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ACTS

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF KENTUCKY,

PASSED

AT THE SESSION WHICH WAS BEGUN AND HELD IN THE CITY OF FRANKFORT,
ON MONDAY, THE FIFTH DAY OF DECEMBER, 1859, AND ENDED ON
MONDAY, THE FIFTH DAY OF MARCH, 1860.

VOLUME ONE.

PUBLISHED BY AUTHORITY.

FRANKFORT, KY.:
PRINTED AT THE YEOMAN OFFICE.
J. B. MAJOR, STATE PRINTER.
1860.

CHAPTER 33.

1860.

AN ACT to amend an act, entitled "An act to reduce into one the several acts in relation to the town of Harrodsburg."

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the judicial power of said town shall be vested in and exercised by a court, to be styled the Police Court of Harrodsburg, which shall be held by a single judge, to be elected and qualified and hold office as prescribed in the constitution of this Commonwealth. The police court of Harrodsburg shall be a court of record, and shall have the power of a quarterly judge over slaves and free negroes, and to require security of all persons for good behavior and to keep the peace; and in all matters of penalties for a violation of the laws of this Commonwealth shall have concurrent jurisdiction, with the circuit courts and justices of the peace, of prosecutions for misdemeanors committed in the town where the punishment of a free person is a fine not exceeding one hundred dollars and imprisonment for fifty days, or of a slave in any number of stripes not exceeding thirty-nine, and exclusive jurisdiction of all prosecutions and actions for an infraction of the by-laws or ordinances of the town. Said court shall exercise the power and jurisdiction of an examining court, shall have concurrent jurisdiction with the circuit court to try vagrants; and shall have power to take recognizances and bail bonds from persons charged with offenses cognizable before said court to appear and answer, and a like power to enforce a compliance with the same that circuit courts have; and all recognizances and bail bonds entered into to appear before said court, where the amount of the penalty does not exceed one hundred dollars, may be forfeited, and other proceedings had thereon in said court to forfeit and collect the same, as are directed by-law in similar cases in the circuit court. The jurisdiction of said court, and the judge thereof, in civil cases, shall be the same as that of a quarterly court and the judge thereof.

§ 2. The police judge shall issue his process in criminal, penal, and civil cases in the name of the Commonwealth, and make the same returnable before him as police judge of Harrodsburg; and the same shall be directed to the sheriff, marshal, jailer, coroner, constable, or policeman of any town, city, or county of Kentucky, and shall be executed and returned by any of said officers, under the same penalties as other similar process from circuit and quarterly courts; and all proceedings in criminal, penal, and civil cases in said court shall be the same as directed by law in similar cases in the circuit and quarterly courts: *Provided, however,* That it shall not be necessary that an indictment be found by a grand jury for the trial of any

Judicial powers vest'd in police court.

Judge to be elected.

Jurisdiction of police court.

Police judge to issue process in the name of the Commonwealth, & to whom directed.

1860.

offense of which said police court or judge shall have jurisdiction: *And provided further*, That all prosecutions for a violation of town ordinances shall be in the name of the board of trustees; and said town shall be entitled to all fines and forfeitures recovered in such cases.

Jury may be summoned.

§ 3. The judge of said court may authorize any of the officers aforesaid to summon a jury in any case cognizable before him, where a jury would be required before the circuit court, quarterly court, or a justice of the peace.

Judge to be cl'k of his court, and his fees.

§ 4. The judge of said court shall be the clerk of his own court, and shall receive for services therein rendered the same fees as the clerks of circuit courts are by law entitled to, where the amount in controversy in a civil case before him is fifty dollars or more; in cases of less than fifty dollars, he shall receive the same fees as by law are allowed to justices of the peace. In penal and criminal cases, he shall be entitled to charge the following fees, to-wit: For a warrant for a violation of the penal and criminal laws, or the by-laws and ordinances of the town, one dollar; for swearing a jury and presiding over the trial in any such case, fifty cents; for a recognizance or other bond, forty cents; for a recognizance to keep the peace, to be paid for by the applicant therefor, fifty cents; for an order of commitment in any case, fifty cents; swearing witnesses, five cents each. All other fees of said judge shall be the same as are by law allowed to the quarterly judge.

Trustees to elect attorney—his duties and fees.

§ 5. The board of trustees of said town shall elect an attorney for said board, whose duty it shall be to give legal advice to the board when called upon, to prosecute all persons in said court charged with a violation of the criminal and penal laws, and of the by-laws and ordinances of said town, and institute proceedings for the enforcement and forfeiture of recognizances and bail bonds, and the enforcement and collection of all judgments against offenders; and for his services in every case he shall be entitled to, as his fee, the same amount allowed by law to Commonwealth attorneys for similar services: *Provided, however*, That in all jury trials where the said attorney does not receive a part of the fine, there shall be taxed a fee of five dollars against the defendant, if convicted.

Proceedings in cases of \$50 and over.

