on the indictment, as the case may require, upon payment of costs: Provided, That this act shall not extend to any assault and battery, or other misdemeanor, committed by or on any officer or minister of justice. (d)

B. INDICTMENTS AND PLEADINGS.

10. The foreman of any grand jury, or any member thereof, is hereby authorized and empowered to administer the requisite oaths or affirmations to any witness whose name may be marked by the district attorney on the bill of indictment. (a)

11. Every indictment shall be deemed and adjudged sufficient and good in law which charges the crime substantially in the language of the act of the assembly prohibiting the crime, and prescribing the punishment, if any such there be, or, if at common law, so plainly that the nature of the offense charged may be easily understood by the jury. Every objection to any indictment for any formal defect, apparent on the face thereof, shall be taken by demurrer, or on motion to quash such indictment, before the jury shall be sworn, and set afterward; and every court, before whom any such objection shall be taken for any formal defect, may, if it be thought necessary, cause the indictment to be forthwith amended in such particular, by the clerk or other officer of the court, and as thereupon the trial shall proceed as if no such defect appeared. (g)

R. Act 21 March 1827, § 8, P. 1, 412. B. R. C. § 7. R. Ind. § 16. H. Ind. § 17.

(a) This section is a consolidation of the first clause of the act of 1810, c. 89, § 6; and the first section of the act of 20th Apr. 11, 1827, P. 1, c. 398. Report on the Penal Code 38.

(b) See 1 T. & H. 38, 383-34.

(c) This section is taken from the 2d section of the act of 18th April 1848, P. 1, c. 133. Report on the Penal Code 40.

(d) This section is an extension of the existing law of the 17th March 1808, c. 20, § 28. Report on the Penal Code 40.

(e) This section is taken from the 1st section of the act of 6th April 1826 c. 10, § 120. That witness, whose names had not been marked by the district attorney on the bill of indictment, were sworn and examined by the grand jury, he not provided to be sworn at once. It is only ground for a writ of habeas corpus. 1 T. & H. 38, 383-34.

(f) Sections 11 to 22 are all new, and are certainly not the best language in the proposed amendments of our penal system. The history of related amendments should with reference to which the jury have passed, by means of the proposed amendments, should be included in indictments. Lord Hale, one of the best and most famous of English judges, 1 Leq. line remarked that such indictments were "given to be amended and an improvement in the law, and the consequence is, that many a doubt raised by the uncertainty of the proposed amendments, thus by the manifestation of their language, and that the present cases had gone against them, by reason of their uncertainty." The reason for retaining these sections by the common law, so that arise from the authority of the judges, who, in administering a system to which the punishment of death followed almost every conviction of felony, were naturally disposed, in favor of life, to avoid the error in the strict rules. Since, however, the reform of the penal law, and the just appointment of punishment to crimes according to their merits, already and during the system which led to the abolition of these indictments, the proposed amendments should be included in our system. The 11th section of this act proposes what the com-

missioners believe will be an effective remedy in this respect of the common law, without depriving the accused of any proper privilege. It leaves him, at the outset of his trial, to determine whether he will question the relevancy of the accusations, or take issue on the merits of the charges. If he objects to the trial, and is condemned, these same will be treated as final issues in respect to him, in every broad extension, which, if suggested, at an early period, would have been promptly corrected. The 11th and 12th sections are intended to meet cases of frequent occurrence, in which, although an indictment is strictly formal, yet, owing to some technical slip in its preparation, it is found on the trial that the words do not exactly tally with the description of the instrument set forth in the indictment, or in the names of persons or places described therein. By the law as it now stands, where such an indictment enters into the plea of the accused, as in former, passing matters of money, selling lottery tickets, sending fraudulent letters, &c. they are treated in the same manner and terms; the emphasis of a plea in an indictment for forgery is fatal. In the case of *Don v. Gilchrist*, 2 S. & R. 609, a mistake in spelling the name of "Barrett," was adjudged fatal after verdict. By a statute introduced the name of the person aggrieved, and places described in the indictment, and the words found in fact, will entitle the defendant to a retrial, not on the ground of the want of agreement between the attorney and the parties. The proposed sections authorize the courts to amend such verbal errors, if suggested by and then to determine what of verbal mistakes which are necessary to the rational administration of justice. The 13th and 14th sections relate to the existing anomaly of setting forth, in indictments, the names of numerous individuals, owners of property jointly or jointly taken, or maliciously injured or damaged. It will serve to reduce the number of names of such individuals, and give, in as possible injury to the defendant, who cannot be interested in the fact, whether one person is, or one hundred persons are the owners of property in regard to

THE COMPILED
LAWS OF WYOMING

INCLUDING ALL THE

LAWS IN FORCE IN SAID TERRITORY AT THE CLOSE OF
THE FOURTH SESSION OF THE LEGISLATIVE ASSEMBLY OF SAID
TERRITORY, TOGETHER WITH SUCH LAWS OF THE UNITED STATES
AS ARE APPLICABLE TO SAID TERRITORY; ALSO THE TREATIES MADE WITH
THE SIOUX AND SHOSHONK TRIBES OF INDIANS IN THE YEAR
1868; WITH A SYNOPSIS OF THE PRE-EMPTION, HOME-
STEAD AND MINING LAWS OF THE UNITED STATES.

PUBLISHED BY AUTHORITY OF THE ACT OF THE FOURTH LEGISLATIVE ASSEMBLY OF
SAID TERRITORY, ENTITLED
"AN ACT TO COMPILE AND PUBLISH THE LAWS OF WYOMING IN ONE VOLUME."

J. R. WHITEHEAD, SUPERINTENDENT OF COMPILATION.

H. GLAFCKE:
LEADER STEAM BOOK AND JOB PRINT, CHEYENNE, WYOMING,

1876.
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Addendum 142

CHAPTER 32.

An Act to Prevent the Carrying of Fire Arms and Other Deadly Weapons.

Be it enacted by the Council and House of Representatives of the Territory of Wyoming:

Carrying weapons within city, town or village limits, prohibited.

SECTION. 1. That hereafter it shall be unlawful for any resident of any city, town or village, or for any one not a resident of any city, town or village, in said Territory, but a sojourner therein, to bear upon his person, concealed or openly, any fire arm or other deadly weapon, within the limits of any city, town or village.

Non-resident to be first notified.

SEC. 2. That if any person not a resident of any town, city or village of Wyoming Territory, shall, after being notified of the existence of this act by a proper peace officer, continue to carry or bear upon his person any fire arm or other deadly weapon, he or she, shall be deemed to be guilty of a violation of the provisions of this act and shall be punished accordingly.

Violation of this not a misdemeanor.

SEC. 3. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than fifty dollars, and, in the default of the payment of any fine which may be assessed against him, shall be imprisoned in the county jail for not less than five days nor more than twenty days.

Punalty.

In force.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved, December 2nd, 1875.

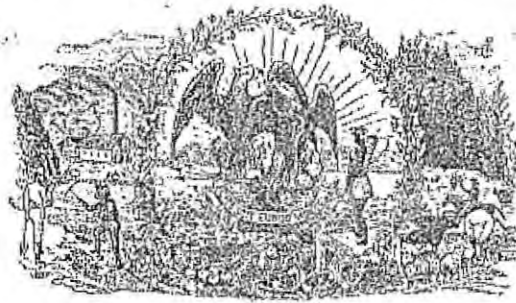
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1884.

COMPILED LAWS — OF — NEW MEXICO.

IN ACCORDANCE WITH AN ACT OF THE LEGISLATURE, APPROVED APRIL 8, 1884.

INCLUDING THE CONSTITUTION OF THE UNITED STATES, THE TREATY OF GUADALUPE HIDALGO, THE GADESDEN TREATY, THE ORIGINAL ACTS OF THE TERRITORY, THE ORGANIC ACTS AS NOW IN FORCE, THE ORIGINAL MEXICAN CODES, AND A LIST OF LAWS ENACTED SINCE THE COMPILATION OF 1853.



EDWARD L. BARTLETT,
CHARLES W. GREENE, } Commission.
SANTIAGO VALDEZ. }
IRRENEO L. CHAVES, Secretary.

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SANTA FE, NEW MEXICO:
NEW MEXICAN PRINTING COMPANY, PROPRIETORS AND PUBLISHERS,
1884.

404-§ 040]

CRIMES AND OFFENSES,

[TIT. IX, CH. V.

L. 1887, chap. 16, § 17; Feb. 17.

from any hotel, inn or boarding house while there is a lien as-
sisting thereon for the proper charges due from him or her for
fare and board furnished therein, shall be punished by impris-
onment not exceeding three months in the county jail, or by
fine not exceeding one hundred dollars, or both at the discre-
tion of the court.

Copy to be posted.
Ed. 12

§ 040. It shall be the duty of all inn-keepers to post up a
printed copy of this act in a conspicuous place in each room of
their hotel or inn.

DEADLY WEAPONS.

Carrying unlawful.
Exception.

§ 041. It shall be unlawful for any person to carry deadly
weapons either concealed or otherwise, on or about their per-
sons within any of the settlements of this Territory, except it
be in the lawful defence of themselves, their families or their
property, and the same being true and there threatened with
danger, or by order of legal authority, or on their own landed
property, or in the execution of any order of court.

L. 1880, chap. 24, § 11;
July 30.

Deadly weapons, de-
fined.

§ 042. Deadly weapons, in the meaning of this act, shall be
construed to mean all kinds and classes of pistols whether the
same be a revolver, repeater, derringer, or any other kind or class
of pistol; any and all kinds of Lewis knives, daggers, poniards,
butcher knives, disk knives, and all such weapons with which
cuts can be given, or by which wounds can be inflicted by
thrusting, including sword canes and such sharp pointed canes
with which deadly thrusts can be given, and all kinds of slung
shots, and any other kinds of deadly weapon, by whatever name
it may be called, by which a dangerous wound can be inflicted.

Secretary of Revenue, vol. 1, page 100, No. 31, Rep.

Violation penalty
law.

§ 043. The penalty for the violation of the preceding sec-
tions of this act shall not be less than ten dollars nor more than
fifty dollars for each offence, or not less than ten days impris-
onment nor more than fifty days imprisonment in the county jail
or both such fine and imprisonment in the discretion of the jury
trying the case.

In 13

Threatening: penal-
ty.

§ 044. Any person who shall draw a deadly weapon on an-
other, or who shall handle a deadly weapon in a threatening
manner at or towards another, in any part of this Territory, ex-
cept in the lawful defence of himself, his family or his property,
or by order of legal authority, upon conviction thereof before
the proper tribunal shall for each offence be fined in a sum not
less than twenty-five dollars nor more than seventy-five dollars,
or by imprisonment in the county jail for a term of not less
than twenty days nor more than sixty days, or be punished by

GENERAL STATUTES OF KANSAS

— 1901 —

AUTHENTICATED

BEING A COMPILATION OF ALL THE LAWS OF A
GENERAL NATURE, INCLUDING THE
SESSION LAWS OF 1901

BASED UPON THE

GENERAL STATUTES OF 1868

AND DASSLER'S COMPILED LAWS OF 1885

ANNOTATED TO AND INCLUDING KANSAS REPORTS, VOLUME 61,
AND KANSAS APPEALS REPORTS, VOLUME 9

By C. F. W. DASSLER

OF THE LEAVENWORTH BAR

CRANE & COMPANY, PUBLISHERS
TOPEKA, KANSAS
1901

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for the government and support of the same, and make regulations to secure the general health of the city, and to prevent and remove nuisances, and to provide the city with water: *Provided*, The condemnation of such property outside of the city limits shall be regulated in all respects as provided by law for the condemnation of property for railroad purposes: *And provided further*, That the police jurisdiction of the city shall extend over such lands and property to the same extent as over public cemeteries. [L. 1872, ch. 100, § 60; March 18.]

Water-works: 48 K. 101; 46 K. 659; 43 K. 722; 33 K. 597. Police power extended only over lands for hospital purposes and water-works, etc.: 40 K. 410. Diverting flow of stream: 28 K. 492.

§ 1002. Contagious diseases. § 67. The council may make regulations to prevent the introduction of contagious diseases into the city, may make quarantine laws for that purpose, and enforce the same within five miles of the city. [Id., § 61.]

Section added: 48 K. 432.

§ 1003. Firearms, etc. § 68. The council may prohibit and punish the carrying of firearms or other deadly weapons, concealed or otherwise, and may arrest and imprison, fine or set at work all vagrants and persons found in said city without visible means of support, or some legitimate business. [Id., § 62.]

§ 1004. Railroads, etc. § 69. The council shall take all needful steps to protect the interests of the city, present or prospective, in any railroad leading from or toward the same; but they shall not take or subscribe any stock in any railroad unless a majority of the electors of said city voting at a legal election vote in favor thereof. [Id., § 63.]

No authority to authorize private railroad in street: 34 K. 509. Non-liability of city: 30 K. 342.

§ 1005. Levees; depot grounds. § 70. The council shall have power to regulate levees, depots, depot grounds, and places of storing freight and goods, and to provide for the passage of railways through the streets and public grounds of the city; also to regulate the crossings of railway tracks and to provide precautions and prescribe rules regulating the same, and to regulate the running of railway engines, cars and tracks within the limits of said city, and to prescribe rules relating thereto, and to govern the speed thereof, and to make any other and further provisions, rules and restrictions to prevent accidents at crossings, and on the tracks of railways, and to prevent fires from engines. [Id., § 64.]

Viaduct over railroad: 65 K. 734. Powers of railroad under grant from city: 40 K. 301; 10 K. 532.

§ 1006. Eminent domain. § 71. Private property may be taken for public use or for the purpose of giving the right of way or other privilege to any railroad company, or for the purpose of creating or establishing market-houses and market-places, or for any other necessary purpose; but in every case the city shall make the person or persons whose property shall be taken or injured thereby adequate compensation therefor, to be determined by the assessment of five disinterested householders of the city, who shall be selected and compensated as may be prescribed by ordinance, and who shall, in the discharge of their duties, act under oath faithfully and impartially to make the assessment to them submitted; and in determining the same, said householders shall consider the benefit resulting to as well as the damage sustained by the owner of the property so taken, except in condemnation of rights of way for private corporations. Appeals may be taken to the district court from the decision of such householders in the same manner and within the same time as from judgments of a justice of the peace. [Id., § 65.]

§ 1007. Libraries. § 72. The council may establish and maintain public libraries and reading-rooms at the expense of the city. [Id., § 66.]

See chapter 17a, art. 6.

1 XAVIER BECERRA
 Attorney General of California
 2 STEPAN A. HAYTAYAN
 Supervising Deputy Attorney General
 3 JONATHAN M. EISENBERG
 Deputy Attorney General
 4 P. PATTY LI
 Deputy Attorney General
 5 State Bar No. 266937
 455 Golden Gate Avenue, Suite 11000
 6 San Francisco, CA 94102-7004
 Telephone: (415) 703-1577
 7 Fax: (415) 703-1234
 E-mail: Patty.Li@doj.ca.gov
 8 *Attorneys for Defendant Xavier Becerra, Attorney
 General of the State of California*
 9

10 **IN THE UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**
 12 **WESTERN DIVISION**

13 **MICHELLE FLANAGAN, et al.,**
 14 **Plaintiffs,**
 15 **v.**
 16 **CALIFORNIA ATTORNEY**
 17 **GENERAL XAVIER BECERRA, in**
 18 **his official capacity as Attorney**
 19 **General of the State of California, et**
 20 **al.,**
 21 **Defendants.**

Case No.: 2:16-cv-06164-JAK-AS

**DECLARATION OF P. PATTY LI
 IN SUPPORT OF DEFENDANT'S
 MOTION FOR SUMMARY
 JUDGMENT**

Date: November 6, 2017
 Time: 8:30 a.m.
 Courtroom: 10B
 Judge: Hon. John A. Kronstadt
 Action Filed: August 17, 2016

1 I, P. Patty Li, declare as follows:

2 1. I am a Deputy Attorney General in the California Attorney General’s
3 Office. I represent Defendant Xavier Becerra, in his official capacity as Attorney
4 General of California (“Defendant”), in the above-captioned matter. I have
5 personal knowledge of each fact stated in this declaration, and if called as a witness
6 I could and would testify competently to them under oath.

7 2. On April 26, 2017, counsel for Defendant deposed Plaintiff Michelle
8 Flanagan. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from
9 the transcript of Ms. Flanagan’s deposition.

10 3. On April 26, 2017, counsel for Defendant deposed Plaintiff Dominic
11 Nardone. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from
12 the transcript of Mr. Nardone’s deposition.

13 4. On May 1, 2017, counsel for Defendant deposed Plaintiff Samuel
14 Golden. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from
15 the transcript of Mr. Golden’s deposition.

16 5. On July 12, 2017, counsel for Plaintiffs deposed Defendant’s expert
17 witness, Stanford Law Prof. John J. Donohue III. Attached hereto as Exhibit 4 is a
18 true and correct copy of excerpts from the transcript of Prof. Donohue’s July 12,
19 2017 deposition.

20 6. On August 8, 2017, counsel for Plaintiffs deposed Prof. Donohue again.
21 Attached hereto as Exhibit 5 is a true and correct copy of excerpts from the
22 transcript of Prof. Donohue’s August 8, 2017 deposition.

23 7. On July 27, 2017, counsel for Plaintiffs deposed Defendant’s expert
24 witness, former Covina Chief of Police Kim Raney. Attached hereto as Exhibit 6 is
25 a true and correct copy of excerpts from the transcript of Chief Raney’s deposition.

26 8. On June 1, 2017, Defendant provided to Plaintiffs the expert report of
27 Prof. Donohue. Two exhibits were appended to Prof. Donohue’s expert report: (1)
28 Prof. Donohue’s curriculum vitae and (2) Prof. Donohue’s (and two co-authors’)

1 academic study, National Bureau of Economic Research, Inc., Working Paper
2 Series, Working Paper w23510, "Right-to-Carry Laws and Violent Crime: A
3 Comprehensive Assessment Using Panel Data and State-Level Synthetic Controls
4 Analysis" (the "Donohue Study"), dated May 23, 2017. Attached hereto as Exhibit
5 7 is a true and correct copy of Prof. Donohue's expert report and curriculum vitae,
6 as appended to Prof. Donohue's expert report. Attached hereto as Exhibit 8 is a
7 true and correct copy of the Donohue Study, as appended to Prof. Donohue's expert
8 report.

9 9. On July 21, 2017, Defendant provided to Plaintiffs an updated version of
10 the Donohue Study, dated June 2017. Attached hereto as Exhibit 9 is a true and
11 correct copy of the updated Donohue Study.

12 10. On June 1, 2017, Defendant provided to Plaintiffs the expert report of
13 Chief Raney. Attached hereto as Exhibit 10 is a true and correct copy of Chief
14 Raney's expert report.

15 11. Attached hereto as Exhibit 11 is a true and correct copy of "Easiness of
16 Legal Access to Concealed Firearms Permits and Homicide Rates in the US
17 States," by Boston University Prof. of Public Health Michael Siegel, et al., an
18 officially unpublished article in press with and under embargo until publication by
19 the American Journal of Public Health.

20 I declare under penalty of perjury that the foregoing is true and correct.
21 Executed on September 11, 2017, at San Francisco, California.



22
23 P. Patty Li

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EXHIBIT 1

MICHELLE FLANAGAN
MICHELLE FLANAGAN vs CALIFORNIA ATTORNEY

April 26, 2017
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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

MICHELLE FLANAGAN, SAMUEL
GOLDEN, DOMINIC NARDONE,
JACOB PERKIO, and THE
CALIFORNIA RIFLE & PISTOL
ASSOCIATION,

Plaintiffs,

vs.

No. 2:16-cv-06164
JAK-AS

CALIFORNIA ATTORNEY
GENERAL XAVIER BECERRA, in
his official capacity as
Attorney General of the
State of California,
SHERIFF JAMES McDONNELL, in
his official capacity as
Sheriff of Los Angeles
County, California, and
DOES 1-10,

Defendants.

~~~~~

DEPOSITION OF  
MICHELLE FLANAGAN

Wednesday, April 26, 2017

9:35 A.M. - 10:10 A.M.

300 S. Spring Street, Suite 1702  
Los Angeles, California

Nancy Collier Hamada, CSR No. 5819



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APPEARANCES OF COUNSEL

For Plaintiffs:

MICHEL & ASSOCIATES, PC  
BY: SEAN A. BRADY, ESQ.  
180 E. Ocean Boulevard, Suite 200  
Long Beach, California 90802  
562.216.4444  
sbrady@michellawyers.com

For Attorney General Xavier Becerra:

STATE OF CALIFORNIA  
OFFICE OF ATTORNEY GENERAL  
BY: P. PATTY LI, ESQ.  
455 Golden Gate Avenue, Suite 11000  
San Francisco, California 94102-7004  
415.703.1577  
patty.li@doj.ca.gov



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BY MS. LI 5

INFORMATION REQUESTED

( NONE )

WITNESS INSTRUCTION NOT TO ANSWER

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DEPOSITION OF MICHELLE FLANAGAN

Wednesday, April 26, 2017

MICHELLE FLANAGAN,

having been first duly sworn, testifies as follows:

EXAMINATION

BY MS. LI:

Q Good morning.

A Good morning.

Q My name is Patty Li. I represent the California Attorney General in this litigation which is known as Flanagan vs. Becerra.

Can you state your full name and spell the last name for the record?

A Michelle Flanagan, F, as in Frank, l-a-n-a-g-a-n.

Q Thank you. Do you understand that you are testifying here today under the same oath that you would take if you were to testify in a courtroom?

A Yes.

Q Have you ever had your deposition taken?

A Many years ago, and I don't even remember why. I think it was a car accident or something,



1 Wherever I go, I would like the -- to legally be  
2 able to carry a firearm, whether it be open or  
3 concealed, however is legally allowed, but I do  
4 strongly believe that I should have the right to  
5 protect myself.

6 BY MS. LI:

7 Q Do you have a preference in terms of  
8 carry concealed versus carrying openly if it were  
9 allowed for you to carry in public?

10 A My preference is concealed.

11 Q Can you tell me why?

12 A Because not everyone takes owning a  
13 firearm or handling a firearm as seriously as I  
14 do. There are people who would possibly be upset  
15 that I was carrying a firearm if they didn't know  
16 me, and I wouldn't want to upset anyone I was  
17 around. I feel it much more professional to not  
18 show everyone my business. I don't walk around  
19 with my wallet open or my cell phone open.  
20 Therefore, carrying concealed seems to me to be  
21 much more professional and responsible.

22 Q So it sounds like if you had a choice  
23 between carrying concealed and carrying openly,  
24 you would choose to carry concealed; is that  
25 correct?

# EXHIBIT 2

DOMINIC NARDONE  
MICHELLE FLANAGAN vs CALIFORNIA ATTORNEY

April 26, 2017  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

MICHELLE FLANAGAN, SAMUEL  
GOLDEN, DOMINIC NARDONE,  
JACOB PERKIO, and THE  
CALIFORNIA RIFLE & PISTOL  
ASSOCIATION,

Plaintiffs,

vs.

No. 2:16-cv-06164  
JAK-AS

CALIFORNIA ATTORNEY  
GENERAL XAVIER BECERRA, in  
his official capacity as  
Attorney General of the  
State of California,  
SHERIFF JAMES McDONNELL, in  
his official capacity as  
Sheriff of Los Angeles  
County, California, and  
DOES 1-10,

Defendants.

