

## CODE OF LAWS,

ESTABLISHED BY THE GENERAL COURT, MAY, 1650.\*

[Recorded in Vol. II.]

[6\*] FORASMUCH as the free fruition of such Libberties, Immunities, Privileges, as Humanity, Civillity and Christianity, call for, as due to euery man in his place and proportion, without Impeachm<sup>t</sup> and infringement, hath euer beene and euer will bee the Tranquillity and Stabillity of Churches and Common wealths, and the denyall or deprivall thereof, the disturbance if not ruine of both :—

It is therefore ordered by this Courte and Authority thereof, that no mans life shall bee taken away, no mans honor or good name shall bee stained, no mans person shall be arrested, restrained, banished, dismembered nor any way punnished ; no man shall bee deprived of his wife or children, no mans goods or estate shall bee taken away from him, nor any wayes indamaged, vnder colour of Law or countenance of Authority, vnless it bee by the vertue or equity of some express Law of the Country warranting the same, established by a Generall Courte, and sufficiently published, or in case of the defect of a Law in any perticular case, by the word of God.

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\* In April, 1646, the General Court desired Mr. Ludlow "to take some paynes in drawing forth a body of lawes for the gouernment of this Commonwelth, & present them to the next Generall Courte." (p. 138, *ante*.) The request does not appear to have been immediately complied with,—at least, the work was not completed in time to be presented for the action of the Court, before May, 1647 ; it was then ordered, that when the body of laws should be perfected, as the Court had desired, Mr. Ludlow "should, besides the paying the hyer of a man, be further considered for his paynes." (p. 154.) No further mention of the progress of the work, or of its completion, occurs upon the records, until Feb. 1651, when an order of the Court, granting extra-compensation to the Secretary for "drawing out and transcribing the country orders, *concluded and established in May last*," enables us to fix the date of its adoption.

This Code, (usually cited as 'Mr. Ludlow's code,' or 'the code of 1650,') is recorded at the end of Vol. II. of the Colony Records, and separately paged. The orders subsequently passed, were, from time to time, added at the end, or occasionally inserted under the appropriate title, by the Secretary. Prefixed to the Laws is a copy of the Fundamental Orders, or Constitution of 1639, already printed, on pages 20—25 of this volume.

[7\*]

ABILITY.

It is ordered by this Courte, that all persons of [the age] of twenty one yeares and of right vnderstanding, whether excommunicated, condemned or other, [shall] haue full power and libberty to make their W[ills and] Testaments, and other lawfull alienations of their [lands] and estates, and may bee Plaintiffs in a civill case.

ACTIONS.

It is further ordered and decreed, that in all Actions brought to any Courte, the Plaintiff shall haue libberty to withdraw his Action, or to bee non suted, before the Jury haue giuen in their verdict, in w<sup>ch</sup> case hee shall allwayes pay full costs and charges to the Defendant, and may afterward renew his suite at another Courte, the former non suite being first recorded.

AGE.

It is ordered by this Court and the Authority thereof, that the Age for passing away of Lands or such kinde of Hereditaments, or for giuing of voates, verdicts or sentences in any civill Courtes or causes, shall bee twenty and one yeares, but in case of chusing of Guardians, fourteene yeares.

ARRESTS.

It is ordered and decreed by this Courte and Authority thereof, that no person shall bee arrested or imprisoned for any debt or fyne, if Law can finde any competent meanes of satisfaction otherwise from his estate ; and if not, his person may bee arrested and imprisoned, where hee shall bee kept at his owne charge, not the Plaintiffs, till satisfaction bee made, vnless the Courte that had cognisance of the cause or some Superior Courte shall otherwise determine ; provided neuertheless, that no mans person shall bee kept in prison for debt but when there appeares some estate w<sup>ch</sup> hee will not produce, to w<sup>ch</sup> end any Courte or Commissioners authorized by the Generall Courte, may administer an oath to the party or any others suspected to bee priuie in concealing his estate ; [ ] shall satisfie by service, if the Creditor require [it,] but shall not bee sould to any but of the English Nation.

[8\*]

ATTACHEMENTS.

It is ordered, sentenced and decreed, that the ordinary summons or process for the present within this Jurisdiction and vntill other

provision made to the contrary, bee a warrant fairely written, vnder some magistrate or magistrates hand or hands, mentioning the time and place of appearance, and if the said party or parties doe not appeare according to the said warrant or summons vppon Affidauit first made of the serving of the said person or persons, the Courte shall graunt an Attachement against the person or persons delinquent to arrest or apprehend the said person or persons for his or their willfull contempt; and in case no sufficient securitye or bayle bee tendred, to imprison the said party or parties, returneable the next Courte that is capeable to take cogniscance of the said buisnes in question; and vppon returne of the said Attachement, the said Courte to doe therein as according to the Lawes and orders of this Jurissdiction; and in that case also the party delinquent to beare his owne charge.

It is also ordered, that Attachements to seize vppon any mans Lands or estate bee onely graunted for, or against, such goods as are Forreigners and doe not dwell or inhabitt within this Jurissdiction; or in any case vppon credible Information it appeare that any Inhabitant that is indebted, or ingaged, goe about to conuey away his estate to defraud his Creditors, or to conuey away his person out of this Jurissdiction, so as the process of this Jurissdiction may not bee serued vppon his person; in that or any other just causes there may bee Attachement or Attachements graunted vppon the Limmitations expressed; provided that in all cases of Attachements, all or any of the Creditors haue libberty to declare vppon the said Attachement, if hee come in at the returne of the said Attachement; provided also that if any Attachement laid vppon any mans estate, vppon a pretence of a great sum, and if it bee not prooued to bee due in some neare proportion to the sum challenged, and mentioned in the Attachement, then the security giuen shall bee lyable to such damages as are susteined thereby.

It is further ordered and decreed by this Courte, that whosoever takes out an Attachement against any mans persons, goods, chattles, Lands or Hereditaments, sufficient security and caution shall bee [9\*] giuen by him to prosecute his Action in C[ourte] and to answer the defendant such Costs as shall [be awarded] him by the Courte; and in all Attachments of g[oods or] lands, legall notice shall bee giuen vnto the P[arty] or left in writing at his howse or place of vsuall [abode] if hee liue within this Jurissdiction, otherwise [his] sute shall not proceed. And it is further ordered and declared, that euery man shall haue libberty to Repleuye his Cattle or goods impounded, distreined, seized or extended, (vnless it bee

vppon execution after Judgment and in payment of Fynes,) provided in like manner hee put in good security to prosecute his Replevy and to satisfie such damage, demaunds or dues as his Adversary shall recouer against him in Lawe.

BALLAST.

It is ordered by this Courte and Authority thereof, that no Ballast shall bee taken from any shoare in any Towne within this Jurisdiction, by any person whatsoever, without Allowance vnder the hands of those men that are to order the affaires in each Towne, vppon the Penalty of six pence for euery shovell full so taken, unless such stones as they had laid there before. It is also ordered by the Authority aforesaid, that no shipp nor other vessell shall cast out any Ballast in the Channell or other place inconvenient, in any harbor within this Jurisdiction; vppon the Penalty of ten pounds.

BARRATRY.

It is ordered, decreed and by this Courte declared, that if any man bee proued and adiudged a Common Barrater, vexing others with vniust, frequent and needless sutes, it shall bee in the power of Courtes both to reiect his Cause, and to punish him for his Barratry.

BILLS.

It is ordered by the Authority of this Courte, that any Debt or Debts due vppon Bill or other speciality, Assigned to another, shall bee as good a debt and estate to the Assignee as it was to the Assigner, at the time of its Assignment, and that it shall bee lawfull for the said Assignee to sue for and recouer the said Debt due vppon Bill and so assigned, as fully as the originall Creditor might haue done; provided the said Assignment bee made vppon the backside of the Bill or Speciality, not excluding any just or cleare interest any man may haue in any Bills or Specialities made ouer to them by Letters of Attornye or otherwise.

[10\*] BOUNDS OF TOWNES AND PERTICULAR LANDS.

Forasmuch as the Bounds of Townes and of the Lands of perticular persons are carefully to bee mainteined, and not without great danger to bee remoued by any; w<sup>ch</sup> notwithstanding by deficiency and decay of markes may at vnawares bee done, whereby great jealousies of persons, trouble in Townes and incumbrances in Courtes doe often arise, w<sup>ch</sup> by due care and meanes might bee prevented;

It is therefore ordered by this Courte and Authority thereof, that euery Towne shall sett out their Bounds within twelue months after the publishing hereof, and after their Bounds are graunted ; and that when their Bounds are once sett out, once in the yeare three or more persons in the Towne, appointed by the Select men, shall appoint with the adiacent Townes to goe the bounds betwixt their said Townes and renew their markes, w<sup>ch</sup> markes shall bee a great heape of stones or a trench of six foott long and two foott broad, the most Auncient Towne, (w<sup>ch</sup> for the Riuer is determined by the Courte to bee Wethersfeild,)\* to giue notice of the time and place of meeting for this perambulation, w<sup>ch</sup> time shall bee in the first or second month, vppon paine of fīue pounds for euery Towne that shall neglect the same ; provided, that the three men appointed for perambulation shall goe in their severall quarters, by order of the select men and at the charge of the severall Townes. And it is further ordered, that if any perticular proprietor of Lands lying in Common with others shall refuse to goe by himselfe or his Assigne, the bounds betwixt his land and other mens, once a yeare, in the first or second month, being requested thereunto vppon one weekes warning, hee shall forfeit for euery day so neglecting, ten shillings, halfe to the party mooving thereto, the other halfe to the Towne. And the owners of all impropriated grounds shall bound euery perticular parcell thereof with sufficient Meare stones, and shall preserue and keepe them so vppon the former penalty.

BURGLARY AND THEFT.

Forasmuch as many persons of late yeares haue beene and are apt to bee iniurious to the goods and liues of others, notwithstanding all care and meanes to prevent and punnish the same ;

It is therefore ordered by this Courte and Authority thereof, that if any person shall committ Burglary, by breaking vp any dwelling howse, or shall robb any person in the feild or high wayes, such a person so offending shall for the first offence bee branded on the forehead with the Letter (B) : If hee shall offend in the same kind the second time, hee shall bee branded as before, and allso bee

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\* This early decision, by the General Court, of the question of priority of settlement of the River towns, seems to have been hitherto overlooked by writers on our colonial history. The clause within the parenthesis is, in the original record, interlined. As however the hand writing is that of Capt. Cullick, who ceased to be Secretary in 1658, the interlineation must have been made within a few years after the adoption of the code of 1650. The clause is retained in the first printed revision, of 1672-3, and in that of 1702 ; but is omitted in subsequent revisions.

[11\*] severely whipped; and if hee shall fall [into the same offence] the third time, hee shall bee put to death [as being incorridg]able. And if any person shall committ [such Burglary or] rob in the feilds or howse on the Lords day, beside the former punishments, hee shall for the first offence haue one of his eares cutt off, and for the second offence in the same kinde, hee shall looss his other eare in the same manner; and if hee fall into the same offence the third time, hee shall bee put to death.

2. Secondly, for the preuention of Pillfring and Theft, It is ordered by this Courte and Authority thereof, that if any person, whether Children, Servants or others, shall bee taken or knowne to Robb any orchyards or garden, that shall hurte or steale away any grafts or fruite trees, fruites, linnen, woollen, or any other goods left out in orchyards, gardens, backsides, or other place in Howse or Feilds, or shall steale any wood or other goods from the Waterside, from mens dores or yards, hee shall forfeitt treble damage to the owners thereof, and such seveere punishment as the Courte shall thinke meete.

And forasmuch as many times it so falls out that small thefts and other offences of a criminall nature are comitted, both by English and Indians, in Townes remoate from any prison or other fitt place to w<sup>ch</sup> such malefactors may bee committed till the next Courte; It is therefore hereby ordered, that any Magistrate, vppon complaint made to him, may heare and vppon due prooffe determine any such small offences of the aforesaid nature, according to the Lawes heere established, and giue warrant to the Constable of that Towne where the offender liues to leuye the same, provided the damage or fyne exceed not forty shillings; provided also it shall bee lawfull for either party to appeale to the next Courte to bee houlden in that Jurissdiction, giuing sufficient caution to prosecute the same to effect at the said Courte. And euery Magistrate shall make returne yearly to the Courte of the Jurissdiction wherin hee liueth, of what Cases he hath so ended. And also the Constable, of all such fynes as they haue receiued; And where the offender hath nothing to satisfie, such Magistrate may punish by Stocks or whipping, as the Cause shall deserue. It is also ordered that all servants or workemen imbeazling the goods of their Masters, or such as sett them on worke, shall make restitution, and bee lyable to all Lawes and Penalties as other men.

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CAPITALL LAWES.

[Of the Capital Laws, fourteen in number, the first twelve agree, word for word, with those adopted in Dec. 1642, and recorded on page [92] of Vol. I. (p. 77, ante.) It has not been thought necessary to repeat them here. The others follow :—]

[13\*] 13. If any Childe or Children aboue sixteene yeares old and of sufficient vnderstanding, shall Curse or smite theire naturall father or mother, hee or they shall bee put to death, vnless it can bee sufficiently testified that the Parents haue beene very vnchristianly negligent in the education of such Children, or so prouoake them by extreame and cruell correction that they haue beene forced therevnto to preserue themselues from death [or] maiming. Exo: xxi: 17; Levit: xx. [9]; Exo: xxi. 15.

14. If a man haue a stubborne and rebellious sonne of sufficient yeares and vnderstanding, viz: sixteene yeares of age, w<sup>h</sup> will not obey the voice of his father or the voice of his mother, and that when they haue chastened him, will not hearken vnto them, then may his Father and Mother, being his naturall parents, lay hold on him and bring him to the Magistrates assembled in Courte, and testifie vnto them that theire Sonne is stubborne and rebellious and will not obey theire voice and chastisement, but liues in sundry notorious crimes, such a Sonne shall bee put to death. Deut: xxi. 20, 21.

It is also ordered by this Courte and Authority thereof, that whatsoever Childe or Servant, within these Libberties, shall bee convicted of any Stubborne or Rebellious Carriage against their Parents [14\*] or Governours, || w<sup>h</sup> is a forerunner of the aforementioned euills, the Gouvernor or any two Magistrates haue libberty and power from this Courte to committ such person or persons to the howse of Correction, and there to remaine vnder hard labour and severe punishment so long as the Courte or the maior parte of the Magistrates shall judge meete.