~~~~~

DEPOSITION OF
DOMINIC NARDONE

Wednesday, April 26, 2017

11:50 A.M. - 12:20 P.M.

300 S. Spring Street, Suite 1702
Los Angeles, California

Nancy Collier Hamada, CSR No. 5819



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APPEARANCES OF COUNSEL

For Plaintiffs:

MICHEL & ASSOCIATES, PC
BY: SEAN A. BRADY, ESQ.
180 E. Ocean Boulevard, Suite 200
Long Beach, California 90802
562.216.4444
sbrady@michellawyers.com

For Attorney General Xavier Becerra:

STATE OF CALIFORNIA
OFFICE OF ATTORNEY GENERAL
BY: P. PATTY LI, ESQ.
455 Golden Gate Avenue, Suite 11000
San Francisco, California 94102-7004
415.703.1577
patty.li@doj.ca.gov



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WITNESS: DOMINIC NARDONE

EXAMINATION PAGE

BY MS. LI 5

INFORMATION REQUESTED

(NONE)

WITNESS INSTRUCTION NOT TO ANSWER

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DEPOSITION OF DOMINIC NARDONE

Wednesday, April 26, 2017

DOMINIC NARDONE,

having been first duly sworn, testifies as follows:

EXAMINATION

BY MS. LI:

Q My name is Patty Li. I represent the Attorney General of California in this litigation which is called Flanagan vs. Becerra.

Can you please state your full name and spell your last name just for the record?

A Dominic Anthony Nardone. I don't use my middle name. N-a-r-d-o-n-e.

Q Thank you. Do you understand that you are testifying today under the same oath that you would take if you were testifying in a courtroom?

A Yes.

Q Have you ever had your deposition taken before?

A Yes.

Q When was that?

A 35 years ago.

Q Okay. So it's been a little while?



1 eventually that you could carry a weapon outside
2 your home in public, but for whatever reason you
3 could only carry it openly and you were not
4 permitted to carry it concealed, or that was not
5 available to you, the concealed option, you would
6 still take the option to carry openly?

7 A Not happily, but I would take it.

8 Q Why would you prefer concealed over open?

9 A My opinion, and this is strictly a
10 personal opinion, I think if you're carrying an
11 open gun and you're not a police officer or
12 someone that normally carries a gun of that
13 profession, I think you would be stopped by every
14 police officer every time you take a walk. I
15 think when you're showing something like that off,
16 if there's a criminal coming up behind you and
17 you're showing a gun, what do you think the first
18 thing he's going to reach for when he puts the
19 knife in your back? He's going to reach for the
20 gun, and now he's got a knife and a gun, and I
21 couldn't do nothing about it because it was shown.

22 If it was concealed, he wouldn't have
23 known I had it, and I would have had the
24 opportunity to protect myself. I never want to
25 hurt somebody, never.

DOMINIC NARDONE
MICHELLE FLANAGAN vs CALIFORNIA ATTORNEY

April 26, 2017
21

1 Q Do you have any experience with carrying
2 firearms openly? Have you ever carried openly
3 before in California?

4 A Well, the only experience I had is very
5 brief. Well, in the service, you know. And when
6 I had my concealed in New York, when you have a
7 concealed you're allowed to carry openly also. I
8 don't know if it's the same here, but you're
9 allowed to do either one, and I stopped at a donut
10 shop once, and it was openly. It was warm
11 weather, so I took my jacket off and it was open.
12 I mean, you could see the gun hanging at my side.

13 I sat down and was having a cup of coffee
14 and a donut, and two police officers come up
15 behind me. The poor owner, he got scared, and I
16 don't blame him. You know, he got scared and
17 called the police, and they came up behind me with
18 their guns drawn, and this was 35 years ago or
19 40 years ago, whatever, and they just wanted to
20 see proof that it was legal, which I did, and they
21 said okay, you know, no problem.

22 But I think in today's times it may be
23 different. In today's times because of the
24 stupidity of criminals, they're hunting for police
25 officers and police are scared, and I don't blame

1 them.

2 So I don't -- I prefer not to carry an
3 open gun where you're almost looking for trouble.

4 Q So your preference would be to carry
5 concealed?

6 A Yes. The less people that know your
7 business, the better, quietly.

8 Q And would you want the ability to carry
9 concealed whenever you leave your house?

10 A Yes, just normal. Not that I would every
11 day, you know. I'm not going to carry one to the
12 grocery store, or you know, nothing like that.

13 Q But you would like the option?

14 A Yes.

15 Q And you would like the option to carry
16 wherever you would like in public, or are there
17 certain areas that you would think it would be
18 okay for them to be off limits for having
19 concealed weapons?

20 A I don't know of any place that would be
21 off limits other than buildings like this.

22 Q By "buildings like this" do you mean a
23 government building?

24 A Yeah, I think it's off limits. I think
25 the law is it's off limits here. I don't know.

EXHIBIT 3

SAMUEL GOLDEN
FLANAGAN vs CALIFORNIA ATTORNEY GENERAL

May 01, 2017
1

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

MICHELLE FLANAGAN, SAMUEL GOLDEN,
DOMINIC NARDONE, JACOB PERKIO, and
THE CALIFORNIA RIFLE & PISTOL
ASSOCIATION,

Plaintiff(s),

vs.

CASE NO. 2:16-cv-06164
JAK-AS

CALIFORNIA ATTORNEY GENERAL XAVIER)
BECERRA, in his official capacity)
as Attorney General of the State)
of California, SHERIFF JAMES)
McDONNELL, in his official)
capacity as Sheriff of Los Angeles)
County, California, and DOES 1-10,)

Defendants.

DEPOSITION OF

SAMUEL GOLDEN

May 1, 2017

2:39 p.m.

300 South Spring Street
Suite 1702
Los Angeles, California

Maria Lozano, CSR NO. 13687



APPEARANCES OF COUNSEL

For the Plaintiff(s):

MICHEL & ASSOCIATES, P.C.
SEAN A. BRADY, ESQ.
180 East Ocean Boulevard
Suite 200
Long Beach, California 90802
562.216.4444
sbrady@michellawyers.com

For the Defendants:

STATE OF CALIFORNIA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
P. PATTY LI, ESQ.
455 Golden Gate Avenue
Suite 11000
San Francisco, California 94102
415.703.1577
patty.li@doj.ca.gov

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INFORMATION REQUESTED

(None)

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8	Application, PSG00017	12

DEPOSITION OF SAMUEL GOLDEN

May 1, 2017

SAMUEL GOLDEN,

having been first duly sworn through the court reporter,
testified as follows:

EXAMINATION

BY MS. LI:

Q. Hi, can you please state your name and spell your last name for the record?

A. Samuel Thomas Golden, G-o-l-d-e-n.

Q. Have you ever had your deposition taken before?

A. Yes.

Q. Approximately when was that?

A. I don't recall.

Q. Was it months ago, years ago?

A. Years.

Q. The court reporter is recording everything that we say so we should try to only one person speaking at a time; that means I will try to let you finish answering the question before I ask my next question. And if you could let me finish asking a question before you start to answer, that would be great. If you need to take a break at any time, just let me know. If there's a question pending and you need

SAMUEL GOLDEN
FLANAGAN vs CALIFORNIA ATTORNEY GENERAL

May 01, 2017
18

1 Q. Without --

2 A. Or the ability to carry and defend myself.

3 Q. And do you have a preference in terms of carrying
4 concealed or carrying openly?

5 A. Yes.

6 Q. What is your preference?

7 A. Concealed.

8 Q. And can you tell me why?

9 A. Because I believe that open carry can be a problem
10 in of itself. If a bad person -- if a bad guy wants to take
11 something from me and he can see that I have a gun, he'll
12 probably kill me before he takes what he wants. If he
13 doesn't see I have a gun, I might have a fighting chance.

14 Q. So you think concealed carry is safer for you in
15 terms of if you were to encounter a bad guy?

16 A. Yes.

17 Q. Are there any other reasons why you prefer a
18 concealed carry over open carrying?

19 A. I'm not crazy about everybody and their brother
20 knowing that I have a gun. I don't want to advertise that
21 I'm carrying a firearm, I just want to be able to carry,
22 that's it.

23 Q. So is that -- is that a safety concern for -- on
24 your part? You think it's safer for you or rather you think
25 carrying openly could be a bit more dangerous for you?

SAMUEL GOLDEN
FLANAGAN vs CALIFORNIA ATTORNEY GENERAL

May 01, 2017
19

1 A. I believe it's more dangerous and I believe it
2 could cause people to jump to a conclusion that is not
3 correct.

4 Q. What kind of conclusion?

5 A. Somebody that's anti-gun could just freak out
6 because I'm -- I happen to be standing next to them in the
7 grocery line with a gun on my hip.

8 Q. So even if open carry were permitted that person
9 might, quote, unquote, freak out, might have an oversized
10 reaction? Is that what you mean?

11 A. Yes.

12 Q. Did you decide to join this lawsuit after you
13 learned that your most recent application to the L.A. County
14 Sheriff had been denied?

15 A. No.

16 Q. When was -- when were you informed that your most
17 recent application had been denied?

18 A. After I joined the lawsuit.

19 Q. But you -- you had previously applied and been
20 denied before the lawsuit at some point; is that right?

21 A. Correct. But when I joined the lawsuit, my last
22 correspondence from the Sheriff's Department was not that
23 they were denying me, but that they were not making any
24 decisions because they were waiting for --

25 Q. Peruta?

EXHIBIT 4

JOHN J. DONOHUE
FLANAGAN vs CALIFORNIA ATTORNEY GENERAL

July 12, 2017

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

MICHELLE FLANAGAN, SAMUEL
GOLDEN, DOMINIC NARDONE,
JACOB PERKIO, and THE
CALIFORNIA RIFLE & PISTOL
ASSOCIATION,

Plaintiffs,

vs.

No. 2:16-cv-06164-
JAK-AS

CALIFORNIA ATTORNEY GENERAL
XAVIER BECERRA, in her
official capacity as Attorney
General of the state
of California, SHERIFF JAMES
McDONNELL, in his official
capacity as Sheriff of Los
Angeles County, California,
and DOES 1-10,