And whereas frequent experience giues in sad euidence, &c.

[This provision is precisely as enacted in Dec. 1642, and follows immediately after the twelve capital laws recorded on page 78.]

CASCK AND COOPER.

It is ordered by this Courte and Authority thereof, that all Casck vsed for Tarr or other Comodities to bee put to sale, shall bee Assized as follow<sup>th</sup>, viz: euery Casck commonly called Barrills or halfe hogs-heads shall containe twenty eight gallons wine measure, and other vessells proportionable; and that fitt persons shall bee appointed from time to time, in all places needfull, to gage all such vessells or

Cascks and such as shall bee found of due Assize shall bee marked with the gagers marke and no other, who shall haue for his paines four pence for euery Tunn, and so proportionably.

And It is also ordered, that euery Cooper shall haue a distinct Brandmarke on his owne Casck, vppon paine of forfeiture of twenty shillings in either case, and so proportionably for lesser vessells.

[15\*] CATTLE, CORNEFEILDS, FENCES.

Forasmuch as complaints haue beene made [of] very euill practice of some disordered persons in the Country, who vse to take other mens Horses, sometimes vppon the Commons, sometimes out of their owne grounds, common feilds and Inclosures, and ride them at their pleasure, without a leaue or priuity of their owners:—

It is therfore ordered and enacted by the Authority of this Courte, that whosoever shall take any other mans Horse, Mare or drawing Beast, out of his Inclosure, vppon any Common, out of any common feild or elsewhere, except such bee taken damage faisant, and disposed of according to law, without leaue of the owners, and shall ride or vse the same, hee shall pay to the partyes wronged treble damages, or if the Complainant shall desire it, then to pay onely ten shillings, and such as haue not to make satisfaction shall bee punnished by whipping, imprisonment or otherwise, as by law shall bee adiudged, and any one Magistrate may heare and determine the same.

It is also further ordered, that where Lands lye Common, vnfenced, if one shall improue his Lands by fencing in seuerall, and another shall not, hee whoe shall so improue shall secure his land against other mens Cattle, and shall not compell such as joine vppon him to make any fence with him, except hee shall also improue in severall, as the other doth; and where one man shall improue before his neighbour, and so make the whole fence, if after his said neighbor shall improue also, hee shall then satisfie for halfe the others fence against him, according to the present value, and shall mainteine the same. And if either of them shall after lay open his said feilds, (w<sup>ch</sup> none shall doe without three months warning,) hee shall haue libberty to buy the devidend fence, payinge according to the present valuation to bee sett by two men, chosen by either party one. The like order shall bee [attended] where any man shall improue Land against any Towne Common, provided this order shall not extend to howse lotts not exceeding ten acres: But if in such, one shall improue, his neighbour shall [bee] compellable to make and mainteine one halfe of the fence betweene them, whether hee improue [or not.]



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[16\*] Provided allso, that no man shall bee lyable to satisfie for dammage done in any ground not sufficiently fenced, except it shall bee for dammage done by Swyne vnder a yeare old, or vnruely Cattle w<sup>ch</sup> will not bee restrained by ordinary fences, or where any man shall put his Cattle, or otherwise voluntarily tresspass vpon his neighbors ground. And if the partye damnified finde the Cattle dammage faisant, hee may impound or otherwise dispose of them. 6<sup>th</sup> Octo: (52.) *The Courte declares & explaines this order doth not reach the Lands on y<sup>e</sup> east side of the Great Riuer.*

CATTLE TO BEE MARKED.

For the preventing of differences that may arise in the owning of Cattle that bee lost or stray away,

It is ordered by this Courte, that the owners of any Cattle within this Jurisdiction shall eare marke or brand all their Cattle and Swyne that are above halfe a yeare old (except Horses,) and that they cause their severall markes to bee registred in the Towne Booke, and whatsoeuer Cattle shall bee found vnmarked after the first of July next, shall forfeitt fve shillings a head, whereof two shillings sixpence to him that discouers it, and the other to the Country.\*

COMMON FIELDS.

Whereas the condition of these seuerall plantations in these beginnings wherein wee are, is such that necessity constraines to improue much of the ground belonging to the seuerall Townes in a Common way, and it is obserued that the publike and generall good, (w<sup>ch</sup> ought to bee attended in all such improuements as are most proper to them, and may best advance the same,) receiues much prejudice through want of a prudent ordering and disposing of those seuerall Common Lands so as may best effect the same ;—

It is ordered by this Courte and Authority thereof, that each Towne shall chuse from among themselues fve able and discreet men, who by this order haue power giuen them, and are required, to take the Common Lands belonging to each of the severall Townes respectiuey into serious and sadd consideration, and after a through digesting of their owne thoughts, sett downe vnder their hands in what way the said Lands may, in their judgements, bee best improved for the common good. And whatsoeuer is so decreed and determined by the said fve men in each Towne, or any three of

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\* Enacted Feb. 5, 1644-5. p. 118.

them, concerning the way of improvem<sup>t</sup> of any such Lands, shall bee attended by all such persons that have any propriety or interest in any such Lands so judged [by the said Committee.]

[17\*] And whereas allso, much dammage hath risen not onely from the vnrvlines of some kinde of Cattle [but allso] from the weaknes and insufficiency of many fences, whence much variance and difference hath followed, w<sup>ch</sup> if not prevented for the future may bee very preiuditiall to the publike peace ;—

It is likewise therfore ordered, that the said fiue men so chosen or at least three of them shall set downe what fences shall bee made in any Common grounds, and after they are made to cause the same to bee veiwed, and to sett such fynes as they judge meete vppon any as shall neglect or not duely attend their order therein ; and where fences are made and judged sufficient by them, whatsoever dammage is done by hoggs or any other Cattle, shall bee paid by the owners of the said Cattle. And the severall Townes shall haue libberty once euery yeare to allter any three of the former fiue, and to make choyce of others in their roome. It being provided that any particular man or men, shall haue libberty to inclose any of their particular grounds, and improve them according to their owne discretion by mutuall agreement, notwithstanding this order.\* This service is committed to the Townsmen, as appears by an order of Courte, 5<sup>th</sup> of Feb<sup>r</sup>, 1650, on the other side of this booke.†

CAVEATS ENTRED.

Whereas it appears that diuers to defeate and defraude their Creditors may secretly and vnderhand make Bargaines and Contracts of their Lands, Lotts and Accomodations, by meanes whereof, when the Creditor thinks hee hath a meanes in due order of Law to declare against the said Lands, Lotts and Accomodations, and so recouer satisfaction for his debt, hee is wholly deluded and frustrated, w<sup>ch</sup> is contrary to a righteous rule that euery man should pay his debt with his estate, bee it in what it will bee, either reall or personall, this Courte taking it into consideracon doe order, sentence and decree, That if any Creditor for the future doe suspect any debtor, that hee may prooue non soluant in his personall estate, hee may repaire to the Register or Recorder of the plantation where the Lands, Lotts or Accomodacons lyes, and enter a Caveatt against

\* Enacted Feb. 14th, 1643-4. (p. 101.) with an amendment authorizing the appointment of five men, in place of seven, Feb. 5th, 1644-5. (p. 118.) † Page 214.

the Lands, Lotts and Accomodacons of the said debtor, and shall giue to the said Register or Recorder foure pence for the entry thereof: And the said Creditor or Creditors shall take out summons against the said debtor, and in due forme of Law, the next perticular Courte, either for the whole Colony or for the perticular plantation where the said Lands, Lotts or Accomodations lyes, or the next Courte ensuing, declare against the said debtors Lands, Lotts and Accomo-[18\*] dations.|| And so if the Creditor recouer, hee may enter a judgement vppon the said Lotts, Lands and Accomodations, and take out an extent against the said Land, directed to a knowne officer, whoe may take two honest and sufficient men of the neighbours, to aprize the said Lands, Lotts and Accomodations, either to bee sould outright if the debt so require, or sett a reasonable rent vppon the same vntill the debt bee paid, and deliuer the possession thereof either to the Creditor or Creditors, his or their Assigne or Assignes, or any other; and what sale or sales, lease or leases, the said officer makes, being orderly recorded, according to former order of recording of Lands, shall bee as legall and binding to all intents and purposes as though the debtor himselfe had done the same; provided that if the said debtor can then presently procure a Chapman or Tennant that can giue to the Creditor or Creditors satisfaction to his or their content, hee shall haue the first refusing thereof. Allso it is declared, that hee w<sup>th</sup> first enters Caveatts as abouesaid, and his debt being due at his entring the said Caveatt, shall bee first paid; and so euery Creditor as hee enters his Caveatt and his debt becomes due, shall bee orderly satisfied, vnless it appeare at the next Courte, the debtors Lands, Lotts and Accomodacons proue insufficient to pay all his Creditors, then euery man to haue a sutable proportion to his debt out of the same, and yet notwithstanding euery man to receiue his parte according to the entry of his Caveatt. Yet this is not to seclude any Creditor to recouer other satisfaction, either vppon the person or estate of the debtor according to Lawe and Custome of the Colony. As allso it is further decreed, that what sale or bargaine so euer the debtor shall make concerning the said Lotts, Lands and Accomodations, after the entring of the said Caveatt, shall bee voide, as to defraude the said Creditors.

It is allso further explained and declared, that if the said debtor bee knowne to bee a non solvant man before the first Caveatt entred against the said Lotts, Lands and Accomodations, and the same appeare at the next perticular Courte, then the Courte shall haue power

to call in all the Creditors in a shorte time, and sett an equall and indifferent way, how the creditors shall bee paid out of the said Lotts, Lands and Accomodations ; otherwise, if the said Debtor prooue insolvant after y<sup>e</sup> first Caveatt entred, then this order to bee dulye obserued, according to the premisses and true intent and meaning thereof.

It is also further declared and explained, that the said Recorder or Register of the said Caveatt, shall, the next perticular Courte as aforesaid, returne the said Caveatts that are with him ; at w<sup>ch</sup> time and Courte the enterers of the said Caveatts shall bee called forth to prosecute the same the next perticular Courte following, and if the enterers of the said Caveatts faile to prosecute according to this order, the Register or Recorder of the said Caveatt or Caveatts shall putt a Vacatte vppon [the said Caveatt or Caveatts] w<sup>ch</sup> shall bee invalid or voide to [charge] the saide Lotts, Lands and Accomodations aforesaid.\*

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DISORDER IN COURTE.

It is ordered by this Courte that whosoever doth disorderly speake priuately during the sitting of the Courte, with his neighbo<sup>r</sup>, or two or three together, shall presently pay twelue pence, if the Courte so thinke meete.†

SECREETS IN COURTE.

It is ordered and decreed, that whatsoever member of the Generall Courte shall reueale any secreett w<sup>ch</sup> the Courte inioynes to bee kept secreet, or shall make knowne to any person what any one member of the Courte speakes concerneing any person or businesses that may come into agitation in the Courte, shall forfeitt for every such fault ten pounds, and bee otherwise dealt withall at the discretion of the Courte. And the Secretary is to read this order at the beginning of every Generall Courte.‡

CHILDREN.

Forasmuch as the good Education of Children is of singular behoofe and benefit to any Common wealth, and whereas many parents and masters are too indulgent and negligent of their duty in that kinde ;—

It is therfore ordered by this Courte and Authority thereof, that the Select men of every Towne, in the seuerall precincts and quar-

\* Enacted, May 25th, 1647. p. 151: † Mar. 9th, 1637-8. p. 13. ‡ Oct. 1639. p. 39.

ters where they dwell, shall haue a vigilant eye ouer their brethren and neighbours, to see first, that none of them shall suffer so much Barbarisme in any of their families as not to indeauor to teach by themselues or others their Children and Apprentices so much Learning as may inable them perfectly to read the English tounge, and knowledge of the Capitall Lawes, vppon penalty of twenty shillings for each neglect therein ; Allso, that all Masters of families doe once a weeke at least, catechise their children and servants in the grounds and principles of religion ; and if any bee vnable to doe so much, that then at the least they procure such Children or Apprentices to learne some shorte orthodox Catechisme, without booke, that they may bee able to answer to the questions that shall bee propounded to them out of such Catechismes by their parents or Masters or any of the Select men, when they shall call them to a tryall of what they haue learned in this kinde. And further, that all Parents and Masters doe breed and bring vp their Children and Apprentices in some honest lawfull [calling,] [20\*] labour or employment, either in husbandry, or some other trade profitable for themselues and the Common wealth, if they will not nor cannott traine them vp in Learning to fitt them for higher employments. And if any of the Select men, after Admonition by them giuen to such Masters of families, shall finde them still negligent of their duty in the perticulars aforementioned, wherby Children and Seruants become rude, stubborne and vnruely, the said Select men with the helpe of two Magistrates shall take such Children or Apprentices from them, and place them with some masters for yeares, boyes till they come to twenty one and girles to eghtene yeares of age compleat, w<sup>ch</sup> will more strictly looke vnto, and force them to submitt vnto gouernem', according to the rules of this order, if by faire meanes and former instructions they will not bee drawne vnto it.

CONSTABLES.

It is further ordered by the Authority aforesaid, that any person tendred to any Constable of this Jurissdiction by any Constable or other officer belonging to any Forreigne Jurissdiction in this Country, or by warrant from any such Authority, such shall presently bee receiued and conueyed forthwith from Constable to Constable, till they shall bee brought vnto the place to w<sup>ch</sup> they are sent, or before some magistrate of this Jurissdiction, whoe shall dispose of them as the Justice of the Cause shall require ; and that all Hue

and Cryes shall bee duely receiued and dilligently persued to full effect.