Defendants.

~~~~~

DEPOSITION OF

JOHN J. DONOHUE

Wednesday, July 12, 2017

9:47 a.m.

180 East Ocean Boulevard, Suite 200

Long Beach, California

Sherryl Dobson, RPR, CCRR, CSR No. 5713



APPEARANCES OF COUNSEL:

For the Plaintiffs:

MICHEL & ASSOCIATES  
BY: SEAN A. BRADY, ESQ.  
ANNA BARVIR, ESQ.  
180 East Ocean Boulevard, Suite 200  
Long Beach, California 90802  
562-216-4444  
sbrady@michellawyers.com

For the Defendants:

JONATHAN M. EISENBERG, Deputy Attorney General  
STATE OF CALIFORNIA, DEPARTMENT OF JUSTICE,  
OFFICE OF THE ATTORNEY GENERAL  
300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
213-897-6505  
jonathan.eisenberg@doj.ca.gov

Also Present:

MATTHEW NGUYEN

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DEPOSITION OF JOHN J. DONOHUE

Wednesday, July 12, 2017

JOHN J. DONOHUE,

having been first sworn, testified as follows:

EXAMINATION

BY MR. BRADY:

Q Good morning. Can you state your name for the record, please?

A John Donohue.

MR. BRADY: And I'm going to mark this Exhibit 1.

(Exhibit 1 was marked.)

BY MR. BRADY:

Q Have you seen this before?

A I don't know if I've seen this.

MR. EISENBERG: Yeah, I don't think I forwarded this one to him.

MR. BRADY: Yeah.

MR. EISENBERG: This one came in very recently, right?

MR. BRADY: Yes.

MR. EISENBERG: So I'll represent that I did not send this to him, but I just communicated with him about the change of the location, as, obviously, he's here.

MR. BRADY: Yeah, yeah, of course. Yeah, that's

1 (Exhibit 2 was marked.)

2 BY MR. BRADY:

3 Q So Exhibit 2 has been marked.

4 This is your expert report --

5 MR. EISENBERG: Have you got only one copy? In  
6 other words, you have only two copies here?

7 MR. BRADY: Yeah. I can have another one --

8 MR. EISENBERG: Okay. So we'll both work off of  
9 the actual exhibit.

10 MR. BRADY: Okay.

11 MR. EISENBERG: As marked by the court reporter.

12 MR. BRADY: That's fine. And if you need to make  
13 any notes, then I will trade you. If that's to your  
14 liking.

15 Q Is this that I've just marked as Exhibit 2 the  
16 expert declaration -- or the expert report that you  
17 prepared for this matter?

18 A Yeah, it seems to be the report, and then I  
19 attached my CV. I think I was asked to attach a CV, so I  
20 attached a CV.

21 Q And is that CV comprehensive as to all of  
22 your -- all of your background and qualifications?

23 A Yes.

24 Q What was your assignment in this matter for  
25 Mr. Eisenberg?

1 THE WITNESS: Yeah, just --

2 BY MR. BRADY:

3 Q You just -- did you just say that it is -- your  
4 paper is not published yet?

5 A Yeah. What I --

6 Q What did you mean by it is not published?

7 A I finished the paper and sent it off to the  
8 National Bureau of Economic Research, and they released  
9 it as an NBER working paper. So in one sense that's  
10 publication.

11 But when I was referring to publication, I was  
12 meaning -- whenever I finish a major paper, I would  
13 submit it to a peer-review journal, and that,  
14 unfortunately, takes a long time.

15 I have submitted this paper, and, you know,  
16 it'll be a while before I hear back from them. And, you  
17 know, it would be -- it wouldn't be unusual for them to  
18 say, you know, do this or do that, you know, can you add  
19 a table or something like that. So in that sense  
20 there'll be a process before the ultimate publication  
21 comes.

22 Q Okay. So what does "working paper" mean  
23 exactly?

24 A Well, the National Bureau of Economic  
25 Research -- I'm very happy to be a member of it -- really

1 is the most elite group of empirical academic economists  
2 or empirical economists in the country.

3 And if you're a fellow of the National Bureau  
4 of Economic Research as a way to facilitate your  
5 research, getting out into the public domain more  
6 rapidly, they will, you know, essentially publish it and  
7 reprint it and -- I could even show you what the -- they  
8 do.

9 I think I brought a copy of the actual  
10 publication that they were -- so like this is the NBER  
11 working paper publication, and this goes on to, you know,  
12 everyone in the world that they have on the mailing list.

13 MR. EISENBERG: Do you have multiple copies of  
14 that?

15 THE WITNESS: I do have multiple copies, although  
16 I don't have multiple copies with me.

17 MR. EISENBERG: Right.

18 THE WITNESS: But certainly, people can take this  
19 one, or I can send them to them.

20 MR. EISENBERG: Can we mark this -- I mean, it's  
21 your deposition -- but if he wanted to mark it as an  
22 exhibit and it would stay here, is that going to  
23 present --

24 THE WITNESS: Oh, no, no, no, problem. I have a  
25 stack of these. They send maybe ten of them.

1 MR. BRADY: Okay. Then we mark this as Exhibit 3,  
2 please.

3 (Exhibit 3 was marked.)

4 THE WITNESS: I should have thought about bringing  
5 more. I probably have thrown them all out.

6 BY MR. BRADY:

7 Q So a working paper, to be clear, has not been  
8 peer reviewed?

9 A No, it's only something that a research fellow  
10 of the NBER has submitted. Jim Poterba, who's the head  
11 of it, then makes a judgment about whether it's  
12 appropriate to send out, and he does send it out if it  
13 is.

14 Q Do people in your field cite to working  
15 papers --

16 MR. EISENBERG: Objection. Ambiguous as to  
17 "field" -- oh, I'm sorry, you're not finished? Okay. I  
18 thought you'd finished.

19 BY MR. BRADY:

20 Q Do people in research fields rely on working  
21 papers in supporting other -- in supporting their  
22 studies?

23 MR. EISENBERG: Objection. Vague and ambiguous.  
24 The term "research field" is overbroad and may go beyond  
25 the particular expertise of Professor Donohue.

1           But you may answer.

2           THE WITNESS: Okay. Yeah, in my experience, it  
3 would be unusual in my -- well, I don't know if I want to  
4 go that far. It would be very common in reading a piece  
5 in my field to see an NBER working paper cited.

6 BY MR. BRADY:

7           Q I'm sorry, it would be unusual to see  
8 something --

9           A No, it would be very common to see NBER working  
10 papers cited.

11           Q It would be common to see a published  
12 peer-reviewed study cite a working paper?

13           A Yes. And I'm sure I've done it many times.

14           Q How long did it take you to prepare the report  
15 in this matter?

16           MR. EISENBERG: Objection. Ambiguous as to  
17 "report."

18                   Are you speaking about the expert report or the  
19 exhibit?

20           MR. BRADY: The report in this matter.

21           MR. EISENBERG: Okay.

22 BY MR. BRADY:

23           Q Under Federal Rule of Civil Procedures Rule 26,  
24 you had to prepare a report, correct?

25           A Yes.

1 that to mean somebody who has been issued a concealed  
2 weapon permit?

3 A Yes.

4 Q And if I say CCW, does that term make sense to  
5 you?

6 A Concealed carry weapon.

7 Q Sure.

8 And that is the technical -- or the, you know,  
9 express definition, but it basically means a license,  
10 right? I know other states say CHL or something -- here  
11 in California we say CCW.

12 So if I happen to say that, I'll be referring  
13 to the license. Does that make sense?

14 A Yes.

15 Q So we're talking about panel data analysis.

16 Would it be fair to characterize your report  
17 and Exhibit B -- let me start over by first asking about  
18 your study.

19 Would it be fair to characterize your study  
20 that was attached as Exhibit B as a panel data analysis?

21 A It has two parts to it. So the first part sort  
22 of follows the prior literature, and just updates it to  
23 the most recent crime data available.

24 And then the second part is the synthetic  
25 controls analysis. So that is a separate type of



1 statistical approach.

2 Q So you did both a panel data analysis and a  
3 synthetic controls analysis?

4 A Yes.

5 Q And they both reach the same conclusion?

6 A They varied on some items, but they both reach  
7 the same conclusion on the impact of right-to-carry laws  
8 on violent crime. They came out differently on property  
9 crime.

10 Q And could you summarize your conclusion of what  
11 is the ultimate conclusion of both of those?

12 A Yes. So I mean, the take-away that I got from  
13 the research was that right-to-carry laws increased  
14 violent crime in the neighborhood of, you know, 13 to 15  
15 percent, and that comes from the synthetic controls  
16 assessment.

17 And so when I say 13 to 15 percent, just to be  
18 a little more precise, the pattern seems to be an  
19 incrementally rising violent crime effect, and since I  
20 looked for ten years after adoption, the tenth year  
21 effect was 13 to 15 percent, depending on which specific  
22 model one looked at.

23 And so that was what I took away as the  
24 strongest conclusion from the paper. The right-to-carry  
25 results are somewhat different in form, but essentially

1 were supportive of that rough conclusion if one looked at  
2 the models that I thought were the most appropriate,  
3 panel data models.

4 Q And for those models, how many regressions did  
5 you run?

6 A You know, essentially, what I tried to do was,  
7 you know, just do my own panel data model. I refer to  
8 that as DAW, for the initials of the three authors,  
9 Donohue, Aneja, and Weber.

10 And so I run a basic statistical model in two  
11 ways, a -- sometimes referred to as a dummy variable  
12 model, where you're just predicting an average change in  
13 crime in the aftermath of right-to-carry, and then a  
14 trend model that is trying to predict the change in the  
15 trend of crime in the aftermath.

16 Q Do both of those require running regressions?

17 A Yes.

18 Q Okay.

19 A Yeah. And so those would be two regressions  
20 that I would run for the right-to-carry estimates, using  
21 my model.

22 But then I did versions of those for both  
23 murder, violent crime, and property crime. And then I  
24 went to other people's published models to see if they  
25 would generate the same results. So everything I tried

1 to do with my model, then I would try to replicate with  
2 other published models to see if the results would come  
3 out the same.

4 Q Are you able to say how many regressions you  
5 ran?

6 A You know, I could -- I could count them up, but  
7 it would take me a while. So in just thinking about it,  
8 eight for the DAW model over the full period, and then I  
9 would also do eight for the Brennan Center model, eight  
10 for the Lott and Mustard model, eight for the Marvell and  
11 Moody model.

12 But I also then showed results for a limited  
13 time period in the aftermath of the crack cocaine  
14 epidemic. So I, you know, again, showed more regressions  
15 along those lines.

16 And then it depends on whether you consider  
17 synthetic controls to be in this category, but I have a  
18 series of estimates for them as well.

19 Q And what would those estimates be?

20 A So for the synthetic controls approach, it's  
21 sort of a two-stage analysis, that you would get an  
22 estimate for each individual state and then aggregate  
23 those into a single estimate for the impact for each year  
24 for ten years, which is the way I did the analysis.

25 And so, again, I did that for both the DAW

1 model as well as for the Brennan Center model and the  
2 Lott and Mustard and Marvell and Moody models.

3 Q Okay. Did you include all of those regressions  
4 in your -- in the DAW?

5 A Yes. So in the full paper, not in the expert  
6 report, they would all be included, but not in the more  
7 limited expert report.

8 Q So all regressions that you ran are  
9 contemplated in your paper, in your -- in DAW?

10 Should we just refer to it as DAW? Would that  
11 help?

12 A Whatever works for you is fine with me.

13 Q That seems to be your terminology, correct?

14 A Yes.

15 Q So all of the regressions you ran are  
16 contemplated in the DAW?

17 A You know, it's hard to know -- I literally  
18 haven't run a regression in years. Hard to know how much  
19 the staff was working away, but all of the ones that I  
20 looked at and evaluated appear in the paper, in, you  
21 know, the various versions of the paper that I've done.

22 Q So you had staff helping you run regressions --

23 A Yes.

24 Q -- for the DAW?

25 A Yes.

1 models on the full data set that was now available to me.

2 Q I'm not sure if I heard what criteria you used  
3 in determining what regressions.

4 Could you -- are there specific criteria that  
5 you looked at, like this regression meets this criterion,  
6 et cetera, that you could articulate as to --

7 A Yeah. I mean, again, for my model, my  
8 preferred specification, this is something that I've been  
9 working on for a number of years, and, you know, I'm  
10 always reading what other people write.

11 And so I sort of looked across the board at  
12 crime models that people were using, not only for  
13 right-to-carry, but for other areas, and just thought,  
14 well, almost everything I've done in the past was really  
15 just sort of responsive to the literature. Maybe now I  
16 should, you know, sort of throw off what other people did  
17 and just say what do you think is the best model? And so  
18 that's what I did for the DAW model.

19 Having done that, though, I know that there's  
20 always going to be a concern in panel data, you know,  
21 have you cherry-picked the model in some way. And so I  
22 thought I would take, you know, another prominent crime  
23 model, which was the Brennan Center model, and sort of  
24 ran that through.

25 And then I said, and also, it would -- I'm sure

1 the public would be interested if they followed this  
2 debate over the years, what would the models of Lott and  
3 Mustard and Marvell and Moody show. So I included those.

4 Now, I've been critical of those models, but I  
5 still thought it would be useful to alert people to what  
6 those models -- those models that Lott and Mustard  
7 thought were the best ones and Marvell and Moody thought  
8 were the best ones -- estimated on the data set that I  
9 had created. So that was my selection criterion.

10 One, what did I think was best; and, two, what  
11 were other models that had been used to advocate the  
12 opposing view -- so those were Lott and Mustard and  
13 Marvell and Moody -- and what is just another general  
14 crime model that was sort of widely referred to in the  
15 literature.

16 Q What criteria did you think were best?

17 A Well, for me, you know, there were -- there are  
18 a lot of small decisions that you have to make when  
19 you're doing these analyses.

20 You know, for example, Lott and Mustard didn't  
21 include police and incarceration in their paper. And I  
22 have always included police and incarceration, because I  
23 think of those as two explanatory variables that play an  
24 important role in influencing crime.

25 So, you know, if you just go down the

1 explanatory variables that I include, you get a sense of  
2 the ones that I think were most appropriate. And, you  
3 know, you can do the same thing for the Lott and Mustard  
4 and Marvell and Moody, to see what they thought were most  
5 appropriate.

6 It's interesting how many choices you have to  
7 make to implement a statistical model. And that's why  
8 you're always concerned about the integrity of the  
9 researcher, because you don't want someone going through  
10 and tweaking the model and -- you know, literally, a  
11 hundred different ways, running a hundred different  
12 regressions, and then just showing you the one where the  
13 statistical noise bounced it.

14 Now, remember we talk about statistical  
15 significance. And so what that term actually means is,  
16 if you really had a zero effect, how likely is it that we  
17 would estimate a true effect? And -- well, I'm being  
18 ambiguous here.

19 If you really had a zero effect, how likely is  
20 it that your statistical estimate would suggest that  
21 there was a significant effect? And if you're using the  
22 five-percent level as your measure of statistical  
23 significance, it means five out of a hundred times you  
24 will get results that are ostensibly meaningful, even  
25 though there is no effect, just by the operation of

1 random chance.

2 And so if somebody is dishonest, they could run  
3 the model a hundred times and -- you know, about two and  
4 a half of those will be on one side, and you're  
5 estimating an increase in crime, for example. Two and a  
6 half percent would be on the other side, estimating a  
7 decrease.

8 And if you were dishonest, you could just show  
9 the best one that shows either the increase, if you  
10 wanted to show an increase, or a decrease, if you wanted  
11 to show a decrease. So that's one thing that is very  
12 important, I think, in this area, is that there be  
13 transparency and not an effort to take advantage of this  
14 random or stochastic component of the estimates, which  
15 can bounce around a little bit.

16 Q Did you only run regressions for states that  
17 didn't change their laws for ten years after an RTC law?

18 And just to be clear "RTC" is the term used for  
19 right-to-carry laws, right, so we understand each other?

20 A Yes.

21 Q And is that -- you only ran regressions for  
22 states that didn't change their laws for ten years after  
23 an RTC law was adopted?

24 A Well, for the panel data models, everything  
25 gets included in all of those. For the synthetic



1 prefer that you not partake in the bar until post  
2 deposition.

3 A I'm fine for now.

4 MR. EISENBERG: Okay.

5 THE WITNESS: I'll jump in if I feel all that  
6 coffee I drank is getting to me.

7 BY MR. BRADY:

8 Q Okay. So you indicate that your study accounts  
9 for both geographic and time fixed effects.

10 Is that accurate?

11 A Yeah. The panel data analysis does that, yes.

12 Q Okay. I think I already asked you this, but  
13 just to clarify, do all panel data analysis account for  
14 both --

15 A They all can, but sometimes they don't.

16 Q What would be a good reason to omit fixed  
17 effects?

18 A You know, if you really felt that your  
19 explanatory variables captured the relevant information,  
20 then you wouldn't need to go to a fixed effect.

21 And so, for example, if I could do like a  
22 cross-section analysis of, let's say, the 50 states and  
23 really predict extremely well, based on things like  
24 police and incarceration, demographics and, you know,  
25 employment status -- if I could predict the crime rates

1 categories.

2 That -- it is true that they do measure other  
3 property and violent crimes, but those are the -- those  
4 are the breakdowns that the FBI uses. If you read a  
5 report that says violent crime or property crime, that's  
6 the way they're counting that.

7 Q Does violent crime, the term that you use --  
8 the way you use it, does it include murder, or are you  
9 dealing with murder separately?

10 A No, it includes murder.

11 Q Includes murder?

12 A Yeah.

13 Q So you did a separate analysis for murder and  
14 then a separate analysis for violent crime including  
15 murder?

16 A Yes.

17 Q And violent crime does not -- the DAW does not  
18 distinguish between the specific crimes of rape, robbery,  
19 and aggravated assault, as you did in your previous  
20 study; is that correct?

21 A Yeah, in this paper I just looked at murder,  
22 violent crime, and property. I didn't disaggregate  
23 further in either the property or the violent category,  
24 apart from murder being segregated out.

25 Q So what is the benefit to the quality of the

1 data set by lumping all of these crimes -- treating them  
2 as violent -- treating all these individual crimes as  
3 violent crimes instead of dealing with them individually,  
4 as you did in your previous study?

5 A Yeah.

6 MR. EISENBERG: Objection. Argumentative.

7 THE WITNESS: You know, probably the standard way  
8 I've done it in many crime papers is just to show murder,  
9 property, and violent crime. When I was trying to sort  
10 of follow in John Lott's footsteps to sort of see how my  
11 results compared to his, I was disaggregating.

12 But in this paper, as I think I said earlier, I  
13 really just said, you know, now sort of come up with your  
14 own model and --

15 BY MR. BRADY:

16 Q So why did your own model decide to aggregate  
17 those terms? What's the benefit of doing that --

18 MR. EISENBERG: Were you finished answering?

19 THE WITNESS: Yeah, so I can -- I can say more in  
20 response to the question.

21 So essentially, there were couple of reasons.  
22 Some of them are theoretical, and some of them were sort  
23 of pragmatic.

24 The pragmatic reason is, you know, the paper's  
25 already a hundred pages long, and I do like to go through

1 a fair number of robustness checks, and the more  
2 individual categories you're using, the more you're sort  
3 of multiplying your tables, and just the verbiage. And I  
4 already have to cut this down a lot to try to get this  
5 published. So that's sort of a pragmatic factor.

6 But as we said earlier, there's always these  
7 issues about, you know, if you move in a certain  
8 direction, you get some benefits, and you give up  
9 something. Move in the other direction, you'll maybe  
10 gain some benefits and lose something.

11 So aggregation makes it easier to generate  
12 statistically significant results. So we can see, if you  
13 compare murder versus violent crime, you do tend to see  
14 more -- you know, more precise estimates, which is what  
15 you need to get statistically significant results in the  
16 violent crime category than the murder category.

17 And that is, in general, true, that the more  
18 you try to narrow your focus, the harder it is going to  
19 be to get precise estimates. So if you look at the --  
20 all of my -- all the estimates that I have in the paper  
21 will have, in parentheses underneath, a standard error.

22 And the bigger that standard error is, the  
23 harder it's going to be to generate statistically  
24 significant results. And you do get lower standard  
25 errors with aggregated violent crime than individual

1 categories. So it is going to be easier to get  
2 statistically significant result.

3 On the other hand, as your question sort of  
4 suggests, you're getting, you know, in some sense, a  
5 better estimate of a more aggregated phenomenon, and  
6 sometimes we want to know, you know, more precisely about  
7 the disaggregate effects. And so that's what we can do  
8 with this, and I -- I actually have run those exact same  
9 regressions in this context as well.

10 BY MR. BRADY:

11 Q Is that reflected in your report?

12 A You know, I didn't put them into this report,  
13 but I do -- I have done those, and I've looked at them.  
14 And, you know, in essence, it sort of conforms to the  
15 pattern of what we see in this report, that you get, you  
16 know, more precise estimates for the aggregated numbers  
17 than you do for the disaggregated numbers, like murder.

18 Q So you ran regressions for the disaggregated  
19 crimes in preparing this report, but you did not include  
20 them?

21 A No, I actually ran them after there was  
22 criticism of not doing it. And, you know, it pretty much  
23 conformed to the findings of what we saw here.

24 Q Well, then why wouldn't you include it in your  
25 report? That would seem to suggest to bolster your

1 argument, no?

2 A Well, I said I ran them after there was a  
3 criticism of not including them. Which -- so my report  
4 had already been done.

5 Q So they are not included in your current  
6 report?

7 A That's right. So I think Gary Kleck criticized  
8 me for not doing that. So I just said to my research  
9 assistant, you know, run those and --

10 Q But you're still making revisions to your  
11 report -- or to your study, as we've learned here today,  
12 correct?

13 A Yes.

14 Q You don't think it's important to respond to a  
15 critic and simultaneously bolster your argument with  
16 additional regressions?

17 A You know, I didn't ask if I was allowed to do  
18 another report in response to Kleck, but I -- I really  
19 can't add any more to this paper, because I already am  
20 way over what the American Economic Review and other top  
21 journals wants from a publishable paper.

22 But, you know, if they ask me to write a  
23 supplement, it would be very easy for me to run those  
24 regressions and show them in this context as well.

25 Q When did you run those regressions?

1 A As I said, I ran them -- or had my staff run  
2 them right after I read the Kleck report.

3 Q Does any other study analyzing the impact of  
4 right-to-carry laws aggregate the different crimes into  
5 the term violent -- into one single category of violent  
6 crime like your report does?

7 A Yeah, we were just looking at the Durlauf  
8 study, and he does the exact same thing, breaks it down  
9 into murder, property, and violent. It's a fairly  
10 standard way. And he's --

11 Q Fairly standard.

12 Are there any other besides Durlauf?

13 A Well, many of my papers have done it that way.  
14 As I mentioned, the papers in which I'm sort of  
15 responding to Lott I would do it in which ever way he did  
16 it. But it is fairly traditional to break it -- the  
17 Brennan Center report, which is -- as I said here, also  
18 followed that protocol.

19 Q So then your aggregating these terms is not  
20 uncommon in your field of research?

21 A No, it's not uncommon.

22 Q Other than Durlauf, are there any other  
23 reports -- any other studies that you cite to in your  
24 report that use the same violent crime aggregate term as  
25 you?

1 A Yeah, the Brennan Center report does that as  
2 well. So the four major studies that I -- or models that  
3 I would look at are, you know, mine, the Brennan Center,  
4 Lott and Mustard and Marvell and Moody, and the Brennan  
5 Center also looks at aggregated violent crime.

6 Q Are there any studies or reports cited in yours  
7 that did not use the aggregate term for violent crime?

8 A Yeah, so Lott and Mustard and Marvell and  
9 Moody, I believe, disaggregated.

10 Q Do you see any problems in comparing studies  
11 that use two different approaches?

12 A You know, for me it's never a problem, because  
13 I will just -- you know, if I want to compare how my  
14 results work to someone who has done the aggregated or  
15 the disaggregated form, I would usually, you know, create  
16 the data set and then just do the analysis myself  
17 whichever way I thought was better to do it.

18 And if somebody used only violent and I was  
19 interested in the subcategory, then I would -- I could  
20 use their overall model. Because the choice of  
21 explanatory variables and the way you specify them would  
22 be the same whether you're looking at violent crime or  
23 murder or rape.

24 And so I don't need to be bound by whatever  
25 choice the other researchers made. I can aggregate it or



1 disaggregate as I think necessary.

2 Q You can aggregate or disaggregate, right?

3 Aren't you limited to their conclusion -- the  
4 other authors' conclusions in their study?

5 A You know, so -- for example, Lott has a model  
6 that he used, and I can run that -- I can run his exact  
7 model on my data, either disaggregating or aggregating,  
8 and come to my own conclusion based on that and so -- in  
9 general, if you look at my report, you will see -- like  
10 using Lott's model, the results definitely do not support  
11 what Lott contends.

12 So I think that that's pretty powerful  
13 evidence. Because just using the exact identical model  
14 but using it on a longer time period and more complete  