It is ordered by the Authority of this Courte, that euery Constable within our Jurissdiction shall henceforth haue full power to make, signe and put forth persuits or Hue and Cryes, after Murthers, Malefactors, Peacebreakers, Theeues, Robbers, Burglarers and other Capitall offenders, where no magistrate is neare hand. Also, to apprehend without warrant such as are ouertaken with drinke, swearing, Saboath breaking, slighting of the ordinances, lying, vagrant persons, night walkers, or any other that shall offend in any of these, provided they bee taken in the manner, either by sighte of the Constable or by present information from others : As also to make search for all such persons either on the Saboath day or other, when theire shall bee occasion, in all howses lycenced to sell either Beare or Wyne, or in any other suspected or disordered places, and those to apprehend and keepe in safe custody till oppertunity serues [21\*] to bring them before one of the next Magistrates || for further examination ; Provided, that when a[n]y Consta]ble is imployed by any of the Magistrates for [appre]hending of any person, hee shall not doe it [without] warrant in writing ; And if any person shall refuse to assist any Constable in the execution of his office in any of the things aforementioned, being by him required thereto, they shall pay for neglect thereof ten shillings to the use of the Country, to bee leuyed by warrant from any Magistrate before whome any such offender shall bee brought ; and if it appeare by good testimony that any shall willfully, obstinately or contemptuously refuse or neglecte to assiste any Constable, as is before expressed, hee shall pay to the vse of the Country forty shillings ; and if any Magistrate or Constable, or any other vppon vrgent occasions shall refuse to doe theire best indeauor in raising and prosecuting Hue and Cryes, by foott, and if need bee, by horse, after such as haue committed Capitall crimes, they shall forfeit to the vse aforesaid for euery such offence, forty shillings.

And it is also ordered, that the Constables in each Towne shall bee chosen from yeare to yeare before the first of March, and sworne to that office the next Courte following, or by some Magistrate or Magistrates.

CONVEYANCES FRAUDULENT.

It is ordered by this Courte and Authority thereof, that all Conventions or fraudulent Alienations or Conveyances of Lands, tenements

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or any hereditaments, shall bee of no validity to defeat any man from due debts or legacies, or from any just Title, clayme or possession of that w<sup>ch</sup> is so fraudulently conveyed, and that no conveyance, deed or promise whatsoever shall bee of validity, if it bee gotten by illegall violence, imprisonment, threatening or any kinde of forcible compulsion caled Dures.

CRUELTY.

It is ordered by this Courte and Authority thereof, that no man shall exercise any tyranny or cruelty towards any brute creatures w<sup>ch</sup> are vsually kept for the vse of man.

[22\*]

DAMMAGES PRETENDED.

It is ordered by this Courte, that no man in any Sute or Action against another shall falsely pretend great dammages or debts, to vex his Adversary ; and if it shall appeare any doth so, the Courte shall haue power to sett a reasonable fyne on his head.

DEATH VNTIMELY.

It is ordered by this Courte and Authority thereof, that whensoever any person shall come to any very sudden, vntimely or vnnaturall death, some Magistrate or the Constable of that Towne shall forthwith summon a Jury of Jury of sixe or twelue discreet men to inquire of the cause and manner of theire death, whoe shall present a true verdict thereof vnto some neare Magistrate vppon theire oath.

DELINQUENTS.

It is ordered, that all persons hereafter comitted vppon Delinquency, shall beare the charges the Country shall bee at in the prosecution of them ; And shall pay to the Ma<sup>r</sup> of the prison or Howse of Correction, two shillings six pence before hee bee freed therefrom. Vide *Execution vppon Delinquents*.

ECLESEASTICALL.

Forasmuch as the open contempt of Gods word, and messengers thereof, is the desolating sinne of Ciuill States and Churches, and that the preaching of the Word by those whome God doth send is the chiefe ordinary meanes ordained by God for the converting, edefying and sauing the soules of the elect, through the presence and power of the Holy Ghost therevnto promised ; and that the ministry of the Word is sett vp by God in his Churches for those holy

ends, and according to the respect or contempt of the same and of those whome God hath set aparte for his owne worke and imployment, the weale or woe of all Christian States it much furthered and promoated ;—

[23<sup>rd</sup>] It is therfore ordered and decreed, that if any Christian (so called,) within this Jurissdiction shall contemptuously [behave] himselfe towards the word preached or the messengers th[ereof.] called to dispence the same in any Congregation, when hee faithfully execute his seruice and office therein according to the will and word of God, either by interrupting him in his preaching, or by charging him falsely with an error w<sup>ch</sup> hee hath not taught in the open face of the Church, or like a sonne of Korah, cast vpon his true doctrine or himselfe any reproach, to the dishonor of the Lord Jesus whoe hath sent him, and to the disparagement of that his holy ordinance, and making God's wayes contemptible or ridiculous, that euery such person or persons, (whatsoever censure the Church may passe,) shall for the first scandall, bee conuented and reproved openly by the Magistrate, at some Lecture, and bound to their good behaiour: And if a second time they breake forth into the like contemptuous carriages, they shall either pay fife pounds to the publique Treasure, or stand two houres openly vpon a block or stoole foure foott high, vpon a Lecture day, with a paper fixed on his breast written with Capital Letters, AN OPEN AND OBSTINATE CONTEMNER OF GODS HOLY ORDINANCES, that others may feare and bee ashamed of breaking out into the like wickedness.

It is ordered and decreed by this Court and Authority thereof, that wheresoeuer the ministry of the word is established according to the order of the Gospell throughout this Jurissdiction, euery person shall duely resorte and attend therevnto respectiuely vpon the Lords day, and vpon such publique fast dayes and dayes of Thanksgiuing as are to bee generally kept by the appointment of Authority. And if any person within this Jurissdiction shall without just and necessary cause withdraw himselfe from hearing the publique ministry of the word, after due meanes of conviction vsed, he shall forfeit for his absence from euery such publique meeting, fife shillings: All such offences to bee heard and determined by any one Magistrate or more, from time to time.

Forasmuch as the peace and prosperity of Churches and members thereof, as well as Ciuill rights and Libberties are carefully to bee maintained,—It is ordered by this Courte and decreed, that the Ciuill Authority heere established hath power and libberty to see the peace,



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ordinances and rules of Christe bee obserued in euery Church according to his word ; as allso to deale with any Church member in a [24\*] way of Ciuill [justice] || notwithstanding any Church relation, office or interest, so it bee done in a Ciuill and not in an Ecclesiastical way : nor shall any Church censure degrade or depose any man from any Ciuill dignitie, office or authority hee shall haue in the Commonwealth.

ESCHEATS.

It is ordered by this Courte and Authority thereof, that where no heire or owner of howses, lands, tennements, goods or chattells can bee found, they shall bee seized to the publike Treasury till such heires or owners shall make due clayme therevnto, vnto whome they shall bee restored vppon just and reasonable termes.

EXECUTIONS.

Whereas by reason of the great scarcity of mony, Execution being taken of seuerall persons goods that haue bene sould at very cheape rates, to the extreame dammage of the Debtor ;

It is therefore ordered, that whatsoever Execution shall bee graunted vppon any debts made after the publishing of this order, the Creditor shall make choyce of one partye, the Debtor of a second, and the Courte of a thirde, whoe shall prise the goods so taken vppon Execution aforesaid, and deliuer them to the Creditor,

EXECUTION VPPON DELINQUENTS.

It is ordered, that the Gouverno<sup>r</sup> or any other Magistrate in this Jurisdiction shall haue libberty and power to call forth any person that hath bene publicly corrected for any misbehauio<sup>r</sup>, to doe execution vppon any person or persons by whipping or otherwise, and that at any time hereafter as occasion doth require,; and in case of defect or want of such, any other person as hee or they shall thinke meete.

FENCES.

For the preventing of differences that may arise in making or setting downe of Fences as well in meadows as vpland,—

It is ordered, that in the setting of posts and rayles or hedges in the meadow and homelotts, there shall bee a libberty for either partye of twelue inches from the dividend lyne, for breaking of the ground to sett the posts on, [or] for the laying on the hedge ; but the stakes and postes are to bee sett in the devident lyne ; and in vpland there is allowed a libberty of foure foott for a ditch from the devidend

[25\*] lyne for either of the bordering partyes where the proportion of Fences belongs vnto them.\*

F Y N E S .

It is ordered by this Courte, that the Estreits [for] the levyng of Fynes shall goe forth once euery yeare, both in the Townes on the Riuer and by [the] seaside, and that some officer in each place shall bee appointed to levye and receiue the same, [and] the Acco<sup>u</sup> to bee giuen in by the severall plantations of theire generall charge, at the Courte in September, for the perfecting of the Acco<sup>u</sup> betwixt them : Mr. Ludlow is desiered to graunt out Warrants for the Fynes by the seaside.†

F Y R E .

It is ordered by this Courte and the Authority thereof, that whosoever shall kindle any fire, in woods [or] grounds lying in common or inclosed, so as the same shall runn into such Corne grounds or Inclosures, before the tenth of the first month, or after the last of the second month, or on the last day of the weeke, or on the Lords day, shall pay all damages, and halfe so much for a fyne ; or if not able to pay, then to bee corporally punnished, by a warrant from one Magistrate or more, as the offence shall deserue, not exceeding twenty stripes for one offence ; provided, that any man may kindle fyre vppon his owne ground at any time, so as no dammage come thereby, either to the Country or to any perticular person. And whosoever shall wittingly and willingly burne or destroy any frame, timber hewne, sawne, or riuen, heapes of wood, charcoale, corne, hay, strawe, hempe, flaxe, pitch or tarr, hee shall pay double damages.

F O R G E R I E .

It is ordered by this Courte and Authority thereof, that if any person shall forge any Debt‡ or Conveyance, Testament, Bond, Bill, release, acquittance, Letter of Attorneye, or any writing to prevent equitye and justice, hee shall stand in the Pillorye three severall Lecture dayes, and render double damages to the partye wronged, and allso bee disabled to giue any evidence or verdict to any Courte or Magistrate.

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\* June 3d, 1644. (p. 105.) The accidental substitution of *on*, for *or*, was made in transcribing this order for the code of 1650, and is followed in the printed revision of 1673.

† May 25th, 1647. p. 151.

‡ Deed ?

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[26\*]

FORNICATION.

It is ordered by this Courte and Authority thereof, that if any man shall committ fornication with any single woman, they shall bee punished either by inioyning to marriage, or fyne, or corporall punishment, or all or any of these, as the Courte or Magistrates shall appoint, most agreeable to the word of God.

GAMING.

Vppon complaint of great disorder by the vse of the Game called Shuffle Board, in howses of Common Interteinment, whereby much precious time is spent vnfruitfully and much waste of Wyne and Beare occasioned,—

It is therefore ordered and enacted by the Authority of this Courte, that no person shall henceforth vse the said Game of Shuffle Board, in any such howse, nor in any other howse vused as Common for such purpose, vppon payne for euery keeper of such howse to forfeitt for euery such offence twenty shillings; and for euery person playing at the said Game in any such howse to forfeitt for euery such offence fife shillings. The like penalty shall bee for playing in any place at any vnlawfull game.

GUARDS AT MEETING.

It is ordered by this Courte, that there shall bee a Guard of twenty men, euery Saboath and Lecture day, compleat in their Armes, in each severall Towne vppon the Riuer; and at Seabrooke and Farmington, eight a peece; each Towne vppon the seaside in this Jurisdiction, ten; and as the number of men increase in the Townes, their Guards are to increase.\*

And it is further ordered, that each man in the Guards aforesaid shall bee allowed halfe a pound of powder yearly, by their seuerall Townes.†

HIGHE WAYES.

Whereas the mainteining of high wayes in a fitt posture for passage according to the severall occassions that occurre, is not onely necessary for the comfort and safety of man and beast, but tends to the proffitt and advantage of any people, in the issue,—

It is thought fitt and ordered, that each Towne within this Jurisdiction shall euery yeare chuse one or two of their inhabitants as

\* May 20th, 1647. p. 150.

† Oct. 9th, 1650. (p. 212.) This order was made subsequently to the adoption of the code, and inserted under its proper title by the Secretary.

Surveyors, to take care of, and ouersee the mending and repairing of the High wayes within their severall Townes respectiue, whoe haue hereby power allowed them to call out the severall cartes or [27\*] persons fitt for labour in each Towne, || two dayes at least in each yeare, and so many [more] as in his or their judgements shall bee found necessary for the attaining of the aforementioned end, to bee directed in their worke by the said surveyor or surveyors, and it is left to his or their libberties either to require the labour of the severall persons in any familie, or of a teame and one person, where such are, as hee finds most advantageous to the publique occasions, hee or they giuing at least three dayes notice or warning before hand of such imployment; and if any refuse or neglect to attend the service in any manner aforesaid, hee shall forfeit for euery dayes neglect of a mans worke, two shillings sixpence, and of a Teame, sixe shillings, which said fynes shall bee employed by the Surveyors to hire others to worke in the said wayes; And the Surveyors shall within foure dayes after the severall dayes appointed for worke, deliuer in to some Magistrate a true presentment of all such as haue beene defectiue, with their severall neglects, who are immediately to graunt a distresse to the Marshall or Constable, for the levying of the incurred forfeiture, by them to bee deliuered to the Surveyors for the vse aforesaid. And if the Surveyor neglect to performe the service hereby comitted to him, either in not calling out all the inhabitants in their severall proportions as before, or shall not returne the names of those that are deficient, hee shall incurr the same penaltye as those whome hee so passes by are lyable to by vertue of this order, w<sup>ch</sup> shall bee employed to the vse aforesaid, and to bee levyed allso by distress vppon information and prooffe before any one Magistrate.\*

I D L E N E S .

It is ordered by this Courte and Authority thereof, that no person, howseholder or other, shall spend his time idley or vnprofitably, vnder paine of such punnishment as the Courte shall thinke meet to inflict: and for this end, It is ordered, that the Constable of euery place shall vse speciall care and dilligence to take knowledge of offenders in this kinde, especially of common Coasters, vnprofitable fowlers, and Tobacko takers, and present the same vnto any Magistrate, who shall haue power to heare and determine the case or transferr it to the [next] Courte.

\* An order for the appointment of Surveyors of highways in the severall towns, and impowering them to call out persons and teams, was passed July 5th, 1643. (p. 91.)

[28\*]

I N D I A N S .

It is ordered and decreed, that where any company of Indians doe sitt downe neare any English plantations, that they shall declare whoe is theire Sachem or Chiefe, and that the said Cheife or Sachem shall pay to the saide English such trespases as shall be comitted by any Indian in the said plantation adioyning, either by spoyling or killing any Cattle or Swyne, either with trapps, doggs or arrowes: And they are not to pleade that it was done by strangers, vnless they can produce the partye and deliuer him or his goods into the custody of the English: And they shall pay the double dammage if it were done voluntarily.\* The like ingagement this Courte allso makes to them in case of wrong or iniurye done to them by the English, w<sup>ch</sup> shall bee paid by the partye by whome it was done, if hee can bee made to appeare, or otherwise by the Towne in whose limmits such facts are committed.