15 data and, you know, the results support the opposite of  
16 what John Lott says.

17 So that's the nice thing about empirical  
18 evaluation of the law, that you don't have to rely on  
19 anyone's word. You just need to get the data and run  
20 the -- run the model, and then you find out. As long as  
21 you're very honest and open in what you're doing, there  
22 isn't -- there isn't any way to criticize the  
23 implementation of the model.

24 You can always criticize whether the model is  
25 appropriate, but once you have a model, you run it on the

1 data, and that's going to give you the answer for that  
2 model.

3 Q Did the increased violent crimes that result  
4 from right-to-carry laws that you conclude occur in your  
5 report --

6 A Yeah.

7 Q Do all of those crimes involve firearms?

8 A No. No.

9 Q How do you know that?

10 A The increase that were -- or in essence, what  
11 our models are trying to do is show net effects. And so  
12 there could be some benefits in right-to-carry laws,  
13 there could be some costs, and all we're able to conclude  
14 is here is the overall net effect.

15 And when it's a positive estimate, as it is for  
16 violent crime, that's telling us that violent crime has  
17 gone up more than it's gone down. So you can't say too  
18 much more from that narrow finding than what I just said.

19 But we can make inferences about how the  
20 effects are playing out that would lead me to believe  
21 that we're getting declines in both gun crime and non-gun  
22 crime.

23 Q If right-to-carry laws are responsible for  
24 increased violent crime --

25 A Yes.

1 broad terms, two parts of the study. The panel data  
2 study did show fairly strong increases in property crime.  
3 The synthetic controls did not.

4 And since I tend to trust the synthetic  
5 controls more than the panel, I'm sort of leaning to the  
6 view that, whatever the effect is on property crime, is  
7 it's smaller and, therefore, you know, not showing up as  
8 statistically significant in the synthetic controls. But  
9 if you believe the panel data results, then there does  
10 seem to be an elevation in property crime as well.

11 Q A statistically significant increase in  
12 property crime?

13 A Yeah, if you just look at the tables --

14 Q That's the conclusion in your report?

15 A Yes. I mean, it's -- if you look at the  
16 tables, you'll see two asterisks next to the property  
17 crime levels. And that's true with the Brennan Center  
18 study or mine.

19 Q What evidence did you rely on in making the  
20 representation that criminals feel emboldened to steal  
21 guns and carry guns and enforce their will as a result of  
22 a right-to-carry law? What evidence did you look at?

23 MR. EISENBERG: Objection. Misstates the prior  
24 testimony or the report, however you want to characterize  
25 that.

1 THE WITNESS: Well, there's a lot of evidence that  
2 carrying guns outside the home promotes gun theft and  
3 leads to more gun theft, and this has become a big issue  
4 in the public debate now, where many police chiefs are  
5 encouraging people not to take guns out of the home  
6 because the theft problem has become so bad.

7 And so that's just the nature of, you know, the  
8 world we live in now. Guns are probably one of the most  
9 attractive things for criminals to steal. You know, TV  
10 sets are no longer as appealing as they once might have  
11 been to burglars. Much of the time, when criminals are  
12 trying to steal things, they're looking for guns.

13 BY MR. BRADY:

14 Q Have you looked -- have you done any research  
15 on the theft of firearms in public?

16 A I have spent a fair amount of time reviewing  
17 the research. I have not done the research.

18 Q And what does that research say? How do  
19 firearms get stolen in public?

20 A You know, one of the biggest ways is out of  
21 cars. So, you know, here in California, Sean Penn  
22 created quite a stir when he left his two guns in his car  
23 when he went to Chez Panisse for dinner one night, came  
24 back, the car was stolen. Got the car back two days  
25 later. Of course, the guns were now in the hands of

1 criminals.

2 And of course, it's -- it's such a bad problem,  
3 because now the criminals have a gun that can't be  
4 traced, and they can use that gun for whatever purposes  
5 they want.

6 Now, of course I don't think Sean Penn would  
7 ever shoot anybody, but I'm not so sure about the people  
8 that stole Sean Penn's gun, whoever they gave that gun  
9 to. I suspect that those guys probably were shooting  
10 people. And that's one of the main avenues that  
11 right-to-carry laws increase violent crime.

12 Q So just -- I just want to be clear.

13 Right-to-carry laws -- adoption of right-to-carry laws  
14 result in increased property crime, such as gun thefts,  
15 is that correct, in your report?

16 A Yeah, I mean, I -- I just want to be clear. We  
17 discussed sort of the ambiguities about what the net  
18 effect is on property crime, but we said for -- just  
19 looking at gun thefts, right-to-carry laws theoretically  
20 increase gun theft.

21 Q So I guess what I'm asking -- your -- is it  
22 fair to say the premise of your paper is that the net  
23 effect of right-to-carry laws is the increase of violent  
24 crime on a whole, regardless of a firearm being involved  
25 in the crime?

1 MR. EISENBERG: Objection. Argumentative as to  
2 the word "premise."

3 THE WITNESS: Yeah. I would say that, you know,  
4 one of the main conclusions of the paper is that  
5 right-to-carry laws, on balance, seem to be ticking up  
6 your violent crime rate, you know, maybe a little over  
7 one percent every year for the first ten years.

8 So on balance, they're getting you up into the  
9 neighborhood of 13 to 15 percent after ten years. So  
10 that would be a major conclusion of the study.

11 BY MR. BRADY:

12 Q Okay. And that one percent is a combination of  
13 all sorts of violent crimes? The one percent increase --

14 A Yeah.

15 Q -- is all sorts of violent crimes that you --  
16 or is it just the four that you included in your study?

17 A Yeah, that's just the four. So when I'm making  
18 that statement, I'm using the FBI definition of violent  
19 crime. So that's not including simple assault; it's not  
20 including aggravated assault; and it also includes  
21 murder, rape, and robbery.

22 Q Did you define right-to-carry laws, the term  
23 "RTC," right-to-carry -- do you have a definition for  
24 what is a right-to-carry law?

25 A Yeah, I mean, I -- I simply said when states

1 estimate, really, as much as the aggregated estimate,  
2 because the noise will tend to be averaged out in the  
3 aggregate estimate, while you do have to deal with the  
4 noise in the individual-state estimates.

5 Q The increase in violent crime rates that you  
6 conclude occur as a result of RTC laws, is it the holders  
7 of carry licenses that are committing this crime?

8 A You know, some of it is done by the carry  
9 holders. I mean, just in the last couple of days you  
10 have the horrible case of road rage, shooting a woman in  
11 the head in Pennsylvania. And the other on the guy  
12 coming home from the wedding drunk in his Uber and kills  
13 his wife by shooting her in the head.

14 So those were permit holders. And those were  
15 crimes that almost certainly would not have happened, had  
16 there not been a right-to-carry law in place. These were  
17 generally law-abiding people, and it was only the quick  
18 access to guns that allowed them to commit these crimes.

19 But a lot of the crime is also committed by the  
20 people who steal the guns that the permit holders  
21 essentially turn over to them. So -- you know, I mean,  
22 there's no question that more guns are stolen from  
23 law-abiding citizens than are used defensively.

24 Q On what do you base that?

25 A Tons of studies and evidence.

1 Q Can you cite one?

2 A Yeah. I mean, there are lots of them but, you  
3 know --

4 Q Is that reflected in your report?

5 A Yeah, I mean, I wasn't -- I wasn't focused on  
6 that precise question.

7 Q Well, you were focused on the theft of -- you  
8 were focused on property crime and your -- correct me if  
9 I'm wrong. Your position's that the theft of firearms is  
10 a significant element of the increase in crime, both  
11 property crimes -- being a property crime and in violent  
12 crime, because they use those guns; is that not correct?

13 A Yes. And I think that that's true and --

14 Q So you have no support of the vast evidence out  
15 there that more guns are stolen than used in self defense  
16 in your paper?

17 A No, I -- and I'd have to look back to see if  
18 I've cited this literature, but I certainly could cite  
19 that literature.

20 Q Can you give me an estimate, based on having  
21 reviewed that literature -- do you feel comfortable  
22 making an estimate about how many self defense gun uses  
23 there are in a given year?

24 MR. EISENBERG: Objection. Outside the topic.

25 Actually, could we go off the record for a



1 second?

2 MR. BRADY: I do have a question pending.

3 MR. EISENBERG: Let him answer the question, but  
4 then could we go off?

5 MR. BRADY: Sure.

6 THE WITNESS: Can you define self defense gun  
7 uses?

8 BY MR. BRADY:

9 Q I mean, I guess you're the one who raised the  
10 point that it is clear that there's more gun thefts than  
11 more defensive gun uses. So I guess I'll use your  
12 definition. And I would ask that you define that.

13 A Yeah. So I would say there's no question that  
14 hundreds of thousands of guns are stolen in the United  
15 States every year. Every study that has looked at this  
16 has documented that. And there is more question about  
17 how many defensive gun uses there is.

18 But if your metric is legitimate lawful uses of  
19 guns to thwart violent crime, there's no question in my  
20 mind that that number is a small fraction of the number  
21 of guns stolen in the United States. No question in my  
22 mind.

23 Q But on what do you base that --

24 MR. EISENBERG: Wait. Actually, could we --

25 MR. BRADY: Now you can. Remember, On what do you

1 base that?

2 (Brief recess taken.)

3 BY MR. BRADY:

4 Q So we're back on the record. The question  
5 pending was, On what do you base that? in response to  
6 your assertion that the number of firearms stolen far  
7 exceeds the number of self defense gun uses.

8 A Yeah, and again, I did -- I did qualify, saying  
9 legitimate lawful use of guns to thwart violent crime.

10 Q Sure.

11 A And I would put that number -- it was  
12 imprecision around this, but maybe in the 50-60,000.

13 Q And on what do you base that number?

14 A You know, a lot of evidence. It's not just one  
15 study. National Crime Victimization Survey, a lot of  
16 work done by David Hemenway. And if you read that entire  
17 literature -- you know, obviously, you're not going to  
18 come up with a precise number, but you get a ballpark.

19 And the number for the defensive uses I'm  
20 talking about is, you know, in the neighborhood of  
21 50-60,000. But the number of thefts is in the hundreds  
22 of thousands. And no one questions the number of thefts.

23 Q But people do question the number of self  
24 defense gun uses, correct?

25 A Yes.

1 Q You said, unquestionably, the number of firearm  
2 thefts outnumbers the number of self defense gun users,  
3 right?

4 A Yeah. No, I was just saying unquestionably for  
5 me.

6 Q For you, but that's not a definite fact,  
7 correct?

8 A You know, it's hard to come up with a precise  
9 number for that sort of question --

10 Q So it's not a definitive fact?

11 MR. EISENBERG: Let him finish.

12 THE WITNESS: It's hard to come up with a precise  
13 number, but you can, I think, come up with reasonable  
14 ballparks, and so I -- and the relative magnitudes are  
15 such that I feel very confident saying the number of guns  
16 stolen is far above the number of those defensive gun  
17 uses.

18 BY MR. BRADY:

19 Q Are you including in those self defense gun  
20 uses instances where people do not actually discharge the  
21 firearm?

22 A Yes. Yes.

23 Q So the mere -- you're including just the mere  
24 presence of a firearm to deter somebody?

25 A Well, I mean, I --

1 Q I have a gun. Back off.

2 A Yeah. Yeah. So I would include that. But I  
3 wouldn't include it for a guy who's open carrying,  
4 walking down the street and comes home and says, Nobody  
5 shot me today, so that shows I avoided a murder, because  
6 I have a gun on, which I think some people might be  
7 inclined to say.

8 Q So in your report you say police simply, quote,  
9 "underestimate criminality by permit holders."

10 What evidence do you rely on in concluding that  
11 is the case?

12 A Oh, maybe you can just --

13 MR. EISENBERG: Are you referring to a specific  
14 page in his report?

15 MR. BRADY: You know, I just wrote that down. I  
16 figured with a claim like that, he might remember.

17 THE WITNESS: Yeah.

18 MR. EISENBERG: Paragraph 21 maybe?

19 THE WITNESS: Okay. So this was the misstatement  
20 by Sheriff Jones, when he said, No one has ever been shot  
21 by a holder of a concealed weapons permit issued by this  
22 office, yet he had just signed a letter a couple of  
23 months earlier, revoking the permit of somebody that shot  
24 somebody in the head. So --

25 BY MR. BRADY:

1 a permit, you have to go through a background check.

2 Q Do you dispute that license holders have a  
3 significant impact on stopping shootings?

4 A By mass shootings?

5 Q Sure.

6 MR. EISENBERG: Vague and ambiguous as to  
7 "significant."

8 THE WITNESS: Yeah, I think the evidence shows  
9 that it's very, very unusual for a permit holder to play  
10 any positive role in a mass-shooting incident.

11 BY MR. BRADY:

12 Q So mark as exhibit wherever we are --

13 THE REPORTER: It's 12.

14 MR. BRADY: -- 12.

15 (Exhibit 12 was marked.)

16 BY MR. BRADY:

17 Q Have you seen this document before?

18 A No, I've never seen this before.

19 Q Have you -- what evidence did you rely on in  
20 concluding that license holders do not stop shootings?

21 A The FBI actually did a study on this and looked  
22 at a hundred and 60 cases between 2000 and 2013 that met  
23 their definition of active shooting incidents. And they  
24 found that, you know, police stopped them a lot; suicide  
25 by the killer stops them a lot; unarmed citizens stopped

1 them 21 times. But -- security guard stopped them  
2 occasionally.

3 But there was only one case -- so 1-21 of the  
4 number of times stopped by an unarmed citizen was a  
5 permit holder able to stop one of the hundred and 60  
6 cases they looked at, and that guy was an active-duty  
7 Marine who quite well could have stopped the thing  
8 without a gun regardless. But that is always an  
9 uncertainty as well.

10 So the bottom line is, you know, I would not  
11 put much confidence in non-active-duty military person  
12 being much help in a mass shooting incident.

13 Q On what do you base that?

14 A Well, I just mentioned the FBI study. If this  
15 had been a frequent occurrence, you would have seen it  
16 happen more than one out of a hundred and 60 times.

17 Q Is it possible, as is indicated in this article  
18 that we're looking at, Exhibit 12, that citizens who stop  
19 mass public shootings don't get news coverage because  
20 they stop anyone from being killed?

21 A I mean, that is an interesting point. How much  
22 of a role is played by people who shoot someone very  
23 quickly, and what would have happened in the aftermath.  
24 And so that's worth thinking about, which is why I said I  
25 do spend time looking at the NRA defensive gun use

1 listings, because I think those are useful information to  
2 be thinking about.

3 Q But you've never considered Exhibit 12 before?

4 A I haven't seen this before. This is -- looks  
5 like it's put out by John Lott.

6 Q Yeah, he is the head of Crime Research,  
7 correct?

8 A Yeah.

9 Q I believe that's who put this out.

10 A Yeah. Yeah, so it's worth looking at.

11 I should note that Lott and I were asked to  
12 write something for the New York Times after Gabby  
13 Giffords was shot, and Lott wrote, you know, too bad  
14 there weren't more Joe Zamudios there, because he was the  
15 one who sort of saved the day at the Gabby Giffords  
16 shooting.

17 And then it turned out Joe Zamudio, who did  
18 have a permit, says, Thank God I never took my gun out,  
19 because I thought that the guy who had just tackled the  
20 shooter was the bad guy, and I would have shot the savior  
21 rather than the killer.

22 So the -- while Lott was pretending that the  
23 good guy with the gun had stopped things, it was the good  
24 guy without the gun who had stopped it, and Zamudio  
25 truthfully, amazingly, said if I had taken my gun out, I

1 would have shot the wrong person.

2 And that's, of course, one of the things you  
3 worry about in these episodes. It's hard enough for the  
4 police to shoot the right person, but it's probably  
5 harder for non-active-duty military to step in and get  
6 the bad guy.

7 Q So without -- how can you determine whether  
8 there's a benefit to concealed carry if you don't know  
9 the universe of self defense gun uses?

10 A Well, I mean, that's what my whole study is  
11 trying to find out. Do we see any evidence that murders  
12 go down or violent crime goes down, and all of the  
13 evidence seems to point in the opposite direction.

14 So the more -- the more examples of these you  
15 can come up with, the more I think, oh, right-to-carry's  
16 even worse than I thought, because whatever this number  
17 is, it's outweighed by the harmful incidents, and I'm  
18 only looking at net effects, and the net effects are very  
19 harmful.

20 Q So the more self defense gun uses there are,  
21 the worse the problem is?

22 A That means the more --

23 MR. EISENBERG: Let me interject. Earlier  
24 Professor Donohue was pointing to this Exhibit 12 when he  
25 was speaking. But of course, the pointing doesn't get



1 recorded by the court reporter.

2 THE WITNESS: Yes.

3 Yeah. I mean, let's just say a right-to-carry  
4 law goes into effect, and, you know, the net effect is a  
5 hundred more people die because right-to-carry law went  
6 into effect. If you then come and say, Oh, but look at  
7 the 200 lives we saved, that would mean that 300 other  
8 lives were lost. So the higher the number of defensive  
9 gun uses are that saves lives, if the net effect is to  
10 lose lives, that means there's an even bigger stimulative  
11 effect, right?

12 BY MR. BRADY:

13 Q Are the lost lives the attackers against whom  
14 the people were defending themselves?

15 A No, because that would -- it's never a crime to  
16 shoot someone who's doing serious bodily injury --

17 Q I guess I didn't follow.

18 Who were the lost lives you were referring to?

19 A Well, I mean, that's what all of these panel  
20 data/synthetic control studies are trying to identify,  
21 what is the net impact on crime.

22 And so every study that I can describe is  
23 showing violent crime is up rather than down, and  
24 therefore, if somebody is saying, oh, but X-number of  
25 times permit holders are reducing violent crime, that is,

1 ipso facto, establishing that X-plus some number of times  
2 right-to-carry laws are increasing crime.

3 So it -- really, the only thing that's  
4 important to know if you want to know whether  
5 right-to-carry laws are decidedly beneficial is what's  
6 the net effect on crime. If it goes up, then they're  
7 harmful. If it goes down, then they're beneficial.

8 If there's no effect, then it's probably  
9 harmful in making all these people wasting their money  
10 buying guns and carry them around, which is a pain in the  
11 neck.

12 Q So getting down to the nub of the issue, do you  
13 agree that license holders have stopped some acts of  
14 crime?

15 A Yes.

16 Q Knowing that fact, is it also possible that  
17 some license holders have deterred crime?

18 A Yeah, it's an interesting question how much  
19 criminals are dissuaded by the fact that there are more  
20 people carrying guns around that they might be seeking to  
21 attack in some way.

22 Again, I'm interested in the net effect. And  
23 also, it'd be interesting to know how many criminals  
24 start carrying guns because now permit holders are  
25 carrying guns.

1 Q Does your -- do you have any data to suggest  
2 that, to support that notion?

3 A Yeah, well, we have lots of data that more  
4 criminals acquire guns through theft when right-to-carry  
5 laws are passed. So that means they have the gun, and I  
6 assume that when a criminal has a gun, they're more  
7 likely to carry it around.

8 But I'm also talking about another nuance here,  
9 which is, you know, yesterday the criminal was thinking,  
10 you know, I'm going to sneak into that house and  
11 burglarize it, and if you're in an area where you're  
12 concerned about facing guns, does that change the  
13 calculus.

14 So you would say, I should have a gun too, and  
15 if that's the case, then we would assume that when a  
16 state goes right-to-carry, that means the criminal who's  
17 thinking about robbing someone goes, Well, if I do this,  
18 I better carry a gun too.

19 Q Could it also possibly change the calculus to  
20 say -- for the criminal to say, It's now too costly to do  
21 this crime?

22 A Yeah, I think --

23 Q Therefore, I'm not going to do it?

24 A I think it probably does both to some degree.  
25 It's just that the harmful effects seem to outweigh the

1 beneficial effects.

2 Q Your study controls for that -- the difference  
3 there between those two?

4 A I mean, I can't tell the individual components.  
5 All I can say is, you know, what's the net effect. And  
6 if the -- if the only effect were benign, then we'd see  
7 crime go down, and -- I mean --

8 Q So how can you determine that right-to-carry  
9 laws increase violent crime when you can't at least  
10 control for the individual actions of the criminals?  
11 Isn't that vital?

12 A Again, we -- whether we're looking at the  
13 impact of police on crime, incarceration on crime, all we  
14 really know is the net effect. I mean, there's no  
15 question that some people go into prison and it makes  
16 them more violent and degrades their ability to work, and  
17 so that is a stimulus to crime.

18 Q But you're guessing as -- that the net effect  
19 is what it is because of a right-to-carry law, right?  
20 Because you can't link the criminal who commits a crime  
21 without a firearm to the fact that there's a  
22 right-to-carry law; can you?

23 MR. EISENBERG: Objection.

24 THE WITNESS: I mean, I'm --

25 MR. EISENBERG: Let me finish my objection,

1 please.

2 Lacks foundation, overly long, so it's a bit

3 confusing.

4 You may answer.

5 THE WITNESS: Okay. I mean, I don't see this as

6 any different from trying to identify the effect of

7 incarceration on crime. There are multiple pathways.

8 We can't fully assess how much of the increase

9 in incarceration is operating through incapacitation, how

10 much is through deterrence, how much is that being offset

11 by the stimulus of crime that incarceration imposes.

12 But at the end of the day, we have pretty good

13 estimates of, if you increase your prison population by

14 "X," what impact is it going to have on crime? And we

15 have pretty strong evidence the net effect is crime is

16 going to go down if you look at those people.

17 And the same is true with right-to-carry laws.

18 We don't know all of the individual influences, but the

19 evidence now seems to be pretty strong that if you pass a

20 right-to-carry law, you're going to see more violent

21 crime rather than less violent crime.

22 That doesn't say there isn't some deterrence.

23 That doesn't suggest there aren't some cases where

24 defensive gun use worked, but it just means that those

25 are outweighed by the pernicious consequences of

1           A You know, I just made the point myself, and I  
2 didn't cite anybody in support of that point.

3           Q So I think I understood you to say that the  
4 burden is -- a monetary one? Is that -- or the burden  
5 on --

6           A Well, yeah, just to -- just to complete the  
7 point of Paragraph 34, you know, as someone who is most  
8 interested in reducing the burdens of crime, the one  
9 thing we know is that if we took the 5 billion or so that  
10 people spend on guns and ammunition in the United States  
11 and put that into an actual effective crime-reducing  
12 measure, we'd really get some pop.

13           For \$5 billion you can reduce crime if you put  
14 it into, you know, well-directed crime-reducing  
15 technologies. So we know, almost as a matter of economic  
16 certainty, that spending that 5 billion on guns in  
17 private hands is giving less benefit than you would get,  
18 in terms of other methods of allocation.

19           Now, why do I say I know that with certainty?  
20 Because so much of what we've talked about today is --  
21 even the supporters of right-to-carry just say, Well,  
22 doesn't really have any effect overall net on crime, and  
23 we know that 5 billion on, let's say, well-trained police  
24 will get you a big pop in reducing crime.

25           So that means that if we knew nothing else,

1 we'd know we're in a suboptimal world by having that  
2 money spent on private weapons, when putting it into the  
3 best crime-reducing expenditure will really get us some  
4 social benefit.

5 Q The monetary burden of the private weapon is  
6 borne by the individual carrying the weapon, correct?

7 A Yeah. So they are wasting their own money.

8 Q So they're wasting their own money.

9 But that -- how is that a burden on the greater  
10 good? That money wouldn't be going to fund a police  
11 force anyway, would it, because it's their private money,  
12 not government money?

13 A Right, but if I could -- if I could find a  
14 group that could somehow, you know, convince every  
15 private gun owner who's thinking about buying a gun in  
16 the next year to say what I really care about is how can  
17 I reduce crime in the United States, and then I would  
18 take that money and use it to hire well-trained police, I  
19 know I'd get a lot more crime reduction from the 5  
20 billion in the well-trained police than 5 billion spent  
21 on private weapons.

22 So remember, the economist is always thinking  
23 how can we reallocate resources for greater social good?  
24 And so this would be one area where we could allocate  
25 resources. It's hard to achieve that allocation, but

1 that is the job of the economist, who tries to help move  
2 in that direction.

3 Q Just to be clear, you didn't rely upon any data  
4 to measure the resource burdens that open carry imposes?  
5 These are just your inferences; is that correct?

6 A Yeah, I am trying to make some theoretical  
7 observations on what some of the likely consequences of  
8 open carry are vis-a-vis concealed carry.

9 Q But you're making those assessments without  
10 relying on any data, correct?

11 A Well --

12 Q Let me be clear. Data specific to open carry.

13 A Yes. I mean, I am trying to draw inferences  
14 from what we know about concealed carry and see how we  
15 would expect the world to operate differently with open  
16 carry than it does with concealed carry.

17 Q So you're inferring everything that you state  
18 about open carry from your work on concealed carry study;  
19 is that correct?

20 A Yeah, although, again, in light of the  
21 conversations we've talked about -- you know, for  
22 example, there's a literature right now about police  
23 officers saying that open carry facilitates gun theft  
24 even beyond concealed carry, because the criminals just  
25 watch people, and if they see them get out of their car



1 with an empty holster, they know they've left their gun  
2 in the car, and then they just steal the gun as soon as  
3 the guy leaves the premises.

4 So some police chiefs are saying the open carry  
5 has exacerbated the problem of gun thefts. With  
6 concealed carry you don't have that mechanism operating.  
7 So every day I'm thinking about, in the light of the  
8 current debate among police officials and criminologists,  
9 as to what the impacts are.

10 Q So just to be clear, your conclusion that open  
11 carry would cause a net waste of resources is not based  
12 on a report, is not based on a study, is not based on  
13 data; is that correct?

14 A Well --

15 Q Specific to open carry.

16 A Yeah, I mean, it's based on my review of the  
17 relevant literature and my expertise in this area.

18 Q None of which is cited in your report?

19 A Well, of course, I think I've cited a number of  
20 things, and then I've added further references in our  
21 discussion here.

22 Q Nothing specific to open carry, correct?

23 A Well, again, I think the literature about the  
24 impact of open carry on theft is relevant.

25 Q Is it included in your report?

1 who's armed and who isn't.

2 Is this a correct characterization?

3 A Yes.

4 Q Based on this conclusion, do you also believe  
5 that officers openly carrying does not have a deterrent  
6 effect on crime by -- shouldn't they be concealed  
7 carrying instead?

8 A You know, there is debate about, you know,  
9 unmarked cars versus visible cars in police literature.  
10 In general, the big difference is that an armed police  
11 officer is sort of a visible representation of someone  
12 who's going to try to stop crime.

13 If you just see a guy walking down the street  
14 with a gun and you're about to rob somebody, you just  
15 say, Oh, I'll wait for the next guy if you're in an  
16 open-carry regime. While in a concealed-carry regime, at  
17 least you have the potential benefit of the person  
18 saying, you know, I have to be careful here, because  
19 somebody might do me harm.

20 Q Okay. So turning to Paragraph 34, if I  
21 understand your conclusion, it's that a possible effect  
22 of open carry is that a criminal will see the person  
23 openly carrying a firearm and then choose another target,  
24 right? In other words, move the burden to somebody else,  
25 correct?

1 A Yeah. Yeah.

2 Q What data are you aware of that shows that  
3 criminals, when confronted with a potential victim openly  
4 carrying a firearm, generally choose another target?

5 A I mean, this is -- this is a little bit of the  
6 premise of, you know, gun carrying, that you're going to  
7 dissuade criminals if they see the gun. And so I was  
8 just saying, if that's the consequence, it's probably  
9 just going to dissuade them from going after you but not  
10 dissuade them from --

11 Q So you're saying even assume --

12 MR. EISENBERG: Let him finish.

13 MR. BRADY: He was finished.

14 Q So you're saying, even assuming the deterrence  
15 effect, that gun owners purport that, even if that were  
16 the case, it wouldn't matter, because it's just shifting  
17 the burden? Is that essentially what you're saying?

18 A Yeah, I was trying to make a relative  
19 comparison. And it's sort of a two-step argument. One,  
20 if you believe the conclusions of my study, then you  
21 would say we know right-to-carry laws increase crime.  
22 Then you say, well, maybe we could have open carry  
23 instead of right-to-carry.

24 Then I would say, but there's probably more  
25 benefits for concealed carry, even though they're

1 outweighed by the costs. So that would mean that open  
2 carry would be less beneficial socially than concealed  
3 carry. And we've already concluded from the initial  
4 premise that concealed carry is bad.

5 So if concealed carry is bad, in terms of an  
6 increase in crime, and yet concealed carry is better than  
7 open carry, then we know open carry is the worst of the  
8 three possible worlds, no carry, concealed carry, or open  
9 carry. So that's just sort of a logical syllogism.

10 Q So you're basing that on logic, not on studies?

11 A Yeah, and, you know, the premise of the entire  
12 argument is based on a study. Because --

13 Q But there's no study specific to open carry  
14 saying what you're saying; is that correct?

15 A Well, there's a lot of studies that discusses  
16 this issue of the deterrence of open carry versus  
17 concealed carry, and they all make the same point that I  
18 make here --

19 Q But none of them are mentioned in your report?

20 MR. EISENBERG: Please, you're cutting him off in  
21 mid sentence. You've been doing it several times.  
22 Please let him finish talking before you ask the next  
23 question.

24 MR. BRADY: But we're running short on time, and  
25 with all due respect to the professor, as much as I'm

1 included.

2 Q Particularly about open carry -- I guess now is  
3 a good time to ask you -- is there anything in your  
4 report specific to open carry outside of Paragraphs 32  
5 through 36?

6 A I don't think so.

7 Q So just to be clear, there is the possibility  
8 that open carry deters crime against those who are openly  
9 carrying?

10 MR. EISENBERG: Objection. Asked and answered.

11 But you may answer, yeah.

12 THE WITNESS: Okay. The -- it's just -- if the  
13 question is do you think that open carry is likely to  
14 dissuade some criminals from picking on the open carrier,  
15 I think the answer to that is yes.

16 BY MR. BRADY:

17 Q Did you conduct any study of the benefits or  
18 burdens of that deterrence in preparing your report?

19 A I mean, in a sense the report on concealed  
20 carry is answering that to a degree, because the  
21 mechanisms that operate for open carry are similar in  
22 many respects to what's happening with concealed carry.  
23 And you may have a bigger problem with gun thefts with  
24 open carry than with concealed carry.

25 You certainly have a bigger problem of, you

1 know, citizen complaints to 911. The clinic at Stanford  
2 actually has a case going up to the Supreme Court now  
3 where someone said, Oh, there's a man with a gun outside.  
4 And this was in an open carry jurisdiction, and the  
5 police came and searched him, and the question is, you  
6 know, is that a lawful search.

7 So you are clearly taking up police time, and  
8 if these are good guys, that means you're wasting police  
9 time, and that, again, becomes a tax on police. Anything  
10 that keeps police from doing their effective work in  
11 reducing crime inhibits the -- that role. And this is  
12 another area where that would operate.

13 Q Again, you said that -- correct me if I'm  
14 wrong, but you said there's no study about police  
15 responding to lawful open carriers; is that correct?

16 Or let me ask you this. Are you aware of any  
17 study about police response to open carriers?

18 A I am aware of articles about police chief  
19 concerns about open carry with respect to more theft and  
20 with respect to this issue of the gun being carried in a  
21 reckless way that could create opportunities for someone  
22 to seize it from them quickly, as well as this issue  
23 about alarm distraction from the police and this one case  
24 where guy was walking down the street with an assault  
25 weapon.

1 It was legal to do that. And people called  
2 911. The police said, Well, there's nothing we can do.  
3 It's open carry. And then he started killing people.  
4 And so that was problem one.

5 Problem two is the guy really is a good guy  
6 with a gun, and people are calling 911, and they are then  
7 taking up time sending police over to check out a  
8 situation. So either way you going to be creating  
9 problems once you have open carry.

10 Of course, in the Dallas shooting case, the  
11 police chief there said it made it much more complicated  
12 for us, because there were open carriers around, when  
13 suddenly people are firing at us, and we didn't know who  
14 the good guys and the bad guys were, and according to the  
15 Dallas police chief, we were fortunate that, you know,  
16 none of these guys who were carrying guns got shot.

17 But again, these are all things that burden  
18 police departments in the operation of their dealings,  
19 and therefore, you know, will have a tendency to elevate  
20 crime overall, because the more you get in the way of  
21 police doing their job, the less deterrence and crime  
22 prevention you get from the police themselves.

23 Q What study or data set are you relying on in  
24 saying the burden is outweighed by the benefit of open  
25 carrying?

1 A Again, because -- I am drawing a logical  
2 inference that if the evidence persuades you -- which it  
3 does for me -- that right-to-carry laws increase violent  
4 crime, I think there are strong reasons supported by  
5 police chief discussions that open carry would have yet  
6 more burdens and less benefits.

7 So that's the sort of logical chance I relied  
8 on my study for the premise, and then I rely on the  
9 literature that discussing the likely consequence of open  
10 carry to say, I interpret that evidence to say that open  
11 carry would be less socially beneficial than concealed  
12 carry, and I've already drawn the conclusion that the  
13 concealed carry is socially harmful.

14 Q So you admit there's a distinction between open  
15 and concealed carry?

16 A Yes.

17 Q Okay. And the right-to-carry laws that you are  
18 evaluating in your reports and studies are solely  
19 concealed-carry laws; is that correct?

20 A That's correct.

21 Q Okay. So is it not problematic to utilize  
22 reports and data on concealed carry, that you admit is  
23 different from open carry, to make conclusions about the  
24 effects of open carry?

25 MR. EISENBERG: Objection. Vague and ambiguous as



1 to -- the word is "problematic." Vague and ambiguous as  
2 to "problematic."

3 But you may answer.

4 THE WITNESS: You know, I think, given the factual  
5 and empirical predicate of my argument, I feel on solid  
6 grounds drawing logical inferences about the impact of  
7 open carry relative to the impact of concealed carry.

8 And since I think open carry would likely be  
9 more socially harmful, given the factors that we've  
10 discussed, it's -- it sort of follows that open carry  
11 would, on balance, be socially harmful if we've already  
12 accepted the premise that concealed carry is socially  
13 harmful.

14 BY MR. BRADY:

15 Q So what if -- you conclude that a criminal  
16 would shift focus to an unarmed target if somebody's  
17 openly carrying, right?

18 A (No audible response)

19 Q So -- but what if the prevalence of open carry  
20 was so great that there's a significant chance that the  
21 next victim would be openly carrying as well?

22 A Yeah.

23 Q Did you form any opinions about the benefits  
24 and burdens of open carry under circumstances where open  
25 carry's ubiquitous?

1 A Yeah. You know, the plausible level of  
2 carrying is not going to be so high that a criminal  
3 hanging out isn't going to be able to find anyone to go  
4 after.

5 And again, you would think that if criminals  
6 are being dissuaded by the prospect of running into an  
7 armed person, they'd be more dissuaded by concealed  
8 carry, because then they don't even have the benefit of  
9 surprise.

10 And so when I spoke to one of my colleagues who  
11 went into a gun store the day that Texas opened up their  
12 permit holders to be able to carry openly, many of the  
13 people were saying that, I'm not going to carry openly,  
14 because I'd be the first person the criminal would take  
15 out, and this way I'll keep my gun concealed, and when  
16 they take out somebody else, I'll be the one to take them  
17 out.

18 So at least the Texas concealed carriers were  
19 expressing the view that they thought open carry was less  
20 effective in dealing with crime than concealed carry.

21 Q So hypothetically, using your view of the next  
22 unarmed victim being a target, what if the net effect --  
23 what would, in your opinion, be the net effect of half of  
24 the next potential victims openly carrying be? In other  
25 words, half the population --

1 A Yeah.

2 Q -- is openly carrying. Now, granted this is a  
3 hypothetical.

4 Would that change the view of the  
5 benefits-versus-burden analysis?

6 MR. EISENBERG: Objection. Compound.

7 THE WITNESS: You know, I think it's unlikely  
8 you'd ever see 50 percent people carrying. I mean, we  
9 live in California. 63 percent of people just voted to  
10 tighten gun access considerably in the latest referendum.  
11 So I don't see this playing a role.

12 And in the areas where you do see lots of guns  
13 openly carried, it's certainly not as though you see  
14 major drops in crime. The major drops in crime over the  
15 last 30 years have come in places like New York, which  
16 has been the most aggressive of any jurisdiction in  
17 trying to eliminate the role of guns, and, of course, in  
18 Australia, which largely got rid of private guns and  
19 prohibited self defense as a basis for applying for a gun  
20 permit.

21 BY MR. BRADY:

22 Q So just to be clear, I was asking  
23 hypothetically. I concede that nowhere would 50 percent  
24 of the people -- I'm just -- I want to pose a  
25 hypothetical to suggest -- is there a point at which the

1 level of open carrying would provide a deterrent effect,  
2 such that there would be a benefit?

3 A I mean, it's hard for me to envision that  
4 world, but I suspect that if you ever got to that place,  
5 the number of accidental gun deaths would be so high that  
6 there'd be a tremendous backlash with this. People'd be  
7 leaving their guns all over the place.

8 You know, a gun is a nuisance. It's heavy.  
9 People don't like to carry heavy things on their person  
10 the whole day, which is why they tend to put them down  
11 and leave them places.

12 And so if you look at the number of phones that  
13 get lost, it probably is a fairly good approximation of  
14 the number of guns that would get lost, and so 50 percent  
15 of Americans would -- carrying guns, you'd have a lot of  
16 guns ending up in the hands of kids on playgrounds and  
17 subways and buses. That would be a bad thing.

18 Q Are you aware of any studies that show that  
19 people who open carry have accidents with their firearms?

20 A You know, there's certainly a lot of evidence  
21 that people who carry guns have accidents with their  
22 firearms. So whether you're openly carrying or concealed  
23 carrying, it's probably, you know, equally likely that an  
24 accident will occur.

25 Maybe higher with open carry, because you have

1 the potential of other people being involved in the  
2 accident, as opposed to concealed carry where -- except  
3 the case of the Idaho mom whose two-year-old shot her in  
4 the head because he was in the shopping cart and found  
5 the gun.

6 Most of the time when you have concealed carry,  
7 you're not going to be exposing a gun in that way. But  
8 open carry, at least a little more exposed.

9 Q Let's turn to Paragraph 36 really quick in your  
10 report.

11 Quote, "An openly displayed gun in public also  
12 gives a muddy signal about the gun toter and could draw  
13 undue attention from police officers, directing law  
14 enforcement resources inefficiently, which, again, makes  
15 law firm less effective, thereby further promoting  
16 crime," close quote.

17 Is that an accurate reading of your report?

18 A Yes.

19 Q Do you consider police officers giving undue  
20 attention to open carriers a burden of open carry?

21 A That's a concern. We were discussing this  
22 earlier. Police chiefs have said, you know, if you have  
23 a choice between carrying openly and carrying concealed,  
24 carry concealed, because we've got a lot of 911 calls  
25 about open carriers. Obviously, that's tying up police

1 resources.

2 And this case going up to the Supreme Court  
3 that the Stanford clinic is handling is exactly that  
4 sort. Guy just carrying a gun openly where open carry is  
5 allowed suddenly triggers police intervention, and the  
6 NRA is coming in on that case on the side of the Stanford  
7 clinic, saying that that intervention was inappropriate,  
8 but it happens, and it's costly.

9 Q But again, that's an anecdote.

10 You don't have any data about stops by police  
11 officers of those openly carrying to support your  
12 Paragraph 36; is that correct?

13 A Again, I don't have numbers on stops, but we do  
14 have the discussions of police chiefs talking about the  
15 amount of attention that gun carriers can encourage from  
16 the public and the issues -- I was speaking earlier about  
17 the Dallas police chief talking about the consequences of  
18 open carry when the shooting in Dallas was going on, and  
19 he considered it problematic that there were people on  
20 the street with guns, because when people are shooting at  
21 the police and you look around and you see a lot of  
22 people with guns, you don't know if they're the good guys  
23 or the bad guys.

24 So any of these things can complicate the  
25 attention and the effectiveness of police, and since I

1 believe police are an extremely important element of  
2 crime reduction, I don't want to make their job harder.  
3 I want to make it easier.

4 Q So is it fair to say that the conclusion in  
5 Paragraph 36 that police officers would be burdened by  
6 open carriers is a major point of your report --

7 MR. EISENBERG: Objection. Vague -- oh, pardon  
8 me.

9 BY MR. BRADY:

10 Q -- opposing open carry?

11 MR. EISENBERG: Objection. Vague and ambiguous as  
12 to "major point."

13 THE WITNESS: I mean, the major point is really  
14 that concealed carry seems to be socially harmful, and  
15 here are a number of reasons why I think open carry is  
16 likely to be worse than concealed carry.

17 BY MR. BRADY:

18 Q But this is one of your main reasons for why  
19 open carry is a burden, correct, that it burdens police  
20 officers? That's one of your main points?

21 MR. EISENBERG: Objection. Misstates prior  
22 testimony and same objection about the vagueness and  
23 ambiguity of "major point."

24 THE WITNESS: And it is one of the factors and,  
25 you know, thefts -- I think I've discussed how that could

1 of independent grounds in addition to that to be  
2 skeptical about open carry, and this is -- becomes a  
3 cumulative basis for being skeptical about open carry.

4 BY MR. BRADY:

5 Q Additional ones that are not in your report?

6 A We've been discussing, you know, the  
7 encouragement of theft and the easier ability for  
8 criminals to identify theft opportunities, the lack of  
9 the deterrent umbrella that open carry creates. So those  
10 are two very important factors as well.

11 Q And those are all in your report?

12 A I believe they're in my report.

13 Q Those notions themselves are not based on any  
14 report specific about open carry, correct?

15 A Well, I mean, I had not -- I had not realized  
16 that thieves were sort of targeting people with empty  
17 holsters when they got out of their car. So that was  
18 based on a police chief reporting that information.

19 So reviewing those sorts of studies led me to  
20 that particular concern. And in general, there's a lot  
21 of evidence that people who carry guns outside the home  
22 have those stolen more frequently.

23 So that's no -- that's no different between  
24 open and concealed, but the police chief discussion of  
25 the greater opportunity of open carry to identify theft



1 opportunities was an additional factor.

2 And then, you know, the big argument that has  
3 always been made for concealed carry is that it provides  
4 a deterrent umbrella. By carrying, I not only protect  
5 myself, but I protect you, because the criminal doesn't  
6 know which of us is carrying, and that gets taken away  
7 when you have open carry, because now they do know.

8 Q You mentioned the anecdote about the police  
9 chief concerns about open carry several times now,  
10 correct?

11 A Yeah.

12 Q So you found that anecdote compelling, correct?

13 A It wasn't an anecdote. It was his discussion  
14 of the problem of theft in the wake of open carry.

15 Q You found his articulation of that problem with  
16 open carry that he viewed to be compelling, correct?

17 A Yes.

18 Q Okay. Then why didn't you develop any reports  
19 about stops by police officers on those who are openly  
20 carrying?

21 MR. EISENBERG: Objection. Argumentative.

22 THE WITNESS: You know, I probably should have  
23 added that to the report, but -- thankfully, we have this  
24 deposition to fill -- flesh out the record.

25 BY MR. BRADY:

1 THE WITNESS: Yeah. I mean, lots of things I  
2 think don't work. Gun buy-backs I don't think work. You  
3 know, any sort of very porous regulation, I think is  
4 unlikely to work.

5 So, you know, even the Brady Bill is probably  
6 vastly less effective because it's not uniform, and, you  
7 know, a pure assault weapon ban without a restriction on  
8 large-capacity magazines probably have minimal effect on  
9 overall crime.

10 BY MR. BRADY:

11 Q Speaking of my relatives at the Brady campaign,  
12 have you ever received any funding from the Brady  
13 campaign?

14 A No.

15 Q What about any Bloomberg group?

16 A No.

17 Q Violence Policy Center?

18 A No.

19 Q Oh, the Law Center to Prevent Gun Violence?

20 A No.

21 Q Everytown?

22 A The only thing I've ever done from anyone, the  
23 National Science Foundation and, you know, various  
24 employers.

25 Q Have you been in communication with any gun

JOHN J. DONOHUE  
FLANAGAN vs CALIFORNIA ATTORNEY GENERAL

July 12, 2017  
23C

DECLARATION UNDER PENALTY OF PERJURY

ASSIGNMENT NO. J0614175

FLANAGAN vs CALIFORNIA ATTORNEY GENERAL AVIER BECERRA

## DEPOSITION ERRATA SHEET

Page 24, Line 18 (erroneously omitted words making sentence complete)

Change:

·standard of identifying causal impacts. Very hard to do

To:

·standard of identifying causal impacts. It is very hard to do

Page 25

Line 7 (error in transcription or misspoken word)

Change:

·treatment statements

To:

·treatment states

Line 12 (error in transcription or misspoken word)

Change:

·than having every state as a panel data be the control if

To :

·than having every state in the panel data be a control if

Page 27, Line 4 (error in transcription or misspoken word)

Change:

·seeing do

To:

·seeing if

Page 28, Line 6 (error in transcription or misspoken word)

Change:

·used on this paper.

To:

·used in this paper.

Page 35, Line 17 (error in transcription or misspoken word)

Change:

·table in statistics, and by that I meant

To:

·table in statistics, and by that he meant

Page 39, Line 13 (error in omitting to speak words to complete thought)

Change:

·statistical noise bounced it.

To:

·statistical noise bounced it in a particular direction.

Page 46, Line 19 (error in transcription or misspoken word)

Change:

· follows the normal economic laws as

To:

· follows the normal economic law that

Page 50, Line 23 (misspoken word)

Change:

· And the state said

To:

· And the NRC majority said

Page 51, Line 20 (error in speaking “shorthand,” leading to unclear answer)

Change:

· The committee was split on the murder

To:

· The committee was split on the impact of RTC laws on murder

Page 77, Line 2 (error in transcription or misspoken word)

Change:

· police.· So that's what instruments

To:

· police.· So that's what an instrument

Page 82

Line 15 (error in transcription or inadvertently spoke unnecessary word)

Change:

·instrumented all – for police

To:

·instrumented for police

Lines 19-20 (grammatical error in transcription)

Change:

·have more confidence in the Table 3 shall results than  
·the Table 4 shall results.

To:

·have more confidence in the Table 3 “shall” results than  
·the Table 4 “shall” results.

Page 97, Line 14 (error in transcription or misspoken word)

Change:

·direction, that that's better,

To:

·direction, then that's better,

Page 105, Line 25 (error in transcription or misspoken word)

Change:

·essentially do a variance

To:

·essentially do a variant

Page 124, Line 19 (error in transcription or inadvertently spoke unnecessary word)

Change:

·crime.· So that's not including simple assault; it's not  
·crime.· So that's not including simple assault; it's

Page 126, Line 7 (error in transcription or misspoken word)

Change:

·those.· You know, I gave a 2021 version

To:

·those.· You know, if I have a 2021 version

Page 160, Line 3 (grammatical error in transcription)

Change:

·But there was only one case -- so 1-21

To:

·But there was only one case -- so 1/21

Page 167, Line 16 (error in transcription or misspoken word)

Change:

·going to go down if you look at those people.

To:

·going to go down if you lock up those people.

Page 174, Line 20 (error in transcription)

Change:

·to the Vials Policy Center

To:

·to the Violence Policy Center

Page 177, Line 7 (grammatical error)

Change:

·often more about political power of special interest

To:

·often more about political power of special interests

Page 197, Line 7 (error in transcription or misspoken word)

Change:

·So that's the sort of logical chance

To:

·So that's the sort of logical stance

Page 211, Line 23 (error in transcription or misspoken word)

Change:

·information about gun theft, and at least occasion of

To:

·information about gun theft, and efficient allocation of

Page 215, Line 5 (error or inadvertently omitted to speak word)

Change:

·discussion in labor literature.

To:

·discussion in the labor literature.



Page 218, Line 9 (grammatical error)

Change:

· Those arguments are on comparable

To:

· Those arguments are on comparable

Page 221

Line 8 (error in transcription or inadvertently omitted to speak word)

Change:

· large-capacity magazines probably have minimal effect on

To:

· large-capacity magazines would probably have minimal effect on

Line 22 (error in transcription or misspoken word)

Change:

· A. The only thing I've ever done from anyone, the

To:

· A. The only thing I've ever gotten from anyone, the

DECLARATION UNDER PENALTY OF PERJURY

2 ASSIGNMENT NO. J0614175  
3 FLANAGAN vs CALIFORNIA ATTORNEY GENERAL AVIER BECERRA  
4  
5

6 I declare under penalty of perjury that I have read  
7 the entire transcript of my deposition taken in the  
8 captioned matter or the same has been read to me, and the  
9 same is true and accurate, save and except for changes  
10 and/or corrections, if any, as indicated by me on the  
11 DEPOSITION ERRATA SHEET hereof, with the understanding

12 that I offer these changes as if still under oath.

13

14 Signed on the 22 day of August, 2017.

15

16

A handwritten signature in black ink that reads "John J. Donohue III". The signature is written in a cursive style with a double underline under the name.

JOHN J. DONOHUE III

# EXHIBIT 5

JOHN J. DONOHUE Volume II  
FLANAGAN, et al. vs BECERRA, et al.

August 08, 2017  
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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

MICHELLE FLANAGAN, SAMUEL  
GOLDEN, DOMINIC NARDONE, JACOB  
PERKIO, and THE CALIFORNIA  
RIFLE & PISTOL ASSOCIATION,

Plaintiffs,

No.  
2:16-cv-06164-JAK-  
AS

vs.

CALIFORNIA ATTORNEY GENERAL  
XAVIER BECERRA, in her  
official capacity as Attorney  
General of the state of  
California, SHERIFF JAMES  
McDONNELL, in his official  
capacity as Sheriff of Los  
Angeles County, California,  
and DOES 1-10,

Defendants.