Forasmuch as o' lenity and gentlenes towards Indians hath made them growe bold and insolent, to enter into Englishmens howses, and vnadvisedly handle swords and peeeces and other instruments, many times to the hazzard of limbs or liues of English or Indians, and allso oft steale diuerse goods out of such howses where they resorte; for the preventing whereof, It is ordered, that whatsoeuer Indian shall hereafter meddle with or handle any English mans weapons, of any sorte, either in theire howses or in the feilds, they shall forfeitt for euery such default halfe a fathom of wampum; and if any hurte or iniurye shall therevpon follow to any persons life or limbe, (though accidentall,) they shall pay life for life, limbe for limbe, wound for wound, and shall pay for the healing such wounds and other dammages. And for anything they steale, they shall pay double, and suffer such further punishment as the Magistrates shall adiudge them. The Constable of any Towne may attache and arrest any Indian that shall transgress in any such kinde beforementioned; and bring them before some Magistrate, whoe may execute the penalty of this order vpon offenders in any kinde except life or limbe; and any person that doth see such defaults may [29\*] prosecute, and || shall haue halfe the forfeiture.†

It is ordered by this Courte and Authority thereof, that no man within this Jurissdiction shall, directly or indirectly, amend, repaire, or cause to bee amended or repaired, any gunn, small or great, belonging to any Indian, nor shall indeauo<sup>r</sup> the same; nor

\* Thus far, orde.ed, Apr. 5th. 1638. p. 19.

† June 11th, 1640. p. 52.

shall sell nor giue to any Indian, directly or indirectly, any such gunn, nor any gunpowder, or shott, or lead, or shott mould, or any millitary weapon or weapons, armor, or arrowe heads; nor sell nor barter nor giue any dogg or doggs, small or great; vppon paine of ten pounds fyne for euery offence, at least, in any one of the aforementioned particulars; and the Courte shall haue power to increase the fyne, or to impose corporall punnishment where a fyne cannott bee had, at theire discretion.\*

And it is allso ordered, that no person nor persons shall trade with them at or about theire wigwams, but in theire vessells or pinnaces, or at theire owne howses, vnder penalty of twenty shillings for each default.†

Whereas, It doth appeare that notwithstanding the former Lawes made against selling gunns and powder to Indians, they are yet supplied by indirect meanes, It is therefore ordered and declared, that if any person after publishing of this order shall sell, barter or transport any gunns, powder, bullitts or lead to any person inhabiting out of this Jurisdiction, without license of this Courte, or from some two Magistrates, hee shall forfeit for euery gunn ten pounds, for euery pound of gunpowder fise pounds, for euery pound of bullitts or lead forty shillings, and so proportionably for any greater or lesser quantity‡; provided notwithstanding, that [it] is left to the judgment of the Courte, that where any offence is committed against the said order, either to agravate or lessen the penalty, according as the nature of the offence shall require.

Whereas diuerse persons departe from amongst vs, and take vp theire aboade with the Indians, in a prophane course of life; for the preventing whereof,

It is ordered that whatsoever person or persons that now inhabiteth, or shall inhabitt within this Jurisdiction, and shall departe from vs and settle or joine with the Indians, that they shall suffer three yeares imprisonment at least, in the Howse of Correction, and vndergoe such further censure, by fyne or corporall punishment, as the particular Courte shall judge meete to inflict in such cases.§

[30\*] Whereas the French, Dutch and other Forraigne Nations

\* Dec. 18th, 1642.—except the clause "nor sell &c. any dogg or doggs, small or great," which was added subsequently. pp. 79, 80.

† Oct. 12th, 1643. p. 95.

‡ Dec. 18th, 1642. p. 80. The proviso was added subsequently.

§ Dec. 1642. p. 78.

doe ordinarily trade gunns, powder, shott etc. with the Indians, to o<sup>r</sup> great preiudice, and the strengthening and animating of the Indians against vs, as by dayly experience wee finde; and whereas the aforesaid French, Dutch etc. doe prohibitt all trade with the Indians within theire respectiue Jurissdictions vnder penalty of confiscation;

It is therefore hereby ordered by this Courte and Authority thereof, that after due publication hereof, it shall not bee lawfull for any Frenchmen, Dutchmen, or person of any other forraigne nation, or any English liuing amongst them or vnder the gouernmen<sup>t</sup> of them, or any of them, to trade with any Indian or Indians within the limitts of this Jurissdiction, either directly or indirectly, by themselues or others, vnder penalty of confisscation of all such goods and vessels as shall bee found so trading, or the due value thereof, vpon just prooffe made of any goods or any vessels so trading or traded: And it shall bee lawfull for any person or persons inhabiting within this Jurissdiction, to make seizure of any such goods or vessels trading with the Indians as by this law is prohibited, the one halfe whereof shall bee to the propper vse and benefitt of the partye seizing, and the other to the publike.\*

This Courte, judging it necessary that some meanes should bee vsed to conuey the lighte and knowledge of God and of his Worde to the Indians and Natiues amongst vs, doe order that one of the teaching Elders of the Churches in this Jurissdiction, with the helpe of Thomas Stanton, shall bee desired, twice at least in every yeare, to goe amongst the neighbouring Indians and indeauo<sup>r</sup> to make knowne to them the Councells of the Lord, and thereby to draw and stirr them vp to direct and order all theire wayes and conversations according to the rule of his Worde: And Mr. Gouverno<sup>r</sup> and Mr. Deputy, and the other Magistrates are desired to take care to see the thinge attended, and with theire owne presence so farr as may bee convenient, encourage the same.

This Courte hauing duly weighed the joint determination and argument of the Commissioners of the United English Colonyes at New Hauen, in Anno 1646, in reference to the Indians, and judging it to bee both according to rules of prudence and righteousness, doe fully assent therevnto, and order, that it bee recorded amongst the [31\*] Acts of this Courte, || and attended in future practice as occasions may present and require: The said conclusion is as followeth;—

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\* Passed, Sept. 18th, 1649, upon the recommendation of the Comm<sup>r</sup>s of the U. Colonies.

The Comissioners seriously considering the many willfull wrongs and hostile practices of the Indians against the English, together with their interteining, protecting and rescuing of offenders, as late our experience sheweth, (w<sup>ch</sup> if suffered, the peace of the Colonies cannot bee secured,) It is therefore concluded, that in such cases the Magistrates of any of the Jurissdictions may, at the charge of the Plaintiff, send some convenient strength of English, and according to the nature and value of the offence and damage, seize and bring away any of that plantation of Indians that shall interteine, protect or rescue the offender, though it should bee in another Jurissdiction, when through distance of place, commission or direction cannot bee had, after notice and due warning giuen them, as actors, or at least accessary to the iniurye and damage done to the English: onely women and children to bee sparingly seized, vnless knowne to bee some way guilty. And because it will bee chargeable keeping Indians in prison, and if they should escape they are like to prove more insolent and dangerous after, It was thought fitt that vpon such seizure, the delinquent or satisfaction bee againe demaunded of the Sagamore or plantation of Indians guilty or accessary as before; and if it bee denyed, that then the Magistrates of the Jurissdiction deliuer vp the Indian seized to the party or parties endammaged, either to serue or to bee shipped out and exchanged for neagers, as the case will justly beare. And though the Comissioners foresee that such severe though just proceeding may provoake the Indians to an vniust seizing of some of ours, yet they could not at present finde no better meanes to preserue the peace of the Colonies, all the aforementioned outrages and insolences tending to an open warr: Onely they thought fitt that before any such seizure bee made in any plantation of Indians, the ensuing Declaration bee published, and a Coppye giuen to the perticular Saggamores:

The Commissioners for the Vnited Colonies, considering how peace with righteousness may bee preserued betwixt all the English and the severall plantations of the Indians, thought fitt to declare and publish, as they will doe no iniurye to them, so if any Indian [32\*] or Indians of what plantation so euer, doe any willfull damage to any of the English Colonies, vpon prooffe, they will in a peaceable way require just satisfaction, according to the nature of the offence and damage. But if any Saggamore or plantation of Indians, after notice and due warninge, interteine, hyde, protect, keepe, conuey away or further the escape of any such offender or offenders, the English will require satisfaction of such Indian and



Saggamore or Indian plantation ; and if they deny it, they will right themselues as they may, vppon such as so meinteine them that doe the wrong, keeping peace and all tearmes of Amity and Agreement with all other Indians.

IN KEEPERS.

Forasmuch as there is a necessary vse of howses of Common Interteinment in euery Common wealth, and of such as retaile wine, beare and victualls, yet because there are so many abuses of that lawfull libberty, both by persons interteining and persons interteined, there is allso need of strict lawes and rules to regulate such an imployment ;

It is therefore ordered by this Courte and Authority thereof, that no person or persons licensed for Common Interteinment shall suffer any to bee drunken or drinke excessiue, viz: aboue halfe a pinte of wyne for one person at one time, or to continue tipling aboue the space of halfe an houre, or at vnseasonable times, or after nine of the clock at night, in or about any of their howses, on penalty of fve shillings for euery such offence. And euery person found drunken, viz: so that hee bee thereby bereaued or dissabled in the vse of his vnderstanding, appearing in his speech or gesture, in any of the saide howses or elsewhere, shall forfeitt ten shillings ; and for excessiue drinking, three shillings, foure pence ; and for continuuing aboue halfe an houre tipling, two shillings six pence ; and for tipling at vnseasonable times, or after nine a clock at night, fve shillings, for euery offence in these perticulars, being lawfully convicted thereof ; and for want of payment, such shall bee imprisoned vtill they pay, or bee set in the stocks, one houre or more, in some open place, as the weather will permitt, not exceeding three houres at one time : Provided notwithstanding, such licensed persons may interteine seafaring men or land trauellers in the night season when they come first on shoare, or from their journye, for their necessary [33\*] refreshment, or when they prepare for || their voyage or journeye the next day early, [if there] bee no disorder amongst them ; and allso strangers and other persons in an orderly way may continue [in] such howses of Common Interteinment during m[eal] times or vppon lawfull buisines, what time their occassions shall require.\*

And it is also ordered that if any person offend in drunkenes, ex-

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\* Some of the provisions of this section are included, in substance, in the order of May 25th, 1647.

cessiue or long drinking, the second time they shall pay double fynes: And if they fall into the same offence the third time, they shall pay treble fynes: And if the parties bee not able to pay their fynes, then hee that is found drunke shall bee punished by whipping to the number of ten stripes, and hee that offends by excessiue or long drinking, shall bee put into the stocks for three houres, when the weather may not hazzard his life or limbs; and if they offend the fourth time they shall bee imprisoned vntill they put in two sufficient sureties for their good behaiour.

And It is further ordered, that the severall Townes vpon the Riuer within this Jurisdiction, shall provide amongst themselues in each Towne, one sufficient Inhabitant to keepe an Ordinary, for provision and lodging in some comfortable manner, that passengers or strangers may know where to resorte. And such inhabitants as by the seuerall Townes shall bee chosen for the said service shall bee presented to two Magistrates, that they may bee judged meete for that employment. And this to bee effected by the severall Townes within one month, vnder the penalty of forty shillings a month for each month that either Towne shall neglect the same.\*

And It is also further ordered, that euery Inkeeper or Victualler shall prouide for interteinment of strangers horses, viz: one or more inclosures for summer, and hay or provender for winter, with convenient stable roome and attendance, vnder penalty of two shillings sixpence for euery dayes default and double dammage to the partye thereby wronged, except it bee by inevitable accident.

Lastly, It is ordered by the Authority aforesaid, that all Constables may and shall, from time to time, duely make search through-[34\*] out the limmitts of their Townes, || vpon Lord's dayes and Lecture dayes, in times of exercise, and allso at all other times so oft as they shall see cause, for all offences and offenders against this Law in any the particulars thereof: And if vpon due information or complaint of any of their Inhabitants or other credible persons, whether Tauerner, Victualler, Tabler, or other, they shall refuse to make search as aforesaid, or shall not to their power performe all other things belonging to their place or office of Constableness, then vpon complaint and due prooffe before any one Magistrate, within three months after such refusall or neglect, they shall bee fyned for euery such offence ten shillings, to bee levied by the Marshall as in other cases, by Warrant from such Magistrate before whome they

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\* June 3d, 1644. p. 103.

are convicted, or Warrant from the Treasurer vppon notice from such Magistrate.

It is ordered by this Courte and Authority thereof, that no Inkeeper, Victualer, Wine drawer, or other, shall deliuer any Wyne, nor suffer any to bee deliuered out of his howse, to any w<sup>ch</sup> come for it, vnles they bring a noate vnder the hand of some one master of some familye and allowed Inhabitant of that Towne ; neither shall any of them sell or draw any hott water to any but in case of necessitye, and in such moderation for quantity as they may haue good grounds to conceaue it may not bee abused ; and shall bee ready to giue an account of theire doings herein, when they are called thereto, vnder censure of the Courte in case of delinquency.

INDITEMENTS.

If any person shall bee indicted of any Capitall crime (whoe is not then in durance,) and shall refuse to render his person to some Magistrate within one month after three proclamations publiquely made in the Towne where hee vsually abides, there being a month betwixt proclamation and proclamation, his lands and goods shall bee seized to the vse of the Common Treasury, till hee make his lawfull appearance, and such withdrawing of himselfe shall stand in stead of one witnes to prooue his crime, vnless hee can make it appeare to the Courte that hee was necessarily hindred.

[35\*]

• JURYES AND JURORS.

\* It is ordered by the Authority of this Courte, that in all cases w<sup>ch</sup> are entred vnder forty shillings, the sute shall bee left to bee tryed by the Courte of Magistrates as they shall judge most agreeable to equity and righteousness. And in all cases that are tryed by Juries, It is left to the Magistrates to impannell a Jury of sixe or twelue, as they shall judge the nature of the case shall require ; and if four of sixe, or eight of twelue, agree, the verdict shall bee deemed to all intents and purposes sufficient and full ; vppon w<sup>ch</sup> judgement may bee entred and execution graunted, as if they had all concurred ; but if it fall out that there bee not such a concurrence as is before mentioned, the Jurors shall returne the case to the Courte with theire reasons, and a speciall verdict is to bee drawne therevpon, and the voate of the greater number of Magistrates shall carrye the same ; and the judgement to bee entred and other proceedings as in case of a verdict by a Jury.

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\* [In margin,] "In old Book, Feb: 5, '44." See p. 118, *ante*.

And it is further ordered, that the Courte of Magistrates shall haue libbertye (if they doe not find in their judgements, the Jury to haue attended the euidence giuen in, and true issue of the case, in theire verdict,) to cause them to returne to a second consideration thereof; and if they still persist in theire former opinion, to the dissatisfaction of the Courte, it shall bee in the power of the Courte to impannell another Jurye, and committ the consideration of the case to them. And it is also left in the power of the Courte to varye and allter the dammages giuen in by any Jurye, as they shall judge most equall and righteous, provided, that what allteration shall at any time bee made in that kind, bee done in open Courte, before Plaintiff and Defendant, or Affidauitt made that they haue beene required to bee present, and that allteration w<sup>ch</sup> is made bee done either the same Courte, or provision made to secure the verdict of the Jury vntil the case bee fully issued. And whereas many persons, after their seuerall causes in Courte haue beene tryed and issued, haue slipt away or otherwise neglected, if not refused, to pay the charges of the Courte, according to order; for preventing thereof for the future, It is ordered, that whosoever shall haue any action or sute in Courte, after the publishing hereof, shall, as soone as his cause is issued pay [36\*] the whole charges of the Courte, that concernes either Jury or Secretary, before hee departes the same. And the like also shall bee done by all those whose Actions are not taken vp, and withdrawne before the sitting of the Courte wherein they were to bee tryed; or otherwise, for neglect or non performance of either, bee committed to prison, there to remaine till hee or they haue satisfied the same.

GRAND JURY.

It is ordered and decreed, that there shall bee a Grand Jury of twelue or fourteene able men warned to appeare euery Courte yearly in Septemb<sup>r</sup>, or as many and oft as the Gouerno<sup>r</sup> or Courte shall thinke meete, to make presentment of the breaches of any Lawes or orders or any other misdemeanors they shall know of in this Iurisdiction.\*

LANDS; FREE LANDS.

It is ordered, and by this Courte declared, that oure Lands and Heritages shall bee free from all fynes and lycenses vppon Alienations, and from all Harriotts, Wardships, Liveries, Primer seizins,

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\* July 5th, 1643. p. 91.

yeare, day and waste, escheats and forfeitures vppon the death of parents or ancestors, bee they naturall, vnnaturall, casuall or judiciall, and that for euer.\*

LEVYES.

Forasmuch as the Marshalls and other officers haue complained to this Courte that they are oftentimes in great doubt how to demean themselves in the execution of their offices ;

It is ordered by the Authority of this Courte, that in case of fynes and assessments to be levyed, and vppon execution in Civill Actions, the officer shall demanda the same of the party or at his howse and place of vsuall abode ; and vppon refusall or non payment, hee shall haue power (calling the Constable, if hee see cause for his assistance,) to breake open the dore of any howse, chest or place where hee shall haue notice that any goods lyable to such Levye or Execution shall bee ; and if hee bee to take the person, hee may doe the like, if vppon demanda hee shall refuse to render himselfe ; and whatsoever charges the officer shall necessarily bee put vnto, vppon [37\*] any such occassion, || hee shall haue power to levye the same as hee doth the debt, fyne or execution ; and [if] the officer shall leuye any such goods vppon execution as cannott bee conuayed to the place where the party dwells for whome such execution shall bee leuyed, without considerable charge, hee shall leuye the said charge also with the execution. The like order shall bee obserued in leuying of fynes ; provided, it shall not bee lawfull for such officer to leuye any mans necessarye bedding, apparrell, tooles or armes, neither implements of houshold, w<sup>ch</sup> are for the necessary vpholding of his life ; but in such cases hee shall leuye his Land or person, according to Law ; and in no case shall the officer bee put to seeke out any mans estate further then his place of abode : But if the party will not discouer his goods or Land, the officer may take his person. And it is also ordered and declared, that if any officer shall doe iniurye to any, by colour of his office, in these or any other cases, hee shall bee lyable vppon complaint of the party wronged, by action or information, to make full restitution. See MARSHALL.

LYING.

Whereas truth in words as well as in actions is required of all men, especially of Christians whoe are the professed seruants of the

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\* From the Massachusetts "Body of Liberties," of 1641.

God of Truth ; and whereas all Lying is contrary to Truth, and some sortes of Lyes are not onely sinfull, as all Lyes are, but also pernicious to the publique weale and iniurious to perticular persons ;

It is therefore ordered by this Courte and Authority thereof, that euery person of the age of discretion, w<sup>ch</sup> is accounted fourteene yeares, who shall wittingly and willingly make or publish any Lye w<sup>ch</sup> may bee pernicious to the publique weale, or tending to the damage or iniurye of any perticular person, to deceiue and abuse the people with false newes or reportes, and the same duely proued in any Courte or before any one Magistrate, who hath hereby power graunted to heare and determine all offences against this Lawe, such persons shall bee fyned for the first offence ten shillings, or if the party bee vnable to pay the same, then to bee sett in the Stocks, so long as the said Courte or Magistrate shall appointe, in some open place, not exceeding three houres ; for the second offence in that kind, whereof any shall bee legally convicted, the sum of twenty [38\*] shillings, || or bee whipped vppon the naked body not exceeding twenty stripes : and for the third offence that way, forty shillings, or if the party bee vnable to pay, then to bee whipped with more stripes, not exceeding thirtye. And if yett any shall offend in like kinde and bee legally convicted thereof, such person, male or female shall bee fyned ten shillings at a time more then formerly, or if the party so offending bee vnable to pay, then to bee whipped with five or sixe stripes more then formerly, not exceeding forty at any time. And for all such as being vnder age of discretion, that shall offend in Lying, contrary to this Order, their Parents or Masters shall giue them due correction, and that in the presence of some officer, if any Magistrate shall so appointe. Provided also, that no person shall bee barred of his just action of slaunder or otherwise, by any proceeding vppon this Order.

MASTERS ; SERVANTS ; SOJOURNERS.

It is ordered by this Courte and Authority thereof, that no Master of a Familie shall giue intertainment or habitation to any younge man to sojourne in his familie, but by the allowance of the inhabitants of the Towne where hee dwells, vnder the penalty of twenty shillings p<sup>r</sup> weeke. And it is also ordered, that no young man that is neither married nor hath any servant, nor is a publique officer, shall keepe howse of himselfe without the consent of the

Towne for and vnder paine or penalty of twenty shillings a weeke.\*

It is also ordered by the Authority aforesaid, that no servant, either man or maid, shall either giue, sell or truck, any commodity whatsoeuer, without license from their master, during the time of their service, vnder paine of fyne or corporall punishment at the discretion of the Courte, as the offence shall deserue. And that all workemen shall worke the whole day, allowing convenient time for food and rest.

It is also ordered, that when any Servants shall runn from their Masters, or any other inhabitants shall priuately goe away with suspicion of ill intentions, It shall bee lawfull for the next Magistrate, or the Constable and two of the chieftest inhabitants, where no Magistrate is, to press men and boates or pinnaces, at the publike charge, to persue such persons by sea or land, and bring them [39\*] back by force of armes.

And whereas many stubborne, refractary and discontented Seruants and Apprentices, withdraw themselues from their Masters services to improoue their time to their owne advantage; for the preventing whereof, It is ordered, that whatsoeuer Servant [or] Apprentice shall hereafter offend in that kinde, before their Covenants or tearme of service are expired, shall serue their said Masters, as they shall bee apprehended or retained, the treble terme or threefold time of their absence in such kinde.†

M A N S L A U G H T E R .

It is ordered by this Courte and Authority thereof, that if any person in the just and necessary defence of his life, or the life of any other, shall kill any person attempting to rob or murder in the feild or highe way, or to breake into any dwelling howse, if hee conceiue hee cannott with safety of his own person otherwise take the Felon or Assailant, or bring him to tryall, hee shall bee houlden blameless.

M A G I S T R A T E S .

This Courte being sensible of the great disorder growing in this Common wealth, through the contempts cast vpon the Civill Authority, w<sup>ch</sup> willing to prevent, doe order and decree :

That whosoever shall henceforth openly or willingly defame any

\* Feb. 21st, 1637. p. 8. The words 'for and,' in the line before the last, were probably substituted for 'first had,' by an error of the compiler, or recorder, of the code of 1650.

† June, 1644. p. 105.

Courte of Justice, or the sentences and proceedings of the same, or any of the Magistrates or judges of any such Courte, in respect of any Act or sentence therein passed, and being thereof lawfully convicted in any Generall Courte or Courte [of] Magistrates, shall bee punished for the same by fyne, imprisonment, disfranchisement or bannishment, as the quality and measure of the offence shall deserue.

M A R R I A G E .

Forasmuch as many persons intangle themselues [by] rashe and inconsiderate contracts for their future joininge in Marriage Covenant, to the great trouble and greife of themselues and their freinds ; for the preventing thereof,

[40\*] It is ordered by || the Authority of this Courte, that whosoever intends to joine themselues in Marriage Covenant shall cause their purpose of contract to bee published in some publique place, and at some publique meeting in the severall Townes where such persons dwell, at the least eight dayes before they enter into such contract whereby they ingage themselues each to other, and that they shall forbear to joine in Marriage Covenant at least eight dayes after the said contract.\*

And it is also ordered and declared, that no person whatsoever, male or female, not being at his or her owne dispose, or that remaineth vnder the gouernement of parents, masters or guardians, or such like, shall either make, or giue intertainment to, any motion or sute in way of marriage without the knowledge and consent of those they stand in such relation to, vnder the seuerer censure of the Courte in case of delinquency, not attending this order ; nor shall any third person or persons intermeddle in making any motion to any such, without the knowledge and consent of those vnder whose gouernment they are, vnder the same penalty.†

MARRIAGES AND BIRTHS ; See RECORDS..

M A R S H A L L .

It is ordered by this Courte, that the Marshall shall be allowed for euery Execution hee serues, w<sup>ch</sup> is under the sum of five pounds, two shillings six pence, and foure pence for euery myle hee goes to serue the said Execution out of the Towne where hee liueth : And for euery Execution hee serues of or aboue five pounds and under the sum of ten pounds, hee shall be allowed three shillings foure

\* Apr. 10th, 1640. p. 47, 48.

† July 5th, 1643. p. 92.



pence, and foure pence for euery myle, as before: And for euery Execution hee serues of or aboue the sum of ten pounds, hee shall bee allowed five shillings, and foure pence for euery myle as before. Allso hee is to bee allowed his other just and necessarye charges; onely it is provided that if hee bee excessiue therein, vppon due complaint and prooffe made, it shall bee redressed. And it is also further ordered that the Marshall shall bee allowed for euery Attachment hee serues halfe so much as is before allowed him for Executions, onely hee is to haue foure pence for euery myle hee goes to serue the Attachment as before.

It is further ordered by the Courte and Authority thereof, that euery Officer\* that shall at any tyme bee fyned for the breach of any pœnall lawe or other just cause, such person or persons so of- [41\*] fending || shall forthwith pay his or theire fyne or penalty [or giue] in security speedily to doe it, or else shall bee imprisoned or kept to worke till it bee paid, that no loss may [come] to the Commonwealth; and what other fynes or debts already due or shall bee due to the Country, the Marshall for the time being, vppon warrant from the Treasurer, and according to his oath, shall bee faithfull in doing the duty of his place in levyinge and returning the same, vppon paine of forfeiting two shillings of his owne estate for euery pound, or else such fine as any Courte of Justice shall impose on him for neglect.

M E A S U R E S A N D W E I G H T S .

Forasmuch as it is obserued that there are diuers of Weights, Yards and Measures amongst vs, wherby dammages many times ensueth by commerce with seuerall persons; for the preventing whereof,

It is now ordered, that no man within these libberties, shall, after the publishing of this order, sell any comodities but by sealed weight or measure, under the penalty of twelue pence each default. The Clarke is to haue a penny for sealing a weight or measure each time; And no weight or measure is to bee accounted authentick that is not sealed or approoued by the Clarke, once euery yeare. The said Clarke is to breake or demolish such Weights, Yards or Measures as are defectiue.†

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\* In the (printed) revision of 1672-3, the word 'person' is substituted for 'officer.'

† The substance of this order is contained in an order of Feb. 14th, 1643-4. p. 100.

MILLITARY AFFAIRES.

It is ordered and by this Courte declared, that all persons that are about the age of sixteene yeares, except Magistrates and Church officers, shall beare Armes, vnless they haue, vpon just occasion, exemption graunted by the Courte ; and euery male person within this Jurisdiction about the said Age, shall haue in continuall readines, a good muskitt or other gunn, fitt for service, and allowed by the Clark of the Band, with a sword, rest and bandaleers, or other seruiceable provision in the roome thereof, where such cannott bee had ; as also such other millitary provision of powder, match and bullitts as the lawe requires, and if any person whoe is to provide Armes or Ammunition cannott purchase them by such meanes as hee hath, hee shall bring to the Clarke so much Corne or other merchantable goods as by aprizement of the said Clarke and two others of the Company (whereof one to be chosen by the partye) [as shall bee judged [42\*] of a greater value by a fifth part] then such Armes or Ammunition is of, hee shall bee excused of the penalty for want of Armes (but not for want of appearance) vntill hee bee provided. And the Clarke shall indeauor to furnish him so soone as may bee by sale of such goods so deposited rendring the ouerplus to the partye. But if any person shall not bee able to provide himselfe Armes or Ammunition through meere poverty, if hee bee single hee shall bee put to service by some Magistrate, and the Constable shall appointe him Armes and Ammunition, and shall appointe him when and with whome to earne it out.

And it is ordered that all the Soulgers within this Jurisdiction shall bee trained at least six times yearely, in the months of March, Aprill, May, Septemb<sup>r</sup>, Octob<sup>r</sup> or November, by the appointment of the Captaine or Chiefe officer in the seuerall townes : And the times of theire meeting together shall be at eight of the clock in the morninge. And the Clarke of each Band shall, twice euery yeare at least, veiw the Armes and Ammunition of the Band, to see if they all bee according to Lawe ; And shall vpon euery Traininge day giue his attendance in the feild, euery day, (except hee hath speciall leaue from his Captaine or Cheife Officer) to call ouer the Roll of the Souldgers and take notice of any defect by theire absence or otherwise : And hee shall duely present to the Gouvernor or some of the Magistrates, all defects in Armes or Ammunition, at least once in each yeare, and oftner if it bee required. And it is left to the judgement of the Magistrates to punnish all defects in that kind according to the nature of the offence, wherein due regard is to bee had of willfull

neglects in any, that such may not pass without a severe censure, And whosoever shall bee absent any of the dayes appointed for traininge, after the houre appointed, or shall not continue the whole time, shall forfeitt the sum of two shillings six pence for euery default, except such as are licensed vnder the hand of two Magistrates. The Clarkes of the severall Bands are to distreine the delinquents, within fourteene dayes after the forfeiture ; whereof six pence shall bee to himselfe and the remainder for the maintenance of Drums, Cullers &c. And if any of the said Clarkes shall omitte to distreine any delinquents, aboue the said terme of fourteene dayes, hee shall forfeitt and pay to the vse of the Publique, double the fyne so neglected by him.