~~~~~

DEPOSITION OF JOHN J. DONOHUE

Volume II

August 8, 2017

9:30 a.m.

559 Nathan Abbott Way
Stanford, California

Joan Theresa Cesano, CSR No. 2590



1 APPEARANCES OF COUNSEL

2
3 For Plaintiffs:

4 MICHEL & ASSOCIATES
5 SEAN A. BRADY, ESQ.
6 (via video-teleconference)
7 180 East Ocean Boulevard, Ste. 200
8 Long Beach, California 90802
9 652.216.4444
10 sbrady@michellawyers.com

11 For Defendants:

12 JONATHAN M. EISENBERG, Deputy Attorney
13 General
14 STATE OF CALIFORNIA, DEPARTMENT OF JUSTICE
15 OFFICE OF THE ATTORNEY GENERAL
16 (via video-teleconference)
17 300 South Spring Street, Ste. 1702
18 Los Angeles, California 90013
19 213.897.6505
20 jonathan.eisenberg@doj.ca.gov
21
22
23
24
25



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STANFORD, CALIFORNIA;
TUESDAY, AUGUST 8, 2017; 9:30 A.M.

JOHN J. DONOHUE,
having been first duly sworn, testified as

follows:

EXAMINATION

BY MR. BRADY:

Q Can you please state your name for the record?

A John Donohue.

Q Hello, Professor Donohue, we met before when I previously deposed you in this matter on July 12th of this year; is that correct?

A That's correct.

Q And is it your understanding that we're here today because during that July 12th deposition it became known that there was an updated version of an exhibit to your report, specifically Exhibit B, that plaintiff's counsel had not seen before that day?

A Yeah, I wasn't totally sure exactly why the request was, but I assume that that was part of the thinking.

Q But you do have an updated version of your



1 it a deposition exhibit, most likely. And that's the
2 standard way of doing it.

3 All right. Let me just take one second here.

4 N-A-W --

5 THE COURT REPORTER: Is this off the record? I'm
6 sorry.

7 MR. EISENBERG: Should we go off the record?

8 I think we should because, I mean, I personally
9 think we should because I don't want to eat up more of
10 Mr. Brady's time.

11 I'm happy to go off the record for this.

12 MR. BRADY: Sure.

13 (Discussion off the record)

14 MR. BRADY: Back on the record.

15 Q So Professor Donohue, we have established that
16 there has been an updated version of your Exhibit B to
17 your expert report that plaintiff's counsel did not have
18 at -- prior to your July 12th deposition; is that correct?

19 A Yes, that's my understanding.

20 Q And during -- during that deposition, plaintiff's
21 counsel located the updated version and it was entered
22 onto the record as Exhibit 10; is that correct?

23 A I think that's correct.

24 MR. EISENBERG: I'll go ahead and answer for
25 that, I mean, this is not a memory contest for Mr. --



1 Professor Donohue.

2 I don't know if the exact number is Exhibit 10
3 but we agreed that you did, in fact, reintroduce that
4 deposition which I believe you had an assistant print out
5 in the middle of the deposition.

6 THE WITNESS: Yes, correct.

7 BY MR. BRADY:

8 Q So the version of your study, the original
9 Exhibit B, included both a panel data analysis and a
10 synthetic control analysis of right-to-carry laws; is that
11 correct?

12 A That's correct.

13 Q And your updated version does the same?

14 A That's correct.

15 Q Okay. So in the study with the panel data
16 analysis, you mentioned estimating multiple models of
17 crime rates, the DAW model, which is your model; correct?

18 A Correct.

19 Q And three other models; is that correct?

20 A That's correct.

21 Q And you stated that you felt that the DAW model
22 was the best of the four; correct?

23 A That -- that is the one that I was most
24 comfortable with.

25 Q Okay. And that's your model; correct?

1 A That's -- that's correct.

2 Q Are there other possible models which included
3 other sets of control variables that -- that you could
4 have used other than these four?

5 MR. EISENBERG: Objection; vague and ambiguous as
6 to "possible" and "could have used."

7 But you may answer, Professor Donahue.

8 In fact, unless I say please don't answer, go
9 ahead and answer.

10 A Yes. One could pick and choose among the four
11 models that I included to either add or eliminate certain
12 explanatory variables, so every addition of an explanatory
13 variable or subtraction of an explanatory variable would
14 constitute a different model.

15 So in that sense, one could alter these models
16 and get different specifications.

17 BY MR. BRADY:

18 Q So, there could be other models that included
19 control variables that you did not consider; is that
20 accurate?

21 A Well, indeed the other models all had some
22 explanatory variables that I did not include.

23 So right in my paper you see that in addition to
24 the model that I felt was the best, the DAW model, the BC
25 model as well as the MM and LM models, all had at least

1 some explanatory variables that were different from mine
2 and therefore, mine could be amended to include variables
3 that they had.

4 So those would all be different models that one
5 could use.

6 Q But are there models that included control
7 variables that none of the four models used?

8 MR. EISENBERG: Objection; vague and ambiguous.

9 A One -- one could certainly add additional
10 explanatory variables to the ones that are in these four
11 models.

12 BY MR. BRADY:

13 Q And is it possible that these other models, the
14 ones other than the four, could be better at explaining or
15 predicting violent crime rates?

16 MR. EISENBERG: Objection; vague and ambiguous as
17 to "other models."

18 A I do think that it is a conceptual possibility
19 that, you know, other explanatory variables or even
20 permutations of the explanatory variables that I used
21 could be better in the sense of, you know, being a better
22 representation of the factors that explain violent crime.

23 BY MR. BRADY:

24 Q So it's possible that the use of other models
25 could yield estimates of the effects of right-to-carry

1 I did think I got better panel data estimates than were
2 possible back in 2004, but I still felt that there was
3 some element of accuracy in their concerns about the
4 robustness of panel data models and --

5 BY MR. BRADY:

6 Q So more years -- more years considered in panel
7 data analysis, does that necessarily make the analysis
8 more robust?

9 MR. EISENBERG: Actually, I want to object; I'm
10 not sure that Professor Donohue was finished with his
11 answer before you asked the question, so I want to see if
12 he has more to say before he answers the next question.

13 THE WITNESS: I'll wait for the next question.

14 MR. EISENBERG: Okay.

15 BY MR. BRADY:

16 Q So would more years being considered in a panel
17 data analysis -- pardon me, necessarily make the results
18 more robust?

19 Is more years better, in other words?

20 A Yes, more years is almost always better.

21 But -- and I think if you look at the panel data
22 analysis of my paper and other scholars look at it, they
23 will say, oh, the results have become more stable by
24 virtue of having 14 years of additional data plus 11
25 additional adoptions.

1 But I think you can still see that there is a
2 difference among some of the models and so, if someone
3 said, I believe, you know, this particular model is better
4 than the DAW model, you -- you could argue over which one
5 is -- is the right model. So there is some variability in
6 the panel data results.

7 It's just that at this point I have not seen any
8 model that would suggest the adoption of right-to-carry
9 laws improves crime.

10 Q So let me -- let me see if I am correctly
11 understanding what you said.

12 In doing this analysis, it's generally better to
13 have more years of data to look at unless the -- the
14 models you're running are bad models, then it doesn't
15 matter if you have more data; right?

16 A It is true that if you have a bad model, more
17 years won't necessarily help you. It's just that other
18 things being equal, more years and more observations of
19 states adopting right-to-carry should help you get a
20 better model and better fit.

21 Q And is it -- is it possible -- remember this is
22 just a possibility, that the models that you analyzed for
23 the DAW are just bad models?

24 MR. EISENBERG: Objection; vague and ambiguous as
25 to "impossible" -- or sorry -- "possible."

1 A It -- I think it requires me to explain a little
2 bit about what I would consider to be a bad model.

3 And so a model that allows me to get an accurate
4 estimate of the impact of right-to-carry laws on crime
5 could be a bad model in the sense of not explaining all
6 the aspects of crime very well, but still a good model if
7 it -- if it gives us an accurate prediction of the impact
8 of right-to-carry laws.

9 And so the differentiation on -- I'm having here
10 is, it depends a little bit on what you're trying to do.

11 If you're trying to explain every change in crime
12 across 50 states over, you know, a 39 year time period,
13 which is what we were looking at here, you may -- you may
14 not be as good at explaining all of the alterations.

15 But as long as you're getting an accurate
16 estimate for the impact of right-to-carry laws, then your
17 model would still be good in my mind for the purposes to
18 which I was applying the model.

19 So in my case, any model that gives me an
20 accurate prediction of the impact of right-to-carry laws
21 on crime I will think will be a good model.

22 BY MR. BRADY:

23 Q And how can you know what variables that affect
24 violent crime rates need to be controlled for?

25 A Well, that's an excellent question. And one --

1 one looks to the prior literature and the theoretical
2 basis for including certain explanatory variables and over
3 time the literature will coalesce around a certain set of
4 explanatory variables.

5 And then, of course, if someone feels that an
6 additional explanatory variable would be helpful, and you
7 can collect data for that variable, then you would -- you
8 would be invited or encouraged to include that and see if
9 it made a difference.

10 And so in this case I was -- I was using a lot of
11 different models, including models that in the past had
12 been used to argue that right-to-carry laws actually
13 decreased crime and -- and as well as, models of my own
14 choosing, and models by other researchers who were looking
15 at crime. So I thought I was getting a fair cross section
16 of possible models in doing my analysis.

17 But as you say, there could be other explanatory
18 variables that none of these models included.

19 Q Can you explain, summarize how you went about
20 choosing what models to include?

21 A Yes. I think as we mentioned in the prior
22 deposition I had been working in this general area of
23 trying to analyze the impact of right-to-carry laws for
24 quite a number of years and written quite a number of
25 papers on this.

1 And so over time you spend a lot of time refining
2 your thinking and looking at explanatory variables and
3 getting critique and feedback from other researchers, as
4 well as looking at the vast array of crime papers that are
5 not dealing with right-to-carry at all but are looking at
6 other crime issues.

7 And so looking at that vast literature, you do
8 have a very strong literature to draw on in deciding what
9 you think is -- is the best model --

10 Q From --

11 A Oh, sorry.

12 Q I'm sorry.

13 A So just to finish. So that is essentially the
14 process that I -- I went through over the course of years,
15 refining my model and -- and really the first time that I
16 ever came to the conclusion that I think this is what I
17 think is the best model was in this paper.

18 In the past I was always just trying different
19 possibilities without -- without specifically saying, I
20 think this is best model. So this is the first time I
21 took that -- that final step in analyzing the panel data.

22 Q In that body of literature you mentioned, did you
23 review any studies of crime rates in general, not just on
24 right-to-carry laws, to determine what variables have been
25 found to affect violent crime rates?

1 A Yes, I looked at a large number of crime studies
2 to draw that conclusion.

3 Q Are any of them named in your DAW?

4 MR. EISENBERG: Objection; vague and ambiguous as
5 to "named in your DAW."

6 BY MR. BRADY:

7 Q Are any of those studies that you mentioned that
8 there are many of referred to, cited, mentioned in your
9 DAW?

10 MR. EISENBERG: Again vague and ambiguous as to
11 "DAW."

12 BY MR. BRADY:

13 Q You understand what DAW is, do you not,
14 Professor?

15 A So -- so I am assuming that that is referring to
16 the paper that was the exhibit attached to my report. And
17 that paper does cite a large number of papers that deal
18 with crime issues and that I relied upon, but it
19 doesn't -- it doesn't capture every paper. But it does
20 cite quite a number of them.

21 Q And ones that just have to do with crime rates in
22 general, not just right-to-carry laws. Is that what
23 you're asserting?

24 A Umm -- yes, I would -- I would certainly have --
25 have looked at and learned from studies that -- that were

1 either focused on right-to-carry laws or were just in
2 general crime studies.

3 So for example, the Brennan Center report was
4 just a general analysis of crime not specifically focused
5 on right-to-carry.

6 Q Okay.

7 How many of the control variables in your
8 preferred DAW model showed significant association of the
9 5% significance level with violent crime rates?

10 A In the panel data analysis?

11 Q Correct.

12 Just to be clear before you answer, right now I'm
13 solely focusing on the panel data analysis. We'll get to
14 the synthetic model in a second here, but right now just
15 focus on panel data, please.

16 A And so of my preferred model, I believe the DAW
17 model using manual data always showed an increase in crime
18 that was statistically significant for violent crime in
19 the dummy variable model.

20 Q In the dummy variable model. But you have a
21 dummy variable model and a spline model; is that correct?

22 A That's correct.

23 Q Would the same be true for the spline model?
24 Would it always show a significant association with --
25 would the adoption of a right-to-carry law always show a

1 BY MR. BRADY:

2 Q Okay.

3 So I want to look at your tables in your study,
4 and we already sort of addressed this and I don't know if
5 you want to confirm or just take my word for it that I'm
6 talking about Tables 1, 4, 5, 6, 7, and 8. In those
7 tables you use what you referred to as a dummy variable
8 model; correct?

9 A Yes.

10 Q Half of the estimates shown.

11 (Reporter clarification)

12 So half of the table are dummy -- dummy variable
13 model estimates, and the other half are spline model
14 estimates; correct?

15 A That's -- that's correct.

16 Q For the dummy variable model, does that -- does
17 that model assume that right-to-carry laws have an impact
18 on crime rates that is constant over time?

19 A Not necessarily. It -- it could be interpreted
20 that way, but one can also use the dummy variable model
21 just to get an average estimate of the impact in the
22 post-adoption period.

23 Q And what did you do?

24 A That's all that I was trying to do is to say can
25 we get an estimate for the average effect in the wake of

1 adoption of right-to-carry laws on violent crime.

2 And so as you noted, Table 1 shows just the state
3 and year fixed effects, and you'll see that the estimate
4 is a 20 percent increase, roughly, in violent crime from
5 the dummy variable model. And then when you jump ahead to
6 the DAW model the estimate is slightly lower, and that
7 shows that the additional explanatory variables were
8 explaining part of the reason why the right-to-carry
9 states did worse after adoption of the right-to-carry
10 laws, apart from the simple adoption of the right-to-carry
11 laws.

12 So that gets back to our earlier discussion, did
13 I include variables that were correlated with
14 right-to-carry laws. And you can see very clearly that I
15 did, because all of the other models have a different
16 estimate than, you know, this 20.21 value that you see in
17 Table 1.

18 Q Okay. So just to be clear.

19 Your dummy variable model in Table 1 does not
20 assume the right-to-carry laws have an impact on crime
21 rates that is constant over time?

22 A You could interpret it that way, but I was just
23 using it to -- to generate an average estimate over time
24 for the impact of right-to-carry laws on crime. ✓

25 Q You're using it that way, but does that model

1 And you show that those -- that what -- what you
2 found in Columns 3 and 4 of Table 1, why -- why those
3 increases were a result of right-to-carry laws?

4 A Well, what -- what I found in the DAW model,
5 which I think appeared in Table 4, was that the -- that
6 some of the worst performance in right-to-carry states,
7 remember, in Table 1 we had suggested it was in the
8 neighborhood of 20% worst crime performance after
9 adoption. About 11% of that remained after we controlled
10 for the other factors. So -- so essentially when we
11 introduced the explanatory variables of the DAW model you
12 saw that the estimated harm caused by right-to-carry laws
13 fell from 20% to about 9.5% in Table 4.

14 Q So -- just to -- is it your position that the
15 results in Table 1 show that the murder rate increases as
16 a result of right-to-carry?

17 A Well, from Table 1 alone I -- I wouldn't draw any
18 strong conclusions other than we know things were worse in
19 right-to-carry states after they adopted the
20 right-to-carry laws, but it doesn't -- doesn't tell us why
21 they are worse, it just tell us that they were worse in
22 terms of murder and violent crime and property crime.

23 Q So I'd like to refer to Table 3.

24 A Okay.

25 Q Would you say that Table 3 -- that the spline

1 models in Table 3 provide the strongest support for --
2 strike that.

3 Would you agree that the spline models in Table 3
4 show the strongest statistically significant change in
5 violent crime rates as a result of right-to-carry laws --

6 MR. EISENBERG: Objection; lacks foundation.

7 BY MR. BRADY:

8 Q -- in the report.

9 A So in my expert report?

10 Q Yeah, so in this study -- I'm sorry. In this
11 study would you say that Table 3, the spline models in
12 Table 3, represent the most statistically significant
13 results showing increases in violent crime as a result of
14 right-to-carry laws in your study?

15 A Now -- now, my Table 3 says: "Table of
16 Explanatory Variables."

17 Is that the one you're looking at?

18 Q Yes.

19 A Okay. So I'm not showing any actual estimates in
20 that table. I'm just -- I'm just showing you the
21 explanatory variables that each of the four models
22 includes in their particular specification.

23 Q Okay. I think I might have looked at the wrong
24 table. Hold on one second, please.

25 A Okay.

1 Q I'm sorry, it was Table 8.

2 A Okay. Table 8.

3 Q Yeah. To me the three looks like an eight.

4 A Yeah, yeah, no problem.

5 MR. EISENBERG: Are you talking about page 18 of
6 the report?

7 MR. BRADY: I think -- yes.

8 MR. EISENBERG: Okay.

9 THE WITNESS: Okay. So -- so Table 8 does show a
10 few models where in the spline version we see
11 statistically significant estimates of right-to-carry laws
12 on murder.

13 BY MR. BRADY:

14 Q Okay. Would you say that these are the most
15 significantly -- statistically significant increases in
16 the report or in your study for increase in violent crime
17 as a result of right-to-carry laws in Table 8? The spline
18 model.

19 A Yeah. The spline model results are probably
20 strongest in Table 8 for murder, not for violent crime.

21 Q Not for violent crime? What table would you say
22 is the -- tells the most statistically significant impact
23 on right-to-carry laws for violent crime in general?

24 A For the spline model?

25 Q Yes.

1 you explained this last time, but it's -- the synthetic
2 control is what you use to isolate the treatment data. Is
3 that accurate?

4 A So synthetic controls is another way to do what
5 we were trying do in the panel data analysis, which is
6 find the true impact of the adoption of a right-to-carry
7 law on crime, holding everything else constant.

8 Q Okay. And so the right-to-carry law would be the
9 treatment variable; right?

10 A Exactly.

11 Q And synthetic controls are the things that you
12 just mentioned that you supply a control for that that
13 would isolate the impacts of the treatment; is that
14 correct?

15 A Yes, the -- the synthetic control is designed to
16 show us the counterfactual.

17 In other words, what would have happened in the
18 states that adopted right-to-carry if they had not adopted
19 right-to-carry. That's what you're trying to find out so
20 that you can identify the true causal impact of the
21 legislation.

22 Q Okay. Would it be fair to say that the
23 effectiveness of the synthetic control method in
24 estimating the impact on the treatment depends on how well
25 the synthetic control simulates the crime trends of the

1 treatment area, prior to the implementation of the
2 treatment?

3 MR. EISENBERG: Objection; vague and ambiguous as
4 to "stimulates."

5 MR. BRADY: "Simulates."

6 MR. EISENBERG: Oh, "simulates" without the first
7 "T" there. Okay.

8 MR. BRADY: There is nothing stimulating about
9 any of this.

10 MR. EISENBERG: I withdraw my objection.

11 THE WITNESS: One of the nice features about the
12 synthetic controls approach is that it allows us both
13 visually and statistically to get a sense of how well your
14 synthetic control does in the present treatment period at
15 capturing the pattern of crime for the state that adopts
16 the right-to-carry law.

17 BY MR. BRADY:

18 Q Okay. And what statistic do you report in -- in
19 your study that measures how well the synthetic control
20 simulates the pretreatment crime rate trends in
21 right-to-carry states?

22 A So for each of the figures in my report that --
23 that captures the impact for the individual state, I would
24 have a measure of how well the prediction is operating in
25 the pretreatment period. And it's called the -- sort of a

1 long-winded term here, but it's the coefficient of
2 variation of the root-mean-square prediction error.

3 Q And can you explain it in layman's terms and dumb
4 it real down a lot for me, please --

5 A Sure.

6 Q -- as to what that means?

7 A Sure, sure, sure. Yeah, sorry that it's not as
8 immediately obvious as one would like.

9 But, you know, it might help to look at -- let's
10 see, Figure 3 in the paper.

11 Q Do you know what page that's on?

12 A On my printout it says page 25 of the June 2017
13 report.

14 Q Okay. Thank you.

15 Okay. I have Figure 4 or Figure 3?

16 A I was looking at Figure 3, which is Pennsylvania.

17 Q Yeah.

18 A And it says here that this was the -- "the state
19 of the 33 states which had the best pre-passage fit," and
20 you'll see that there's a number there that says:

21 "CVRMSPE."

22 And there's -- that stands for the coefficient of
23 variation of the root-mean-square prediction error. And
24 the number there is essentially telling you that you're
25 getting a very good fit. And it says: "The first of 33

1 states so arrayed." All 33 states that I estimated
2 impacts for based on the size of this CVRMSPE, and this
3 one had the lowest value.

4 And that meant it had the best pre-passage fit
5 and essentially, in intuitive terms what this is telling
6 you is that you're only off by about 1.8% for each of the
7 pre-passage years. So that's a pretty good prediction.

8 And you can see that the lines conform rather
9 nicely between the thick black line which is the actual
10 pattern of crime for Pennsylvania and the dotted line
11 which is our estimate based on the synthetic control.

12 Q Okay. So you talked about the best estimates --
13 is the set of states that you selected here to create this
14 synthetic control, are they the best of all combinations
15 of states in simulating what crime trends in
16 right-to-carry states would have been in the absence of
17 right-to-carry laws?

18 A The synthetic controls is trying to -- trying to
19 create a composite of states that will give you the best
20 prediction for crime in the posttreatment period, and the
21 way that you judge how well it's likely to do in the post
22 period is to see how well it's doing in the pre-passage
23 period.

24 Q And what statistics show that?

25 A Well, that's this CVRMSPE.

1 Q Okay.

2 A And so the fact that that's a small number is
3 telling us that there's not a lot of deviation between our
4 estimate of what happened to crime in the pre-passage
5 period, and what really did happen in Pennsylvania in the
6 pre-passage period.

7 Q And where does that CVRMSPE come from?

8 A Well, that -- the synthetic controls estimate
9 allows you to generate that number which is just looking
10 at how much the actual Philadelphia -- or Pennsylvania
11 violent crime rate deviates from the predicted value.

12 And you're sort of summing those up over the
13 entire period and taking their average and comparing that
14 to the, sort of the baseline level of violent crime for
15 Pennsylvania over this period.

16 Q So let me see if I get this.

17 Does that mean that a good state to include in
18 the synthetic control would be one that had pre-treatment
19 trends in both the violent crime rates and variables that
20 affect violent crime rates that are similar to trends in
21 the right-to-carry state?

22 A I mean, essentially what the synthetic control
23 tries to do is find the composite of states that will do
24 the best job of sort of lining up crime in the pre-passage
25 period, including the impact of the variables that you

1 have specified as things that we think will likely
2 influence crime.

3 And as we see for Pennsylvania, they -- they
4 determine based on the synthetic control's protocol that
5 these one, two, three, four, five, six states in the
6 percentages weighted here, does the best job of coming up
7 with this synthetic control.

8 And all of that is done by the computer package,
9 that is not a choice by me. That is the way the synthetic
10 control protocol will estimate the -- the best set of
11 states given the explanatory variables that I have entered
12 into the model.

13 Q So it's software that's producing this synthetic
14 control protocol?

15 A Yeah.

16 So I'm specifying which explanatory variables to
17 include, and those are the DAW models -- DAW variables.
18 And once that is done, the synthetic control protocol will
19 pick the -- the best states to generate this
20 counterfactual for the state of Pennsylvania.

21 Q So do you just take it on faith that this
22 software does this correctly?

23 A Well, thankfully this has been programmed and
24 included in sort of the number one software package that
25 applied economists use called Stata, S-T-A-T-A, and now it

1 has been used in many empirical evaluations of various
2 types of treatment.

3 Q Okay. And this software tests for similarities
4 between right-to-carry states and potential control states
5 regarding variables that affect violent crime rates;
6 correct?

7 A Is it -- it is -- it's weighting the states, you
8 know, based on the explanatory variables you're giving
9 them and the prior patterns of crime in these states.

10 Q So you give it the variables?

11 A That's right. You give it the variables and then
12 it -- then it just applies its protocol according to the
13 dictates of the protocol. So one of the things that it
14 does is it only gives positive weights on various states.
15 It can't give a negative weight to any state, but based on
16 the synthetic control protocol it will generate this
17 estimate.

18 And if you look across the various 33 states,
19 sometimes you see that the estimates do not look
20 particularly compelling, but for Pennsylvania it does look
21 quite compelling.

22 Q Okay. So if you do not know what other variables
23 affect violent crime rates, you wouldn't know what
24 variables you should ask the software to test for
25 regarding the similarity of the control state with the

1 position, and that's more than the number that support
2 estimates that crime goes up.

3 But again, if you look at the studies, then you
4 would see -- well, first of all, most of the studies that
5 John Lott is referring to were done using data ending
6 before 2000, so we have a lot more and better data now.
7 And many of them have other serious problems. And none of
8 them have looked at the impact using synthetic controls.

9 Q Okay. Setting aside your critiques of the other
10 studies.

11 Obviously, you think yours is superior otherwise
12 you wouldn't have done it, but would it be fair to say
13 that most other studies in this field either conclude that
14 right-to-carry laws have no effect on violent crime rates
15 or that they reduce violent crime?

16 A You know, I think that that's not true for
17 studies done since the National Research Council report of
18 2004.

19 I think it is true for studies done before the
20 National Research Council report of 2004.

21 Q So it's your view that post 2004 the majority of
22 studies share your view that right-to-carry laws, in fact,
23 increase violent crime rates?

24 MR. EISENBERG: Objection; calls for speculation.

25 A It's -- it's certainly a lot closer after 2004

1 than it was before 2004.

2 BY MR. BRADY:

3 Q Can you name the study that you think, other than
4 your own, that shows -- that concludes that right-to-carry
5 laws, in fact, increase violent crime rates?

6 A Again, there are a number of studies that show
7 regression analyses that predict or estimate that the
8 impact on violent crime is positive, in other words,
9 increasing, when right-to-carry laws are adopted.

10 Sometimes the authors have qualified the results
11 and said, you know, while our best model shows that
12 right-to-carry laws increase crime they -- they did not
13 come to any firm conclusion about what the impact really
14 was.

15 Q Has there been any report that has not
16 qualified -- has not so qualified its conclusion as you
17 just explained, other than yours?

18 A Well, are you asking are there any reports
19 showing increases in violent crime?

20 Q So, just to -- let me set the record straight
21 here so we're clear.

22 You indicated that there are reports that have
23 shown regressions with a positive for right-to-carry laws
24 on violent crime --

25 A Yes.

1 Q -- but that the authors qualify their findings,
2 saying although there are positive showings, we're not
3 going to make any firm conclusions on whether, in fact,
4 right-to-carry laws increase violent crime rates; is that
5 correct?

6 Is that accurate about what you just said?

7 A Umm -- let me see if I can mimic what you just
8 said.

9 There are a number of studies that have found
10 right-to-carry laws increase violent crime. I can think
11 of two of them that then qualify the results. So the
12 Durlauf, Navarro, and Rivers study said our best model
13 using our Bayesian econometric approach shows that violent
14 crime increases by roughly 2% every year that it's in
15 place.

16 And the Zimmerman paper, which we quoted earlier,
17 said our model estimated over two -- 1999 to 2010 shows
18 statistically significant increases in various violent
19 crime categories as, you know, Donohue and others have
20 found. But both of those papers qualified their
21 conclusions.

22 There is another paper that Gary Kleck has -- has
23 held up as like the best of the right-to-carry papers, and
24 I'm not sure that that paper qualified its conclusion or
25 not, but it did find clearly that right-to-carry laws were

1 that both of us did our analysis and found right-to-carry
2 laws increase violent crime. I --

3 Q But, Professor, I said setting that one aside.

4 A Okay.

5 Q Because we're not sure, you know. We can clarify
6 later if you want whether that one, in fact, does that, so
7 let's assume that one does for the record. We'll just
8 assume it does.

9 Is there any other study besides that one that
10 you're aware of, and besides yours, that concludes without
11 qualification that right-to-carry laws increase violent
12 crime rates?

13 A You know, mine is the only study that has
14 analyzed this -- this full set of data up through 2014,
15 using both panel data and synthetic controls. And so in
16 that sense my study is unique in the scope and breadth of
17 its analysis. But apart from the -- the Kovandzic study
18 that Gary Kleck referenced and the two other ones that I
19 alluded to, I'm -- I'm not aware of any other studies that
20 similarly find an increase in violent crime.

21 Q Your study cites no study specifically addressing
22 open carry issues; correct?

23 MR. EISENBERG: Vague and ambiguous as to which
24 study you're referring to.

25 BY MR. BRADY:

1 Q So the study, DAW, Exhibit B to the report,
2 Exhibit 10 to this deposition, your June study that we've
3 been talking about this entire time, in there do you cite
4 any studies specifically dealing with open carry
5 statistics?

6 A Yeah, I was not -- I was not aware of any such
7 studies.

8 Q So you did not consult any study specifically
9 addressing open carry in preparing your study; correct?

10 A Yeah, I didn't have any -- any study available.

11 Q And your study, I think we already got this, but
12 I don't recall if it's on record, has it been published
13 yet?

14 A No, it has not been published yet.

15 Q Has it been submitted for publication?

16 A It has been.

17 Q Can you disclose to where it's been submitted?

18 A Umm -- you know, that's a good question. I don't
19 know if I'm supposed to say that or not, but I think it's
20 fair --

21 Q I -- how about this. I won't force you to get in
22 trouble with your -- the people who are doing that.

23 Can you describe what type -- is it a journal of
24 some sort?

25 A Yeah, it's a very, very eminent journal.

1 Q Is it -- can you just say whether it's an
2 economics journal, law review journal, statistics journal?

3 A Yeah, economics.

4 Q Okay.

5 Can you hand the court reporter the article from
6 the L.A. Times and we'll mark that as -- what are we at,
7 16?

8 THE REPORTER: I thought 14.

9 THE WITNESS: So the next one is 15.

10 MR. BRADY: Okay. That's right. I'm sorry,
11 you're right.

12 MR. EISENBERG: This is the Pat Morrison article?

13 MR. BRADY: Correct.

14 Q So do you recognize this article, Professor
15 Donohue?

16 A I do.

17 THE REPORTER: Could I have just a moment to put
18 the sticker on, Counsel?

19 MR. BRADY: Of course.

20 (Exhibit 15 marked)

21 Q So let's start with -- on the -- I think it is --
22 of the handout it's page 1, 2, 3, 4, 5. Page 5.

23 The question from the interviewer -- well, I
24 guess it starts on page 4.

25 But so he says: "The saying that the NRA

1 armed citizen will."

2 A Yeah, I think the best evidence on that is the
3 FBI report because they were -- they were looking in
4 detail at the 160 active shooter incidents over that
5 period 2000 to 2013.

6 While the document that you showed me was going
7 back, you know, many, many years and was not capturing all
8 of the cases where unarmed citizens stopped mass
9 shootings.

10 Q I'm trying to locate where in this thing you
11 say -- I have this written down -- I apologize -- to read
12 this statement and see -- I think you already alluded to
13 this so I don't think you'll dispute its accuracy.

14 But I believe you said: "So the one thing we
15 know is that permit holders do an amazingly" -- amazing --
16 I think it's "amazing effective job of arming criminals
17 with their lost and stolen guns."

18 Is that your -- are those your words?

19 A Yes.

20 Q So do you have any studies showing the number of
21 gun thefts in right-to-carry states increasing --

22 A Umm --

23 Q -- following the adoption of a right-to-carry
24 law?

25 A There's a very good study done by Hemingway,

1 Azrael, and Miller that looks at what are the factors that
2 lead to guns being lost and stolen. And one of the
3 important factors was, you know, do you have a permit to
4 carry a gun.

5 Q And that helped determine whether the amount of
6 thefts in right-to-carry states were increased?

7 A Yes, that was the conclusion and police have made
8 this very emphatic that as soon as you start carrying a
9 gun in a car and leaving a gun in a car, you are going to
10 be arming the criminals because they know where the guns
11 are.

12 And there was just recently a case where someone
13 broke into, you know, a large number of guns -- I believe
14 it was in Georgia -- a large number of cars, and in a very
15 high percentage of the cars found guns that were then
16 stolen.

17 Q On that note, you also say -- and let me, I'll --
18 if you want I can give you the page.

19 It's the page after the one we were previously
20 talking about, starting with paragraph, "But," it says:
21 "But there are also so many other ways in which carrying
22 concealed handguns creates problems. One huge way is that
23 guns are much more likely to be stolen when you're taking
24 them around town and walking around. We've seen this
25 quite a bit in California over the last couple of years.

1 "A number of incidents in San Francisco got a lot
2 of headlines when somebody left their gun in their car, a
3 permit holder, and somebody breaks into the car and steals
4 the gun and within a day or so, or even a number of hours,
5 murders someone on the street."

6 Can you cite a single example of a California --
7 California permit holder whose firearm was stolen from
8 their car?

9 A I mean, I can't give you any names but there are
10 prominent murders in San Francisco and Marin that involved
11 that exact pattern.

12 Q Are you referring to the young lady who was
13 murdered on the San Francisco pier?

14 A That was one person, but there were others as
15 well.

16 Q Your quote is: "When somebody left their gun in
17 a car, a permit holder..." So is it your understanding
18 that the person who left the gun in the car in San
19 Francisco that was used to murder I believe her name was
20 Kate Steinle, was a permit holder?

21 A Yes, that person did have a permit to carry a
22 gun.

23 Q Wasn't that person a federal peace officer?

24 A Right, but would have a permit to carry a gun.

25 Q Why would a federal peace officer need a permit

1 to carry a gun?

2 MR. EISENBERG: Objection; argumentative.

3 BY MR. BRADY:

4 Q Is it your understanding of California law that a
5 federal peace officer needs a permit to carry a firearm?

6 MR. EISENBERG: Objection; vague and ambiguous as
7 to "permit."

8 BY MR. BRADY:

9 Q A concealed -- C.C.W. permit holder the type of
10 permit you're referring to in this article?

11 MR. EISENBERG: Objection; mischaracterizes the
12 content of article.

13 A Yeah, this statement is accurate. It just said
14 that they had permission to carry a gun which means that
15 they had permission to carry a gun. So this was not a
16 criminal, this was someone with a lawful right-to-carry.

17 And if you remember the subsequent crime where a
18 couple of people in Golden Gate Park stole the gun, and
19 was used for a subsequent murder, we had the same
20 situation yet again.

21 BY MR. BRADY:

22 Q And do you know whether that person was a
23 concealed weapon permit holder?

24 MR. EISENBERG: Objection; vague and ambiguous as
25 to "person."

1 know who was killed with those weapons.

2 But we certainly know, even Sean Penn has
3 acknowledged that he lost two guns when his car was stolen
4 in Berkeley.

5 Q And you also say that they get stolen when people
6 are walking around. Do you have any examples of people
7 having had firearms stolen while lawfully walking around
8 with them in California?

9 A Let's see what I said here.

10 Yeah, so I said: "One huge way is guns are much
11 more likely to be stolen when you're taking them around
12 town and walking around."

13 And so what I meant by that is if you're carrying
14 a gun outside your home, it's much more likely to be
15 stolen. So when you're walking around and put it down as
16 I often do with my cell phone, it's much more susceptible
17 to be stolen than if you're keeping it in your home.

18 And so if you look at cell phone thefts and gun
19 thefts, they're both higher outside the home than they are
20 inside the home.

21 Q Have you seen any reports of an individual
22 setting their firearm down in public and it being stolen?

23 A There -- there have been many reports of that.
24 Many, many, reports.

25 Q Can you recollect one?

1 A You know, I don't catalogue all of the news
2 stories, but I could certainly find you many news stories
3 of people who have left their guns somewhere and had them
4 taken or simply lost them.

5 I was reading an article I think just last week
6 where the police found a gun in a park that was left
7 behind, so this is -- this is a very common occurrence and
8 one of the ways in which gun carrying contributes to
9 increases in violent crime.

10 Q You didn't cite any studies or reports of that in
11 your study or report; correct?

12 A Well, I just mentioned the Hemingway, et. al.
13 study that said one of the significant factors in
14 explaining the large number of guns stolen in the United
15 States is the fact that the person whose gun was stolen
16 had the right-to-carry that gun around. That made it more
17 likely that their gun would be stolen. And so that is a
18 very credible statistical support.

19 On top of that we have many anecdotal studies or
20 anecdotal stories about the theft of guns by permit
21 holders in California and elsewhere.

22 Q And did that Hemingway study have any examples of
23 people leaving their firearms behind in a public place?

24 MR. EISENBERG: Objection; noting that the
25 Hemingway study is not present at the deposition.

1 THE WITNESS: Yeah, the Hemingway study --

2 MR. BRADY: The deponent just mentioned the study
3 as an example of the stolen firearm issue in public.

4 MR. EISENBERG: I agree with that statement, but
5 my objection stands.

6 A Yeah, the Hemingway study was identifying what
7 were the factors that contributed to the likelihood that a
8 gun would be stolen, and one of those statistically
9 significant factors was that you had a permit to carry the
10 gun.

11 And therefore, that suggests to me that when you
12 start taking your gun outside your home, you're elevating
13 the likelihood of theft which is what almost every police
14 chief will tell you.

15 BY MR. BRADY:

16 Q Okay. Moving on.

17 You say in the -- in the article, in the
18 interview: "And the right-to-carry states hired a lot
19 more police after they adopted these laws."

20 I assume you're talking about right-to-carry laws
21 in other states?

22 A Yes.

23 Q Is that your statement?

24 A Yes.

25 Q What do you base that on?

1 toward the bottom, you see that there are a couple papers
2 by Gary Kleck that are referenced.

3 A Yes.

4 Q So does that -- you believe that this Journal of
5 Economic Literature did consider the opinions and the
6 research of Professor Kleck when making its conclusions?

7 A Yes, it did.

8 Q All right. Then I'll also turn you back one page
9 to 43, and there are four papers listed there by John
10 J. Donohue.

11 That's you and those are your papers; correct?

12 A Yes, indeed.

13 Q And so you understand that your research was
14 considered and your opinion was considered in this
15 literature review?

16 A Yes, that's correct.

17 Q I'd like to switch topics to the concept of
18 synthetic controls as an analytical tool used by
19 statisticians and economists.

20 A Okay.

21 Q Are you aware that Professor Kleck in his
22 deposition suggested that synthetic controlled analysis is
23 not well enough established to be used with confidence
24 among economists and statisticians?

25 A That was my understanding.

1 MR. BRADY: Objection; misstates testimony.

2 BY MR. EISENBERG:

3 Q Do you have an opinion about whether synthetic
4 control analysis is generally accepted by academic
5 economists doing research on long public policy?

6 A It certainly has been widely accepted by
7 empirical researchers trying to estimate the effect of law
8 or policy treatments.

9 Q And has it been used in academic papers?

10 A Yes, a very large and growing number of papers
11 rely on the synthetic controls methodology.

12 Q Okay.

13 MR. EISENBERG: So I'd like to mark as Exhibit 18
14 the Athey and Imbens article, State of Applied
15 Econometrics.

16 THE WITNESS: Okay.

17 (Reporter clarification)

18 (Exhibit 18 marked)

19 BY MR. EISENBERG:

20 Q Have you had seen this paper before?

21 A I have.

22 Q Have you heard of either of the authors of these
23 papers -- of this paper before?

24 A Yes, I actually know both of these authors.
25 They're very top-flight economists and econometricians.

1 Q So Professor Athey, I understand, has won the
2 John Bates Clark Medal.

3 Is that your understanding?

4 A Yes, I think she was the first female winner of
5 the John Bates Clark Medal which is often referred to as
6 sort of the junior Nobel prize in economics.

7 Q Right. That's what I was going to ask you, is if
8 there's significance in your field that's somebody would
9 win this award.

10 In other words, what is it an indication of?

11 A It's usually given to the absolute most elite
12 professors, two of my coauthors have -- have won it. It
13 can only be given to people before age 40.

14 But one of my coauthors who won it won the Nobel
15 prize, and I wouldn't be surprised if my other coauthor
16 who won it, does go on to win the Nobel prize.

17 Q And then the other -- the other author is
18 Professor Imbens, do you know where he's a professor --
19 strike that.

20 It says here he's a professor at Stanford GSB.
21 You can confirm that?

22 A Yeah, he was at Harvard for a number of years and
23 moved to Stanford a few years ago.

24 Q Would he be considered an expert in econometrics?

25 A He is one of the most elite econometricians

1 today.

2 Q All right, let -- I'm going to turn you to page 9
3 of the report, or of the paper, rather.

4 And I'll read this sentence into the record:

5 "This synthetic control approach developed by Abadie,
6 Diamond, and Hainmueller, 2010-2014, and Abadie and
7 Gardeazabal, 2003, is arguably the most important
8 innovation in the policy evaluation literature in the last
9 15 years."

10 Do you see that statement?

11 A Yes.

12 Q Do you believe that that is a generally held
13 opinion among academic economists as to the importance of
14 synthetic control approach?

15 MR. BRADY: Objection; lacks foundation; calls
16 for speculation.

17 A I think among, you know, elite applied
18 researchers, this is the generally accepted view.

19 BY MR. EISENBERG:

20 Q So as to the view of Professor Kleck, it's unwise
21 to use this approach until there are more -- there's more
22 verification of its pros and cons.

23 Do you agree with that statement?

24 MR. BRADY: Objection; misstates testimony.

25 A I would not agree with that statement.

1 A Yes, I'm generally aware of his critique of
2 county-level crime data.

3 Q Do you believe there is any merit to the
4 critique?

5 MR. BRADY: Objection; misstates testimony; calls
6 for speculation; lacks foundation.

7 A I do agree with him that there are problems with
8 county-level crime data.

9 BY MR. EISENBERG:

10 Q Are you aware that Professor Kleck has also made
11 critiques of data about aggravated assaults?

12 MR. BRADY: Objection; calls for speculation and
13 misstates testimony; vague and ambiguous.

14 A Yes, it is my understanding of his report that he
15 is critical of the data on aggravated assault.

16 BY MR. EISENBERG:

17 Q Do you believe that aggravated assault data as
18 compiled by the FBI in Uniform Crime Reports is not
19 appropriate for academic analysis?