[43\*] It is ordered, that the Souldgers shall onely make choyce of their Millitary Officers, and present them to the Perticular Courte ; but such onely shall bee deemed officers as the Courte shall confirme.

The state and condition of the place where [we] liue, by reason of the Indians and otherwise, requiring all due meanes to bee vsed for the preservation [of the] safety and peace of the same, this Courte judgeth necessary that there should bee a Magazine of Powder and Shott provided and mainteined in the Country, in each Towne within this Jurisdiction ; And doe therefore order and decree, that there shall bee two barrills of Powder and six hundred weight of Lead provided by this Commonwealth, before the Generall Courte in Septemb<sup>r</sup> next, w<sup>ch</sup> shall bee meinteined and continued and accounted as the Country stock. And it is also further ordered, that the severall Townes within this Jurisdiction shall provide and mainteine as follow<sup>th</sup>, viz:—

Wyndsor, one barrill and halfe of Powder, four hundred and fifty pound of Lead, one hundred fathom of m[atch,] nine Cotton Coates or Corseletts and sufficient serviceable Pikes to either of them.

Hartford, two barrills of Powder, six hundred weight of Lead and six score fathom of Match, and twelue Cotton Coates or Corseletts with serviceable Pikes to either of them.

Wethersfeild, one barrill of Powder, three hundred weight of Lead, eighty fathom of Match, and eight Cotton Coates or Corseletts with serviceable Pikes to either of them.

Seabrooke, halfe a barrill of Powder, one hundred and fifty pound of Lead, forty fathom of Match, and three Cotton Coates or Corseletts with serviceable Pikes to either of them.

Farmington, the same in each perticular with Seabrooke.

Fairefeild and Strattford, in each Towne, one barrill of Powder three hundred weight of Lead, one hundred fathom of Match, and six Coates or Corseletts with serviceable Pikes to either of them.

South hampton and Pequett, in each Towne, halfe a barrill of Powder, one hundred and fifty pounds of Lead, forty fathom of Match, with three [Coates or Corseletts with serviceable Pikes to either of them.]

[44\*] Each Towne allso shall provide so many good firelocke muskitts and good backswords or Cuttlasses, as the Corseletts are they are charged with by this order. All w<sup>ch</sup> shall bee provided by the seuerall Townes by the Courte in September next, and meinteined constantly for the future, vppon the penalty of ten shillings p<sup>r</sup> month for each Townes defect or neglect herein.

Allso it is further ordered, That euery male person within this Jurisdiction, that is aboue the age of sixteene yeares, whether Magistrates, Ministers or any other, (though exempted from training, watching and warding,) shall bee allwayes provided with, and haue in readiness by them, halfe a pound of Powder, two pound of serviceable Bullitts or shott, and two fathom of Match to euery Matchlock, vppon the penalty of fise shillings a month for each persons default herein: provided notwithstanding, that if the proportions of powder laid vppon each Towne and person either doth not at present or shall not, (by reason of the increase of their numbers,) for the future, amount in all to three pound of powder for euery Souldger, then each Towne shall, vppon the former penaltie, provide so much more as shall bee three pound of powder for a Souldger, and other provision of Lead &c. increase in each Towne according to the same proportion.

Whereas many inconveniences doe appeare, by reason that the severall Souldgers of the Trained Bands in each Towne within this Jurisdiction haue not bene allowed some powder vppon their Training dayes, for their practice and exercise in their severall firings :—

It is ordered by the Authority of this Courte, that there shall bee allowed to euery Souldger in the seuerall Trained Bands in each Towne as aforesaid, halfe a pound of powder a peece for a yeare, and so from yeare to yeare for the future, to bee provided by and at the proper costs and charges of the Masters and Gouvernors of each familie vnto w<sup>ch</sup> the said Souldgers doe belong, to bee called forth,

improved and disposed of, at the discretion of the Captaine or other principall leaders in each Trained Band.

It is also ordered, that the Captaines, Leiftennants and Ensignes shall bee freed from watching and warding, and the Serieants from warding and halfe their watch.

[45\*]

MINISTERS MAINTENANCE.

Whereas the most considerable persons in [these Colonies] came into these partes of America that they [might] enjoye Christe in his ordinances, without dis[turbance ;] And whereas amongst many other pretious [mercies] the ordinances have beene and are dispensed amongst vs with much purity and power ; this[Courte] tooke it into their serious consideracon how due maintenance, according to God, might bee provided and settled, both for the present and [future,] for the incouragement of the Ministers who [labour] therein ; And doe order, that those who are [taught] in the word, in the severall plantations bee [called] together, that euery mann voluntarily sett downe what hee is willing to allowe to that end and [vse :] And if any man refuse to pay a meet proportion, that then hee bee rated by Authority in some [just] and equall way ; and if after this any man withhold or delay due payment, the Civill power to bee exercised, as in other just debts.\*

O A T H S .

[The oaths for the Governor, Magistrates, Constables, Freemen, and Jurymen, are the same as originally recorded, pages 25, 26, 62, 57. Those which follow, were inserted after the adoption of the code, and are in the hand writing of Secretary Clark.]

[47\*]

*Commissioners Oath.*†

You doe sweare by the great and dredfull name of the euerlasting God, that for this yeare ensuing [and] vntill new bee chosen, you shall faithfully execute the place and office you are chosen unto, according to the extent of your Comission : So helpe you God, in the name of the Lord Jesus Christ.

*Secretaries Oath.*

A. B. You being chosen Secretary for this Jurisdiction, dureing this year, doe sweare by y<sup>e</sup> great name of God, that you shall keep

\* Ordered, Oct. 25th, 1644, upon the recommendation of the Commissioners of the U. Colonies. p. 112.

† This and the two following Oaths, were subsequently recorded, (as appears by the hand writing) by Secretary Clark.

the secrets of the Court and shall carefully execute the place of a Secretary, and shal truly and faythfully record all Orders of the Court; and (fixe the Seale vnto y<sup>e</sup> orders sent forth to y<sup>e</sup> respectiue Townes &\*) shall deliuer true copies and certificates when they shalbe necessarily required. So help you God, in our Lord Jesus Christ.

*Grand Juryes Oath.*

You doe sweare, by the great and dreadful name of God, that you will w<sup>th</sup> all due care and faithfulness make presentment according to order, at y<sup>e</sup> Quarter Court in September next, such misdemeanours and transgressions of y<sup>e</sup> Lawes and Orders of this Commonwealth as shal come to your cognisance; as also to doe your indeauour to find out such things as are contrary to religion and peace: So help you God, in o<sup>r</sup> Ld. Jesus Christ.

[48\*]

PEAGE.

It is ordered by this Courte and decreed, that no Peage, white or black, bee paide or receiued, but what is strunge and in some measure strung sutably, and not small and great, vncomely and disorderly mixt, as formerly it hath beene.†

POORE.

It is ordered by this Courte and Authority thereof, that the Courte of Magistrates shall haue power to determine all differences about lawfull setling and providing for poore persons, and shall haue power to dispose of all vnsetled persons, into such Townes as they shall iudge to bee most fitt for the maintenance and employment of such persons and families for the ease of the Countrye.

POUND; POUND BREACH.

For prevention and due recompense of dammage in Corne feilds and other inclosures done by Swyne and Cattle, It is ordered by this Courte and Authority thereof, that there shall bee one sufficient Pound or more made and meinteined in euery Towne and Village within this Jurisdiction, for the impounding of all such Swyne and Cattle as shall bee found in any Cornefeild or other Inclosure: And whosoever impounds any Swyne or Cattle shall giue present notice to the owners, if hee bee knowne, or otherwise they shall bee cryed

\* The words in the parenthesis are interlined.

† Recommended by the Commissioners of the U. Colonies; and approved by the Gen. Court, Mar. 1649; p. 179.

at the two next Lectures or Markitts. And if Swyne or Cattle escape out of the pound, the owner, if knowne, shall pay all damages, according to lawe.

And whereas impounding of Cattle in case of Trespasses hath beene allwayes found both needfull and profitable, and all the breaches about the same very offensiue and iniurious:—It is therefore ordered by this Courte and Authority thereof, that if any person shall resiste or rescue any Cattle going to the Pound, or shall by any way or meanes conuey them out of Pound or custody of the law, whereby the party wronged may looss his dammage and the Lawe bee deluded, that in case of meere Rescues, the party offending shall forfeitt to the Treasure, forty shillings; and in case of Pound breach, five pounds; and shall also pay all damages to the party wronged: And if in the Rescue any bodily harmes bee done to the person of any man or other, they shall haue remedye against the rescuers: And if either bee done by any not of abillitye to answer the damage and forfeitt aforesaid, they shall bee [ ] whipt, by [49\*] warrant from any Magistrate || before whome the offender is convicted, in the Towne or Plantacon where the offence was committed, not exceeding twenty stripes, for the meere Rescue or Pound breach, and for all damages to the party they shall satisfie by service, as in case of theft: And if it appeare there were any procurement of the owners of the Cattle therevnto, (and that they were Abettors) they shall all pay forfeitures and damages as if themselves had done it.

PROFANE SWEARING.

It is ordered and by this Courte decreed, that if any person within this Jurissdiction shall sweare rashly and vainely, either by the holy name of God, or any other oath; and shall sinfully and wickedly curse any; hee shall forfeitt to the Common Treasure, for euery such severall offence, ten shillings: And it shall bee in the power of any Magistrate, by warrant to the Constable, to call such persons before him, and vppon just prooffe to pass a sentence, and leuye the said penalty, according to the vsuall order of Justice: And if such persons bee not able, or shall vtterly refuse to pay the aforesaid fyne, hee shall bee committed to the Stocks, there to continue not exceeding three houres and not less than one houre.

RATES.

It is ordered by this Courte and Authority thereof, that euery Inhabitant shall henceforth contribute to all charges both in Church

and Common wealth whereof hee doth or may receiue benefitt, and euery such Inhabitant who doth not voluntarily contribute proportionably to his abillity with the rest of the same Towne to all common charges, both Ciuill and Eccleseasticall, shall bee compelled therevnto by assessments and distress, to be leuyed by the Constable or other officer of the Towne as in other cases; And that the Lands and Estates of all men, whereuer they dwell, shall bee rated for all Towne Charges, both Ciuill and Eccleseasticall as aforesaid, where the Lands and Estates shall lye, and their persons, where they dwell.

For a more equall and ready way of raising means [for] defraying of publique charges in time to come, and for preuenting such inconueniences as haue fallen out vppon former assessments;—It is [50\*] ordered and acted by the Authority of this Courte, || That the Treasurer for the time being shall, from yeare to yeare, in the first month, without expecting any other order, send forth his Warrants to the Constables of euery Towne within this Jurisdiction, requiring the Constable to call together the Inhabitants of the Towne, whoe being so assembled shall chuse three or foure of their able Inhabitants, whereof one to bee a Comissioner for the Towne, whoe shall some time or times in the sixth month then next ensuing, make a list of all the male persons in the same Towne from sixteenne yeares old and vpwards, and a true estimation of all personall and reall estates being (or reputed to bee,) the estate of all and euery the persons in the same Towne, or otherwise vnder their custody or managing, according to just valuation, and to what persons the same belong, whether in their owne Towne or other where, so neare as they can by all lawfull wayes and meanes w<sup>ch</sup> they may vse, viz: of howses, lands of all sortes, as well vnbroken vp as other (except such as doth or shall lye common, for free feed of Cattle, to the vse of the Inhabitants in generall, whether belonging to the Townes or particular persons, but not to bee kept or hearded vppon it to the damage of the proprietors,) mills, shippes and all small vessells, merchantable goods, cranes, wharfes, and all sortes of Cattle, and all other knowne estate whatsoever, as allso all visible estate either at sea or on shore; all w<sup>ch</sup> persons and estates are by the said Comissioners and select men to be assessed and rated as heere follow<sup>th</sup>, viz: Euery person aforesaid, (except Magistrates and Elders of Churches) two shillings six pence by the head, and all estates both reall and personall, at one penny for euery twenty shillings, according to the rates of Cattle hereafter mentioned. And for a more certeine rule in rating of



Cattle, euery Cowe of foure yeare old and vpward shall be valued at fve pounds; euery heifer and steare, betweene three and four yeare old, foure pounds, and betweene two and three yeare old, fifty shillings, and betweene one and two yeare old, thirty shillings; euery Oxe and Bull of foure yeare old and vpwards, six pounds; euery Horse and Mare of foure yeare old and vpwards, twelue pound; of three yeare old, eight pounds; betweene two and three yeares old, fve pounds; of one yeare old, three pounds; euery Sheepe of one yeare old, thirty shillings; euery Goate aboue one yeare old, eight shillings; euery Swyne aboue one yeare old, twenty shillings; and all Cattle of all sortes vnder a yeare old, are hereby exempted, as allso all Hay and Corne in the husbandmans hand, because all meadow, earable ground and Cattle are rateable as aforesaid. And [51\*] for all such persons as by the advantage of their Artes and Trades are more able to helpe beare the publike charge then Common Labourers and workemen, as Butchers, Bakers, Bruers, Victuailers, Smiths, Carpenters, Taylors, Shoemakers, Joiners, Barbers, Millers and Masons, with all other manuall persons and Artists, such are to bee rated for their returnes and gaines proportionably vnto other men for the produce of their estates. Provided that in the Rate by the Poll, such persons as are dissabled by sickness, lameness or other infirmities shall bee exempted; and for such servants and children as take not wages, their parents and masters shall pay for them, but such as take wages shall pay for themselves.

And it is further ordered, that the Comissioners for the severall Townes vppon this Riuer shall yearely meet vppon the third Thursday in the sixth month at Hartford, and the Comissioners for the Townes of Faifeild and Strattford shall meett the same day in one of those Townes, (and two dayes before the Generall Courte in Sept: they shall meete y<sup>e</sup> Comissioners vppon y<sup>e</sup> Riuer in Hartford,\*) and bring with them, fairely written, the just number of males listed as aforesaid, [and] the Assessment of estates made in their seuerall Townes according to the rules and directions in this present order expressed; And the said Comissioners being so assembled shall duely and carefully examine all the said Lists and Assessments of severall Townes, and shall correct and perfect the same, according to the true intent of this order, and the same so perfected they shall transmitt vnder their hands to the Generall Courte, the second Thursday in September, and then, directions shall bee giuen to the Treasurer for gathering of the said Rate, and euery one shall pay

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\* The clause in parenthesis, is interlined.

theire Rate to the Constable of the Towne where it shall bee assessed ; nor shall any land or estate bee rated in any other Towne but where the same shall lye, is or was improued to the owner's, reputed owner's, or other proprietor's vse or behoofe, if it bee within this Jurisdiction. And for all peculiars, viz: such places as are not yet laid within the bounds of any Towne, the same Lands, with the persons and estates therevpon, shall bee assessed by the Rates of the Towne next vnto it ; the measure or estimacon shall bee by the distance of the meeting howses.

And if any of the said Comissioners or of the select men shall wilfully faile or neglect to performe the trust committed to them by this order, in not making, correcting, perfecting or transmitting any [52\*] of the said Lists or Assessments, || according to the intent of this order, euery such offender shall bee fyned forty shillings for euery such offence, or so much as the Country shall bee damnified thereby, so as it exceeds not forty shillings for one offence ; provided that such offence or offences bee complained of and prosecuted, in due course of law, within six months.

And it is further ordered, that vpon all distresses to bee taken for any of the Rates and Assessments aforesaid, the officer shall distreine goods or Cattle, if they may bee had ; and if no goods, then lands or howses ; if neither goods nor lands can bee had within the Towne where such distresses are to bee taken, then vpon such returns to the Treasurer hee shall giue warrants to attache the Body of such persons to bee carried to prison, there to bee kept till the next Courte, except they put in security for their appearance there, or that payment bee made in the meane time.

And it is further ordered, that the prises of all sorts of Corne to bee receiued vpon any Rate by vertue of this order, shall bee such as the Courte shall sett from yeare to yeare, and in default thereof they shall bee accepted at the price current, to bee judged by the said Comissioners.

And it is further ordered, that all Estates of land in England shall not bee rated in a publique assessment.

It is also provided and ordered, that all Towne Rates shall bee made after the same manner and by the same rule as the Country Rate.

Whereas much wrong hath beene done to the Country by the negligence of Constables, in not gathering such Leuyes as they haue receiued Warrants from the Treasurer, during their office :—It is therefore ordered, that if any Constable shall not haue gathered the

Leuyes committed to his charge by the Treasurer then being, during the time of his office, that hee shall, notwithstanding [*the*] expiration of his office, haue power to leuye by distress all such Rates and Leuyes ; and if hee bring them not in to the old Treasurer, according to his warrants, the Treasurer shall distreine such Constables goods for the same ; and if the Treasurer shall not so distreine the Constable, hee shall bee answerable to the Country for the same. And if the Constable bee not able to make payment, it shall be lawfull for the Treasurer, old or new respectiuey, to distreine any man or men of that Towne where the Constables are vnable, for all Arrearages of Leuyes ; and that man or men, vppon petition to the Generall Courte, shall haue order to collect the same againe, equal- [53\*] ly, of y<sup>e</sup> Towne, || with his just dammages for the same.

It is further ordered by this Courte, that all Collectors and gatherers of Rates shall appoint a day and place and giue reasonable warning to the Inhabitants to bring in their proportions, vppon w<sup>ch</sup> every man so warned shall duely attend to bring in his Rate, or vppon neglect thereof shall forfeitt two pence in the shilling for what hee falls shorte ; and the said Collector shall haue authority hereby to distreine the delinquents, or bee accountable themselues for the Rates and penaltyes so neglected by them.

RECORDS.

It is ordered by this Courte and Authority thereof, that the Towne Clarke or Register, in the several Townes of this Jurisdiction, shall record all Births and Deaths of persons in their Towne : And that all parents, masters of servants, executors and administrators, respectiuey, shall bring in to the Register of their severall Townes, the names of such persons belonging to them or any of them, as shall either be borne or dye ; and also that euery new married man shall likewise bring in a certificate of his Marriage, vnder the hand of the Magistrate w<sup>ch</sup> married him, to the said Register ; And for each neglect the person to whome it doth belong shall forfeitt as follow<sup>th</sup>, viz : If any person shall neglect to bring in a noate or certificate as aforesaid, together with three pence a name, to the said Registers, for all Births and Deaths, and six pence for each Marriage, to bee recorded, more then one month after such Birth, Death or Marriage, shall forfeitt for euery default fife shillings, and the penalty further increased vppon longer neglect, according to the judgement of the Courte. And the Register of each Towne shall yearely conuey to the Secretary of the Courte a true transcript of the Births, Deaths and Marriages, giuen vnder their hands, with a third parte

of the aforementioned fees, vnder the penalty of forty shillings for euery such neglect, all w<sup>ch</sup> forfeitts shall bee returned in to the Treasury ; Allso the Grand Jurors may present all neglects of this order.

It is ordered by the Authority aforesaid, that the seuerall Towns within this Jurisdiction shall each of them provide a Ledger Booke, with an Index or Alphabett, vnto the same : Allso shall chuse one [54\*] whoe shall bee a Towne Clarke or Register, || whoe shall, before the Generall Courte in September next, record euery mans howse and lands allready graunted and measured out to him, with the bounds and quantity of the same. And whosoever shall neglect three months after notice giuen, to bring in to the said Towne Clarke or Register a noate of his howse and land, with the bounds and quantity of the same by the nearest estimacon, shall forfeitt ten shillings ; and so ten shillings a month, for euery month hee shall so neglect ; the like to bee done for all lands hereafter graunted and measured to any. And if any such Graunter, being required by the Grauntee, his Heires or Assignes, to make an Acknowledgm<sup>t</sup> of any Graunt, Sale, Bargaine or Morgage by him made, shall refuse so to doe, it shall bee in the power of any Magistrate to send for the partye so refusing and committ him to prison without Bayle or Maineprise, vntill hee shall acknowledge the same : And the Grauntee is to Enter his Caution with the Recorder, and this shall saue his interest in the meane time. And all Bargaines or Morgages of lands whatsoever shall bee accounted of no value vntill they bee recorded, for w<sup>ch</sup> Entry the Register shall receiue six pence for euery percell, deliuering euery owner a Coppy of the same vnder his hand, wherof foure pence shall bee for himselfe and two pence for the Secretary of the Courte. And the said Register shall, euery Generall Courte in May and September, deliuer into the same a Transcript fairely written of all such Graunts, Bargaines or Ingagements recorded by him in the Towne Booke ; And the Secretary of the Courte shall record it in a Booke fairely written, prouided for that purpose, and shall preserue the Coppy brought in vnder the hand of the Towne Clarke. Allso the said Towne Clarke shall haue for euery search of a percell, one penny, and for euery Coppy of a percell, two pence ; and a Coppy of the same vnder the hand of the said Register or Towne Clarke and two of the men chosen to gouerne the Towne, shall bee a sufficient euidence to all that haue the same.\*

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\* Oct. 10th, 1639. p. 37.

For the better keeping in minde those passages of Gods Providence w<sup>ch</sup> haue beene remarkeable since o<sup>r</sup> first vndertaking of these Plantacons, Mr. Deputy, Capt. Mason, Mr. Stone, with Mr. Goodwyn, are desired to take the paines seuerally in their seuerall Townes, and then jointly together, to gather vp the same and deliuer them in to the Generall Courte in September next, and if it bee judged then fitt, they may bee recorded, and for future times, whatsoever remarkeable passages shall bee, and if they bee publique, the said parties are desired to deliuer in the same to the Generall [55\*] Courte: || But if any perticular person doe bring in any thinge, hee shall bring it vnder the hands of two of the aforementioned parties, that it is true, then present it to the Generall Courte, that if it bee there judged requisitt it may bee recorded: provided that any Generall Courte for the future may aliter any of the parties before mentioned or add to them, as they shall judge meett.\*

It is also ordered by this Courte and decreed, that after the death and decease of any person possessed of any estate, bee it more or less, and whoe maketh a will in writing or by word of mouth, those men w<sup>ch</sup> are appointed to order the affaires of the Towne where any such person deceaseth, shall within one month after the same at furthest, cause a true Inventory to bee taken of the said estate in writing; as also take a Coppy of the said Will or Testament and enter it into a Booke or keepe the Coppy in safe custody; as also enter the names vpon record of the Children and Legatees of the Testator or deceased person. And the said orderers of the affaires of the Towne are to see euery such Will and Inventory to bee exhibited into the publique Courte, within one quarter of a yeare, where the same is to bee registred. And the said orderers of the affaires of the Towne shall doe their indeauours in seeing that the estate of the Testator bee not wasted nor spoiled, but improved for the best advantage of the Children or Legatees of the Testator, according to the minde of the Testator, for their and euery of their vse, and by their and euery of their allowance and approbation. But when any person dyeth Intestate, the said orderers of the affaires of the Towne shall cause an Inventory to bee taken, and then the publique Courte may graunt the Administracon of the goods and chattles to the next of kinn, jointly or seuerally, and deuide the estate to wife (if any bee,) children or kindred, as in equity they shall see meett. And if no kindred bee found, the Courte to administer for the publique good of the Common: provided ther

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\* Oct. 10th, 1639. p. 39, 40.

bee an Inventory registred, that if any of the kindred in future time appeare, they may haue justice and equity done vnto them. And all charges that the publike Courte or the orderers of the affaires of the Towne are at, about the trust committed to them, either for writing or otherwise, is to bee paid out of the estate.\*

Whereas also, It was recomended by the Commissioners, that for [56\*] the more free and speedy passage of Justice || in each Jurisdiction, to all the Confederates, If the last Will and Testament of any person bee duely prooued in, and duely certified from any one of the Colonyes, it bee without delay accepted and allowed in the rest of the Colonyes, vnless some just exception bee made against such will or the proouing of it, w<sup>ch</sup> exception to bee forthwith duely certiefed back to the Colony where the said Will was prooued, that some just course may bee taken to gather in and dispose the estate without delay or dammage. And also that if any knowne planters or settled inhabitants dye Intestate, Administracon bee graunted by that Colony vnto w<sup>ch</sup> the deceased belong, though dying in another Colony. And the Administracon being duely certiefed, to bee of force for the gathering in of the estate in the rest of the Colonyes, as in the case of Wills prooued, where no just exception is returned. But if any person possessed of an estate, who is neither planter nor settled inhabitant in any of the Colonyes, dye Intestate, the Administracon (if just cause bee found to giue Administracon,) bee graunted by that Colony where the person shall dye and departe this life, and that care bee taken by that Gouvernement to gather in and secure the estate, vtill it bee demaunded and may bee deliuered according to rules of justice:—Which vpon due consideracon was confirmed by this Courte, in the behalfe of this Colonye, and ordered to bee attended in all such occasions for the future: provided the Generall Courtes of the the other Colonyes yeild the like assent therevnto.†

#### SCHOOLES.

It being one chiefe project of that old deluder Sathan, to keepe men from the knowledge of the Scriptures, as in former times keeping them in an vnknowne tongue, so in these latter times by perswading them from the vse of Tongues, so that at least the true sense and meaning of the originall might bee clouded with false glosses of saint seeming deceiuers; and that Learning may not bee

\* Oct. 10th. 1639. p. 39.

† Recommended by Comm'rs of the U. Colonies, Sept. 1648, and confirmed by the General Court, Mar. 14th, 1648-9. p. 179.

buried in the Graue of o<sup>r</sup> Forefathers, in Church and Common wealth, the Lord assisting our indeauors,—It is therfore ordered by this Courte and Authority thereof, that euery Towneshipp within this Jurissdiction, after the Lord hath increased them to the number of fifty housholders, shall then forthwith appoint one within theire [57\*] Towne to teach || all such children as shall resorte to him, to write and read, whose wages shall bee paid either by the parents or masters of such children, or by the Inhabitants in generall by way of supplye, as the maior parte of those who order the prudentials of the Towne shall appointe; provided that those who send theire children bee not oppressed by more then they can haue them taught for in other Townes. And it is further ordered, that where any Towne shall increase to the number of one hundred families or housholders, they shall sett vp a Grammer Schoole, the masters thereof being able to instruct youths so farr as they may bee fitted for the Vniversity. And if any Towne neglect the performance hereof aboue one yeare, then euery such Towne shall pay fise pounds p<sup>r</sup> Annū, to the next such Schoole, till they shall performe this order.

The propositions concerning the maintenance of Schollars at Cambridge, made by the Comissioners, is confirmed. And it is ordered, that two men shall bee appointed in euery Towne, within this Jurissdiction, whoe shall demaund what euery familie will giue, and the same to bee gathered and brought into some roome, in March, and this to continue yearly as it shall bee considered by the Comissioners.\*

SECRETARY.

It is ordered and decreed, that within twenty dayes after the session of euery Generall Courte, the Secretary thereof shall send forth Copies of such Lawes and orders as are or shall bee made at either of them, w<sup>ch</sup> are of generall concernement for the gouernement of this Commonwealth, to the Constables of each Towne within this Jurissdiction, for them to publish within fourteene dayes more, at at some publique meeting in theire seuerall Townes, and cause to bee written into a Booke and kept for the vse of the Towne. And once euery yeare the Constables in each Towne shall read or cause to bee read in some publique meeting all the Capitall Lawes, and giue notice to all the Inhabitants where they may at any time see the rest of the Lawes and orders and acquaint themselues there-

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\* Confirmed by the General Court, Oct. 25th, 1644. p. 112; *Note*.

with: And the Secretary of the Courte shall haue twelue pence for the Coppy of the orders of each Session aforesaid, from each of the Townes.\*

[58\*] And it is further ordered that the Secretary of the Courte shall record such Wills and Inventoryes as are exhibited into the said Courte, and shall fyle the originall of them, and giue a Coppy thereof to such as desire it, for w<sup>ch</sup> hee shall haue for euery Record of any Will or Inventory, or both, w<sup>ch</sup> is aboue the sum of forty pounds, three shillings foure pence; and for euery coppy of them or either of them, one shilling eight pence: And for euery search or supervising of them six pence: also for recording of euery Will or Inventory, or both, w<sup>ch</sup> is aboue the sum of thirty pounds and vnder the sum of forty pounds, two shillings six pence; and for euery coppy of them, or either of them, fiftene pence; and for euery search or supervising of them foure pence: Also for euery Attachem<sup>t</sup>, twelue pence, and for euery Bond or Recognisance in or about the same, six pence: Also for euery Execution above fve pounds, the Secretary shall haue twelue pence, and for euery Execution vnder fve pounds, six pence: Also for the entry of euery or any Recognisance in Courte, six pence, and for the withdrawing of it twelue pence, w<sup>ch</sup> shall bee paide before the bounden bee freed from his said Recognisance.