20 A No, I do not agree with that.

21 Q Do you believe that that data is appropriate for
22 academic analysis?

23 A Yes, and all of those studies that were referred
24 to by the Council of Economic Advisors, and the paper by
25 Justin McCrary and his coauthor, relied on that Uniform

1 likely for individual states than for the nation as a
2 whole.

3 Q In this aggregated data is data for aggravated
4 assaults more fluctuating than the data for the other
5 individual crimes?

6 MR. BRADY: Objection; calls for speculation;
7 vague, ambiguous as to "flexible."

8 A I mean, in general, the -- the larger the crime
9 category, the less volatile you would expect that crime
10 category to be.

11 And since aggravated assault is, for example,
12 more common than murder, you would expect aggravated
13 assault to be a less volatile series than the time series
14 for murder.

15 Q Is that, in fact, true?

16 A Yes.

17 Q Let me ask you about the third column from the
18 left, which is: Violent Crime.

19 If you'll see there's a footnote right there in
20 the header for the column. And if you turn to the second
21 page you see -- the second page at least of my printout,
22 you see what that footnote says and it says: The violent
23 crime figures include the offenses of murder, rape, legacy
24 definition, robbery and aggravated assault.

25 A Yep.

1 Q Is it your understanding that the FBI has this
2 category of violent crime that includes murder, rape,
3 robbery, and aggravated assault?

4 A Yes, it does.

5 Q So when you did your study with some aggregated
6 crimes you were using the FBI definition of violent crime
7 other than the fact that you separated out murder; is that
8 right?

9 MR. BRADY: Objection; lacks foundation.

10 A Yes, I did the analysis in a number of different
11 ways.

12 So if you look at the first column of my analysis
13 I would typically show in the panel data the murder rate,
14 the second column the count of murders, and the third
15 column would be violent crime which would include all of
16 the crime that the FBI considers to be in the violent
17 crime category.

18 BY MR. EISENBERG:

19 Q Are you aware that Professor Kleck accused you of
20 putting rape, robbery, and aggravated assault together in
21 order to obscure the weakness of your results?

22 MR. BRADY: Objection; misstates testimony;
23 argumentative; lacks foundation; calls for speculation.

24 A I was aware of that general claim.

25 BY MR. EISENBERG:

1 Q Did you, in fact, aggregate those crime
2 categories to obscure the weaknesses in your results?

3 MR. BRADY: Objection; compound question.

4 A No, I mean, I -- I followed a very
5 well-established tradition of looking at violent crime
6 rates.

7 But there was also a very particular benefit in
8 the synthetic controls analysis because the conclusion
9 across every set of explanatory variables that I looked
10 at, and those were the ones that we'd been speaking of, my
11 set of explanatory variables -- the Brennan Center, the
12 Lott and Mustard, as well as the Marvell and Moody set of
13 explanatory variables, all gave robust and strongly
14 significant findings that the adoption of a right-to-carry
15 law would lead to increases in violent crime.

16 And that finding was the single most robust and
17 consistent finding in all of my analysis. And so it was
18 therefore very helpful to be able to show a very strongly
19 robust finding in a literature that has often been
20 somewhat frustrating to researchers because the results
21 were more variable than a researcher would ordinarily
22 like.

23 BY MR. EISENBERG:

24 Q And you did a 2014 paper on roughly the same
25 topic as your new paper; correct?

1 A That's correct.

2 Q And at least one of the coauthors there is also a
3 coauthor on the current paper; correct?

4 A That's right.

5 Q And in the 2014 paper you broke out the data for
6 aggravated assaults separately from other violent crime
7 categories; correct?

8 A That's correct.

9 Q What were -- what were your findings as to the
10 effect of right-to-carry laws on aggravated assault rates
11 per your 2014 paper?

12 A That paper using the panel data analysis and the
13 models that we were employing found that aggravated was
14 elevated when right-to-carry laws were adopted.

15 Q And since you submitted your expert report in
16 this case, in the Flannigan case on June 1st, you've
17 done -- you've rerun some of your regression analyses
18 breaking out aggravated assault from the category violent
19 crime; correct?

20 MR. BRADY: Objection; assumes facts not in
21 evidence; lacks foundation.

22 Go ahead.

23 A Yeah, as I testified in my first day of
24 deposition, I did respond, in my own mind at least, to the
25 criticisms that Professor Kleck had made by looking at the

1 individual violent crime categories using the synthetic
2 controls approach.

3 BY MR. EISENBERG:


4 Q And again, could you state generally what the
5 results were for the aggravated assault data in your new
6 paper?

7 MR. BRADY: Objection; vague and ambiguous as to
8 "new paper."

9 MR. EISENBERG: You are absolutely correct. Let
10 me withdraw the question.

11 Q Can you state what the results were for the rerun
12 analyses that you did for aggravated assault data after
13 the May 23rd posting of your paper?

14 MR. BRADY: Objection; assume facts not in
15 evidence; lacks foundation.

16 A Yes. The synthetic controls estimates,
17 regardless of the particular set of explanatory variables
18 that was used, showed a highly statistically significant
19 impact on aggravated assault rising when right-to-carry
20 laws were about to... 

21 BY MR. EISENBERG:

22 Q All right. I'm going to refer you to a document
23 that I believe you have, but I'm not 100% certain if you
24 have it with you. It's the Kovandzic paper that we have
25 been talking about.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA -- WESTERN DIVISION

FLANAGAN vs. BECERRA

DEPOSITION ERRATA SHEET

DEPOSITION OF JOHN J. DONOHUE, Volume II , August 8, 2017

I use the page numbers that continue the pagination from the first volume of my deposition (which pagination differs from the page count in the second volume). I begin with a list of page and line numbers where the transcript mis-spells my last name as “Donahue” (when it should be “Donohue”):

- Page 237, line 10
- Page 239, line 16
- Page 239, line 22
- Page 240, line 17
- Page 241, line 14
- Page 242, line 18
- Page 246, line 7
- Page 369, line 12

Also:

P. 242 (error in transcription or misspoken word)

Change:

09:45AM 9 I can't do it here because I'm not with the court

To:

09:45AM 9 I can't do it here because I'm here with the court

P. 270 (error in transcription or misspoken word)

Change:

10:58AM 21 introductions and appropriate set of explanatory variables

To:

10:58AM 21 introducing an appropriate set of explanatory variables

P. 271 (erroneous recollection of numerical figure)

Change:

11:00AM 9 adoption. About 11% of that remained after we controlled

To:

11:00AM 9 adoption. About half of that remained after we controlled

P. 274 (error in transcription or misspoken word)

Change:

11:07AM 4 was collected from between 2002 and 2014 only; correct?

To:

11:07AM 4 was collected from between 2000 and 2014 only; correct?

P. 288 (erroneous grammar in transcription)

Change:

11:35AM 4 determine based on the synthetic control's protocol that

To:

11:35AM 4 determine based on the synthetic controls protocol that

P. 290 (error in transcription or inadvertently omitted word)

Change:

11:39AM 6 So I remember when we were talking about panel

To:

11:39AM 6 So remember when we were talking about panel

P. 293 (error in transcription or misspoken word)

Change:

11:45AM 9 present right-to-carry trends for violent crime were not

To:

11:45AM 9 pre-right-to-carry trends for violent crime were not

P. 293 (error in transcription or misspoken word)

Change:

11:45AM 18 present right-to-carry similarity that the -- that the

To:

11:45AM 18 pre-right-to-carry similarity that the -- that the

P. 294 (error in transcription or misspoken word)

Change:

11:48AM 23 is it -- how is it implicating your estimates based on how

To:

11:48AM 23 is it -- how is it influencing your estimates based on how

P. 298 (error in transcription or misspoken word)

Change:

11:54AM 21 they sort of mimic the growth and right-to-carry permits

To:

11:54AM 21 they sort of mimic the growth in right-to-carry permits

P. 301 (error in transcription or misspoken word)

Change:

11:59AM 11 professor at Harvard who was the initiatory of the

To:

11:59AM 11 professor at Harvard who was the initiator of the

P. 308 (error in transcription or misspoken word)

Change:

12:14PM 13 non-gun crime as more or greater than the stimulus to gun

To:

12:14PM 13 non-gun crime as much or more than the stimulus to gun

P. 313 (error in transcription or speaking unnecessary word)

Change:

12:24PM 17 said our model estimated over two -- 1999 to 2010 shows

To:

12:24PM 17 said our model estimated over 1999 to 2010 shows

Also p. 313 (error in transcription or misspoken word)

Change:

12:24PM 23 held up as like the best of the right-to-carry papers, and

To:

12:24PM 23 held up as likely the best of the right-to-carry papers, and

P. 332 (error in transcription or misspoken word)

Change:

12:55PM 2 inattentive to NRA members as -- are much less tentative

To:

12:55PM 2 inattentive to NRA members as -- are much less attentive

P. 340 (error in transcription or misspoken word)

Change:

01:17PM 22 deposition suggested that synthetic controlled analysis is

To:

01:17PM 22 deposition suggested that synthetic controls analysis is

P. 351 (misspelling)

Change:

01:34PM 16 this case, in the Flannigan case on June 1st, you've

To:

01:34PM 16 this case, in the Flanagan case on June 1st, you've

P. 352 (error in transcription or misspoken word)

Change:

01:36PM 20 laws were about to

To:

01:36PM 20 laws were adopted

P. 358 (error in transcription or misspoken word)

Change:

01:46PM 24 mechanism form compiling the data,

To:

01:46PM 24 mechanism for compiling the data,

DECLARATION UNDER PENALTY OF PERJURY

2 ASSIGNMENT NO. J0614175
3 FLANAGAN vs CALIFORNIA ATTORNEY GENERAL XAVIER BECERRA
4
5

6 I declare under penalty of perjury that I have read
7 the entire transcript of my deposition taken in the
8 captioned matter or the same has been read to me, and the
9 same is true and accurate, save and except for changes
10 and/or corrections, if any, as indicated by me on the
11 DEPOSITION ERRATA SHEET hereof, with the understanding
12 that I offer these changes as if still under oath.

Signed on the 24 day of August, 2017.



JOHN J. DONOHUE III

EXHIBIT 6

KIM RANEY
FLANAGAN vs CA ATTORNEY GENERAL

July 27, 2017

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IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

MICHELLE FLANAGAN, SAMUEL
GOLDEN, DOMINIC NARDONE,
JACOB PERKIO, and THE
CALIFORNIA RIFLE & PISTOL
ASSOCIATION,

Plaintiffs,

vs.

CASE NO.
2:16-cv-06164-JAK-AS

CALIFORNIA ATTORNEY GENERAL
XAVIER BECERRA, in her
official capacity as Attorney
General of the State of
California, SHERIFF JAMES
McDONNELL, in his official
capacity as Sheriff of
Los Angeles County, California,
and DOES 1-10,

Defendants.

~~~~~

DEPOSITION OF KIM RANEY

July 27, 2017 - 10:44 a.m.

300 South Spring Street  
Los Angeles, California

Dawn Schetne, CSR No. 5140



APPEARANCES OF COUNSEL

For the Plaintiffs:

MICHEL & ASSOCIATES, P.C.  
SEAN A. BRADY, ESQ.  
180 East Ocean Boulevard, Suite 200  
Long Beach, California 90802  
562.216.4464  
562.216.4445 Fax  
sbrady@michellawyers.com

For the Defendant Attorney General of the State of  
California:

STATE OF CALIFORNIA  
DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL  
P. PATTY LI, DEPUTY ATTORNEY GENERAL  
455 Golden Gate Avenue, Suite 11000  
San Francisco, California 94102-7004  
415.703.1577  
415.703.1234 Fax  
patty.li@doj.ca.gov

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DEPOSITION OF KIM RANEY

July 27, 2017

KIM RANEY,

having been first duly sworn, testifies as follows:

EXAMINATION

BY MR. BRADY:

Q. Good morning. My name is Sean Brady. I am  
counsel for the plaintiffs in the matter of Flanagan v  
Becerra.

Can you state your name for the record, please.

A. Kim, K-i-m, Raney, R-a-n-e-y.

Q. May I call you Chief Raney?

A. Chief, Kim is fine. I'm retired.

Q. Okay. I'd like to mark as Exhibit 1.

(Exhibit 1 was marked.)

THE WITNESS: Thank you.

BY MR. BRADY:

Q. Have you seen this document before?

A. I have.

Q. I'm sorry. You have?

A. I believe I have.

Q. And it is a deposition notice with your name on  
it asking that you appear today at this location at  
9:00 A.M., although we agreed to 10:30 start time. Is

1 that your understanding of why you're here today?

2 A. Yes, sir.

3 Q. Have you ever been deposed before?

4 A. Yes.

5 Q. As an expert or as a layman or police chief?

6 A. As a defendant.

7 Q. So never as an expert?

8 A. No.

9 Q. How many times have you been deposed?

10 A. Five to 10.

11 Q. Okay. So you are somewhat familiar with the  
12 process?

13 A. Yes.

14 Q. Okay. I'd still like to go through just a few  
15 of the basic ground rules just so we're all clear, and  
16 it will make things go smoother.

17 Obviously you just took an oath, which means  
18 that this is the same as testimony you would give in a  
19 court. Not telling the truth is subject to penalty of  
20 perjury. I'm not suggesting you would. I'm just  
21 reminding you. Do you understand that?

22 A. Yes.

23 Q. So far you are doing great giving audible  
24 answers. No head shaking, no uh-huhs. It's much easier  
25 to say yes, no, and give audible answers for the court

1 defendant's counsel provided it to you?

2 A. No.

3 Q. Did you consider it in preparing your report?

4 A. I considered it, I think, more just for the  
5 atmosphere and the environment that the police chief had  
6 to deal with, kind of in a global perspective.

7 Q. So did you rely on it in reaching any of your  
8 conclusions about open carry?

9 A. Not so much relied on it. I think it confirmed  
10 my concerns about open carry, and I think I use an  
11 excerpt from the LA Times from Chief Brown.

12 Q. How do you think that this article confirms  
13 your views?

14 A. Just in the situation that's fluid where you  
15 have an active shooter in a community, you have a law  
16 enforcement response, and within the confines of that  
17 response you have an open-carry environment. I think it  
18 makes it exceedingly difficult and dangerous for the  
19 responding officers as they go into a situation like  
20 that to try to determine who's the good guy and who's  
21 the bad guy. I think that just throws another layer of  
22 complexity into an already really difficult situation.

23 Q. Did you read the entire article?

24 A. This one, yes.

25 Q. So you understand that this case involved

1 behavior of the individuals, assessing them as not being  
2 a lethal threat; would that be accurate?

3 MS. LI: Objection. Misstates testimony.

4 THE WITNESS: Yeah, I don't agree with how you  
5 phrased the question. I think it deals with a mature  
6 police officer going into a situation, a high-stress,  
7 life-threatening situation, and unfortunately being  
8 diverted to have to deal with this subissue and yet  
9 still show the restraint where the outcome didn't  
10 include deadly force.

11 BY MR. BRADY:

12 Q. And why do you think he or she or they showed  
13 restraint?

14 A. I'd have to make an assumption, which I don't  
15 like to do, but hopefully it was the compliance of the  
16 people with the long rifles who didn't exacerbate the  
17 situation and followed commands so that it could  
18 deescalate.

19 Q. Would it be fair to say that the officers who  
20 engaged these individuals were able to establish that  
21 they were not a lethal threat before having to make a  
22 decision to use their own firearm?

23 MS. LI: Objection.

24 THE WITNESS: I think the unfortunate part is  
25 that the officers were diverted from the true crisis to

1 have to deal with this subissue. Now in the context of

2 dealing with that subissue, the outcome was a positive  
3 outcome rather than a deadly outcome.

4 BY MR. BRADY:

5 Q. And why do you think that is?

6 A. It could be good fortune, good luck, good  
7 circumstances, compliance by the demonstrators,  
8 restraint by the officers. There's a myriad of factors  
9 that probably created a perfect storm where everybody  
10 went home safe on that subissue.

11 Q. And an aspect of that storm, would it be  
12 reasonable to conclude that one of the contributing  
13 factors to everybody going home safe there was the  
14 officer's ability to assess a nonlethal threat versus a  
15 lethal threat?

16 MS. LI: Objection.

17 THE WITNESS: I think that's one of the  
18 factors.

19 BY MR. BRADY:

20 Q. Before we leave this article, you indicated  
21 that you read the whole thing. Somebody by the name of  
22 C.J. Grisham was interviewed and indicated that  
23 there are videos online, and his interpretation of  
24 those videos is, "You can see that police are walking  
25 right past people who are open carrying rifles, and it's

1           If you read the caution portion below -- I'll  
2 give you a minute to skim that.

3           A.   Okay.

4           Q.   Do you agree with its message?

5           A.   I do.

6           Q.   Why is that?

7           A.   Just because of the fact that -- again, you're  
8 in a situation where if someone is carrying a firearm,  
9 you know, you don't know whether it's loaded or  
10 unloaded, unless you have the ability to see, say, the  
11 magazine is out or the breech is open, or if it's a  
12 semi-auto, it's in an open position, or if it's a  
13 revolver, the cylinder is open. Most people aren't  
14 going to carry a handgun that way.

15           You're in a situation where it's dangerous for  
16 both the responding police officer and the person who is  
17 openly carrying, and the officer is in a purely reactive  
18 position. If that person complies and is, you know,  
19 cooperative and law abiding, you know, that's fine. But  
20 if the person doesn't follow instructions or there's a  
21 sudden movement or the person has less than honorable  
22 intentions, the reaction time is going to be so fast.  
23 Number one, the officer is going to get injured, or if  
24 the person doesn't exactly follow the explicit  
25 instructions, which seems to be growing in today's

1 society because of videotape and just the atmosphere out  
2 there right now, it has the potential to be a deadly  
3 outcome, and that's just a problem.

4 Q. Did you consider any other materials other than  
5 those listed in your report that the attorney general's  
6 counsel gave you in preparing your report?

7 A. I think I looked at what Chief Brown said in  
8 the LA Times. I think it was an op-ed they carried,  
9 because I had a lot of respect for the way he publicly  
10 handled the situation. No.

11 Q. Did you search for any other materials  
12 beyond --

13 A. I did, actually.

14 Q. Can you describe what those materials were?

15 A. One of the things I wanted to take a look at,  
16 if I can find out, is how POST and how the State of  
17 California are training police officers to deal with  
18 firearms. You know, what's the latest academy training,  
19 what are they teaching in the academy.

20 Q. Before you proceed, and I apologize, can you  
21 explain what POST is for the record?

22 A. POST is the Peace Officer Standards and  
23 Training for the state of California, and they are  
24 basically the certification branch for the state that  
25 certifies the police officers, provides certificates for



1 service on law enforcement and crime rates are slowly  
2 increasing. It might have plateaued a little bit in  
3 some jurisdictions this year, but demands on law  
4 enforcement are increasing. It's complicated also by  
5 the mental health situation where law enforcement  
6 resources are being diverted to the mental health  
7 situation.

8 What I'm saying is that in the environment that  
9 exists in California today, law enforcement resources  
10 are critical, and if there were an environment where  
11 open carry was allowed and we had citizens who are  
12 concerned about seeing a firearm in their community and  
13 made a phone call to the police department, then it's  
14 going to require police department response. So by  
15 eliminating that dynamic, we don't have to respond to  
16 behavior like that, and we can use our time and  
17 resources more wisely.

18 Q. Because that is not currently the case in  
19 California, aren't you speculating on what the impacts  
20 would be if open carry were allowed?

21 A. I don't think so.

22 Q. You didn't consult any studies about resources  
23 being diverted; correct? You didn't consult any  
24 reports, you didn't speak to any executive officers in  
25 jurisdictions where this is allowed, and you don't have

KIM RANEY  
FLANAGAN vs CA ATTORNEY GENERAL

July 27, 2017  
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1 Q. So it's a -- you don't think that the reactions  
2 of, say, the residents of Colorado is relevant when  
3 talking about Californians?

4 A. I think it has to be taken into consideration.

5 Q. Have you heard of any events or anecdotes where  
6 the open carry of a firearm created panic or chaos?

7 A. I think in light of what has happened,  
8 unfortunately, in a lot of high-profile, high-visibility  
9 mass shootings, that the presence of a gun automatically  
10 creates concern for those constituents, customers,  
11 whatever, residents, and they've been preconditioned by  
12 either their environment or by the media, and there  
13 would be an immediate call for law enforcement services,  
14 i.e., a movie theater, in light of what happened in  
15 California, in light of what happened in Florida.

16 I mean, I don't want to run down the litany of  
17 mass murders, but I think that's something that as law  
18 enforcement executives we have to understand. Whether  
19 we agree or not, that's the reality of the people that  
20 live in our communities. That's their concern.

21 Q. In reaching your conclusions on that point, did  
22 you research whether shootings are more common in  
23 jurisdictions where open carry is lawful?

24 A. I did not.

25 Q. So you don't know if there are more shootings

**CERTIFICATE OF SERVICE**

I hereby certify that on October 2, 2018, an electronic PDF of APPELLANTS' EXCERPTS OF RECORD, VOLUME VIII OF X was uploaded to the Court's CM/ECF system, which will automatically generate and send by electronic mail a Notice of Docket Activity to all registered attorneys participating in the case. Such notice constitutes service on those registered attorneys.

Date: October 2, 2018

**MICHEL & ASSOCIATES, P.C.**

/s/C.D. Michel

C.D. Michel

*Counsel for Plaintiffs-Appellants*

*Michelle Flanagan, et al.*