It is also ordered, that whosoever shall take out any Warrant from the Secretary of the Courte, that concerne an Action, shall, before hee hath a Warrant, enter his Action with the Secretary, and then take out his Warrant for summons to answer the same; for w<sup>ch</sup> they shall pay for euery entry twelue pence, and for euery Warrant, foure pence, though they agree with their defend<sup>r</sup> before the Courte. Also if any other Magistrate shall graunt a Warrant w<sup>ch</sup> concerne an Action, they shall enter the Action in a small Booke for that purpose, before they graunt the Warrant, and shall make a due returne at euery Courte to the Secretary thereof, what such Warrants and to whome they haue graunted; and all such persons shall bee as lyable to pay twelue pence for euery such Action to the Secretary of the Courte as if they should haue had their Warrants of him.

STRAYES.

It is ordered by this Courte and Authority thereof, that whosoever shall take vp any straye beast or find any goods lost, whereof the owner is not knowne hee shall giue notice thereof to the Constable

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\* Oct. 10th, 1639; (p. 39;) amended.



of the same Towne, within six dayes, whoe shall enter the same in a [59\*] booke, and take order that it bee cryed || at their next Lecture day or generall meeting, vpon three seuerall dayes, and if it bee aboue twenty shillings value, at the next Markitt, or two next Townes publike meetings, where no Markitt is within ten miles, vpon paine that the partye so finding and the said Constable hauing such notice and failing to doe as is here appointed, to forfeitt, either of them, for such default one thirde parte of the value of such straye or lost goods.

And if the finder shall not give notice as aforesaid, within one month, or if hee keepe it more then three months, and shall not aprize it by sufficient men, and allso record it with the Register of the Towne where it is found, hee shall then forfeitt the full value thereof. And if the owner appeare within one yeare after such publication hee shall haue restitution of the same or the value thereof, hee paying all necessary charges, and to the Constable for his care and paines, as one of the next Magistrates or one of the Townesmen shall adiudge; and if no owner appeare within the time prefixed, the said straye or lost goods shall bee thus devided, one fourth parte thereof with his reasonable charge shall bee to the finder, one fifth parte thereof or ten shillings to the Constable, at the choyce of the Courte, and the rest to the Common wealth; provided there bee three streakes clipt in the haire of the neare buttock six inches long, that they may bee knowne.

S W Y N E .

It is ordered by this Courte, that all the swyne, either hoggs or shoates, in the severall plantations that are kept at home within the Towne, shall by September next bee ringed or yoaked, or kept vp in their yards vnder the penalty of foure pence for euery such swyne, to bee paid by the owner to the party that shall take the swyne so defectiue and impound them; allso all such as are kept by heards in the woods, shall not bee suffered to abide aboue one night in the Towne, but that it shall bee lawfull to impound them, in case they come at any time home from the middle of March to the middle of November. Fairefeild and Strattford desires to bee included in this order.

For the better preserving Corne and meadow on the east side of the great Riuer, It is ordered by this Courte, that there shall no hoggs nor swyne of any sorte bee put ouer thither or kept there at [60\*] any time, after the || publishing of this order, except they

bee kept out of the bounds of the severall Townes or in their yards vnder the penalty of two shillings a head for every hogg or swyne, for every time they shall bee found there contrary to this order.

TIMBER.

It is ordered by this Courte, that no Timber shall bee felled within three myles of the mouth of Mattabeseck Riuer, nor at vnseasonable times, viz: from the beginning of Aprill to the end of September, and that it bee improved into pipestaues or some other merchantable comodity, within one month after the felling thereof, or carted together: and that the Timber so improved shall not bee transported from the Riuer but for discharge of debts or fetching in some necessary provision.

TOBACCO.

Forasmuch as it is obserued that many abuses are crept in and committed by frequent taking of Tobacco, It is ordered by the Authority of this Courte, that no person vnder the age of twenty yeares, nor any other that hath not already accustomed himselfe to the vse thereof, shall take any Tobacco, vntill hee hath brought a certificate vnder the hands of some who are approued for knowledge and skill in phisick, that it is vsefull for him, and also that hee hath receiued a lycense from the Court for the same. And for the regulating of those whoe either by their former taking it haue to their owne apprehensions made it necessary to them, or vpon due advice are perswaded to the vse thereof, It is ordered, that no man within this Colonye, after the publication hereof, shall take any Tobacco publicly in the street, high wayes, or any barne yards, or vpon training dayes in any open places, vnder the penalty of six pence for each offence against this order in any the particulars thereof, to bee paid without gainsaying vpon conviction, by the testimony of one wittness that is without just exception, before any one Magistrate. And the Constables in the severall Townes are required to make presentment to each particular Courte of such as they doe vnderstand and euict to bee transgressors of this order.

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TRESPASSES.

It is ordered by this Courte and Authority thereof, that if any horse, or other beast, trespass in Corne or other Inclosure, being fenced in such sorte as secures against Cowes, oxen, small calves,

and such like orderly cattle, the party or parties trespassed shall procure two able men of good reporte and creditt to veiw and adidge the harmes, w<sup>ch</sup> the owner of the beast shall satisfie (when knowne,) vppon reasonable demaund, whether the beast were impounded or not; but if the owner bee knowne and neare residing, as in the same Towne, or the like, notice shall bee left at the vsuall place of his aboad, of the Trespass, before an estimacon bee made thereof, to the end hee, or any others appointed by him, may bee present when the judgement is made; the like notice allso shall bee left for for him of the damage charged vppon him, that if hee approue not thereof hee may repaire to the select Townsmen, or some of them, whoe shall in such case nominate and appointe two able and indifferent men, to reveiw and adiudge the said harmes, w<sup>ch</sup> being discharged, together with the charge of the notice, former and latter veiw, and determination of dammages, the first judgement to bee void, or else to stand in lawe.

TREASURER.

It is ordered, that the Treasurer shall deliver no mony out of his hands to any person, without the hands of two Magistrates, if the sum bee aboue twenty shillings; if it bee vnder, then the Treasurer is to accept of the hand of one; but if it bee for the payment of some bills to bee allowed, w<sup>ch</sup> are referred to some Comittees to consider of, whether allowed or not, that such bills as they allowe and sett theire hands unto, the Treasurer shall accept and giue satisfaction.\*

VOATES.

It is ordered by this Courte and decreed, that if any person within these Libberties haue beene or shall bee fyned or whipped for any scandalous offence, hee shall not bee admitted after such time to haue any voate in Towne or Common wealth, nor to serue on the Jury vntill the Courte shall manifest theire satisfaction.

VERDICTS.

That loue and peace, with truth and righteousness may continue and [62\*] flourish in these confœderated Colonyes, || It was, vppon the recommendation of the Commissioners, ordered, that any Verdict or sentence of any Courte within the Colonyes, presented vnder authentique testimony, shall haue a due respect in the severall Courtes of this Jurisdiction, where there may bee occasion to make vse hereof, and

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\* Jan. 14th, 1638-9. p. 26.

shall bee accounted good evidence for the partye, vntill better evidence or other just cause appeare to allter or make the same voide: And that in such case, the issueing of the cause in question bee respited for some convenient time, that the Courte may bee advised with where the verdict or sentence first passed. Provided notwithstanding, that this order shall bee accounted valid and improved onely for the advantage of such as liue within some of the confederated Colonies; and where the verdicts in the Courts of this Colony may receiue reciprocall respect by a like order established by the Generall Courte of that Colonye.\*

WYNE AND STRONG WATER.

Whereas many complaints are brought into the Courte, by reason of diuerse abuses that fall out by severall persons that sell wyne and strong water, as well in vessells on the Riuer as also in severall howses; for the preventing hereof, It is now ordered by the Authority of this Courte, that no person or persons, after the publishing of this Order, shall neither sell Wyne nor strong water by retaile, in any place within these Libberties, without lycense from the peticular Courte or any two Magistrates,† or where there is but one Magistrate, by a Magistrate and one of those appointed to order the affaires of the Towne.

WATCHES.

It is ordered by this Courte and decreed, that there shall bee a sufficient Watch meinteined in euery Towne, and that the Constable of each Towne shall duely warne the same and see that the inhabitants or residents doe severally in their turnes obserue the same, according as the inhabitants doe agree.‡ And this Courte doth explaine themselves and order that whosoever within this Jurisdiction, that is lyable to watch, shall take a journeye out of the Towne wherein hee liueth after hee hath had timely notice and warninge to watch, hee shall provide a watchman for that turne, though himselfe bee absent; and if any man that takes a journeye, or goes out of the Towne wherein hee liueth, if hee returne home within a weeke after the Watch is past his howse, hee shall bee called back to watch that turne past a weeke before.§

[63\*] And for the better keeping Watches and Wards by the Con-

\* Approved by the General Court, Oct. 25th, 1644. p. 113.

† Feb. 14th, 1643-4. p. 190. The clause which follows was added subsequently.

‡ June, 1636. p. 2.

§ Sept. 1649. p. 196.

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stables in time of peace, It is ordered by this Courte and Authority thereof, that euery Constable shall present to one of the next Magistrates the name of euery person whoe shall vppon lawfull warninge refuse or neglect to watch or warde, either in person or some other fitt for that service: And if, being conuented, hee cannott giue a just excuse, such Magistrate shall graunt warrant to levye fīue shillings on euery such offender, for euery such default: the same to be imployed for the vse of the Watch of the same Towne. And it is the intent of the lawe that euery person of able body (not exempted by lawe,) or of estate to hire another, shall bee lyable to watch and warde, or to supply it by some other, when they shall bee therevnto required. And if there bee in the same howse diuerse such persons, whether sonnes, seruants or sojourners, they shall all bee compellable to watch as aforesaid. Provided that all such as keepe families at their farmes, being remoate from any Towne, shall not bee compellable to send their seruants or sonns from their farmes to watch and warde in the Townes.

W O L V E S .

Whereas great loss and dammage doth befall the Common wealth by reason of Wolues, w<sup>ch</sup> destroy great numbers of our Cattle, notwithstanding provision formerly made by this Courte for suppressing of them; therefore, for the better incouragement of any to sett about a worke of so great concernement, It is ordered by this Courte and Authority thereof, that any person, either English or Indian, that shall kill any Wolfe or Wolues, within ten myles of any plantacon within this Jurisdiction, shall haue for euery Wolfe by him or them so killed, ten shillings paid out of the Treasurie of the Country: provided, that due prooffe bee made thereof vnto the plantacon next adioyning where such wolfe or wolues were killed, and also bring a certificate under some Magistrates hand, or the Constable of that place, vnto the Treasurer.

W R E C K S O F T H E S E A .

It is ordered and decreed and by this Courte declared, that if any shipp, or other vessells, bee it freind or enemye, shall suffer shipwreck vppon o' Coasts, there shall bee no violence or wrong offered to their persons or goods, but their persons shall bee harboured and releiued, and their goods preserved in safety, till Authority may [64\*] bee certefied and shall take further order therein.

V E S S E L L S .

It is ordered by this Courte and Authority thereof, that no Vessell nor Boate shall haue libberty to goe from any Porte in any Towne within this Jurissdiction, before they haue entred with the Register or Recorder in each Towne what quantity of powder and shott they carry forth with them in theire said vessells, and shall take a Certificate, vnder the said Registers or Recorders hand, of the same, paying to him for every Certificate, foure pence: And if any vessell shall attempt to goe from the said Towne or Porte, or Townes and Portes, before hee hath entred as aforesaid, or shall bee found with any more or greater quantity of powder and shott aboard the vessell or vessells then they had a Certificate to shew they had entred, shall forfeitt and pay for each default the true value of all such powder and shott as they should haue entred as aforesaid. And all such persons or Ma<sup>n</sup> of such Vessells shall giue a true account, vpon theire returne, to the said Recorder where they haue entred the premises, how they haue disposed thereof, vpon the former penalty: And if the said Towne Register or Recorder shall haue just cause to conceiue that hee or they carry forth more of the premises then in an ordinary way is requisitt for theire necessary defence and safety in theire intended voyage, then the said persons or Ma<sup>n</sup> of Vessells shall giue in security vnto the said Recorder, (if by him required therevnto,) that hee shall giue a due account to this Commonwealth of the same, vpon his returne.

F O R R E I G N E R S .

It is ordered by this Courte, that no Foreigners, after the twenty ninth day of September next shall retaile any goods by themselues in any place within this Jurissdiction, nor shall any Inhabitant retayle any goods w<sup>ch</sup> belongs to any Forreigner, for the space of one whole yeare after the said twenty ninth of September next, vpon penalty of confisscation of the value of one halfe of the goods so retailed, to bee paid by the seller of them.

[65\*]

H O M E   L O T T S .

Whereas there is creeping in, in severall Townes and plantations within this Jurissdiction, a great abuse of buying and purchasing Home Lotts and laying them together, by meanes whereof great depopulations are like to follow, It is ordered that all dwelling or mansion howses that are or shall bee allowed in any plantation or Towne within this Jurissdiction, shall bee vpheld, repaired and mainteined

sufficiently in a comely way : As also, whosoeuer shall possess and inioye any homelotts within any such plantation or Towne, that is not yet built vpon, shall, within twelue months after the making of this order, erect and build a howse there, fitt for an inhabitant to dwell in, vnless the Courte, vpon knowledge of the case, finde cause to abate, or giue longer time for building.

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It is ordered, that the prises of Corne for the yeare ensuing, for all Country Rates, (except where ingagements to the contrary are expressed,) shall bee as followeth :

Wheat, foure shillings six pence p<sup>r</sup> bush:

Pease, three shillings six pence p<sup>r</sup> bush:

Rye, three shillings six pence p<sup>r</sup> bush:

Indian, three shillings p<sup>r</sup> bush:

And that there shall bee libberty for all men to pay one thirde parte of such Rates, in good Wampum.

The Public Records of the Colony of  
Connecticut..., 1850