§ 6. In all civil cases where the amount in controversy is fifty dollars or more, there shall be the same pleadings and proceedings by the parties, plaintiff and defendant, that are required by law in the circuit court; and upon the filing of every petition there shall be a tax of fifty cents paid, which the judge of said court shall pay over to the trustee of the jury fund, and it shall be the duty of said judge to report to the circuit court at each term the number of petitions filed before him since his last report.

§ 7. The fees of the judge of said court in civil cases shall be collectable at the same time and in the same manner as fees of the clerk of the circuit court are collected.

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How fees of judge collected.
Writs of *fi. fa.* & *capias prof.* may issue.

§ 8. On all judgments in criminal, penal, and civil cases, in said court, and for a breach of the by-laws and ordinances of said town, the same writs of *fieri facias* and *capias profine* shall issue as are by law allowed for the collection and enforcement of similar judgments in circuit and quarterly courts.

§ 9. The fines and forfeitures recovered in the name of the Commonwealth in said court, except the part allowed to the town attorney, are hereby granted to the board of trustees of Harrodsburg, to be by them held and appropriated for the purpose of sustaining common schools in said town, and for no other purpose; and any fund arising therefrom, which may not be needed in sustaining said common schools, shall be, by said board, invested in some safe and sure manner for such uses.

Fines and forfeitures granted to trustees of Harrodsburg.

§ 10. Any officer who may execute process, writs of *fieri facias*, or *capias profine*, issued by said court, shall be entitled to the same fees as are by law allowed to sheriffs for similar services.

Fees for issuing writs of *fi. fa.*, &c.

§ 11. The regular terms of said court shall be as follows: For the trial of civil cases, on the first Tuesday in February, May, August, and November, and continue five days, if the business of said court require it; and for the trial of criminal and penal cases, and for violations of the town ordinances, at any time three days after the service of the warrant, process, or summons, on the defendant: *Provided*, That in any such case the defendant may demand and have a speedy trial, the parties thereto having reasonable time allowed to procure the attendance of witnesses.

Regular terms of police court; when held.

§ 12. Any of the officers aforesaid who shall fail, neglect, or refuse, to execute any warrant, summons, or process, and make due return of the same, shall be fined not less than twenty dollars, upon the motion, in said court, of the town attorney, or of any party aggrieved—ten days' notice in writing having been given to the said officer.

Penalty if officers fail to perform duties.

§ 13. Any officer who shall fail to collect any writ of *fieri facias*, or execute any *capias profine*, issued from said court, and make due return thereof according to law, shall, with his securities, be subject to all the damages and penalties now imposed by law upon sheriffs for failing to collect, return, and pay over money when collected on writs of *fieri facias* and *capias profine*.

§ 14. A return of "not found" on a *capias profine*, or of "no property found" in whole or in part on a *fieri facias*, issued on any judgment in said police court, shall authorize an attachment out of chancery in favor of the Commonwealth or the board of trustees of Harrodsburg, or other

When attachments may issue.

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plaintiff, against the choses in action and other effects of the defendant or defendants, in the same manner that the return of "no property" authorizes an attachment in chancery on judgments rendered in the circuit courts.

Penalty for drunkenness.

§ 15. If any person shall be drunk in the limits of said town, and disorderly on the streets or alleys thereof, he shall be fined five dollars.

Penalty for disturbing public assemblies, &c.

§ 16. If any person shall willfully interrupt or disturb a congregation assembled on or at any place of and for religious worship, or misuse or maltreat any person being there, or shall disturb or interrupt any lawful assembly or school or school exhibition, he shall be fined in a sum not less than ten nor more than fifty dollars, or imprisoned not less than five nor more than twenty days, or both so fined and imprisoned, at the discretion of the jury.

Penalty for permitting free negro or slave to remain upon premises.

§ 17. If any person shall knowingly permit any slave or free negro, of which he is not the owner or has not the control, to remain in or upon his premises, or premises over which he has control, for more than two hours, without the written consent of the owner or controller of said slave, he shall be fined five dollars: *Provided*, This section shall not be construed to prevent husbands and wives of said free negroes and slaves visiting or remaining with each other during the night or on holidays.

Penalty for selling or giving slave liquor.

§ 18. If any person, not the owner of the slave, shall sell, loan, or give ardent spirits to said slave, or shall suffer or permit the slave of another to have or drink ardent spirits upon his premises, or premises under his control, he shall be fined sixty dollars; and proof of any of the offenses enumerated in this section shall be a presumption of the guilt of the defendant, until the contrary is clearly proven.

Penalty for giving or sell'g playing cards to a slave or free negro.

§ 19. Any person who shall give, sell, or loan any deck, or part of a deck, of playing cards, or any arrangement or devise for gambling, to a slave or free negro, shall be fined twenty dollars.

Penalty for permitt'g slave to go at large or hire time.

§ 20. If the owner, hirer, or controller of any slave shall suffer or permit said slave to go at large, or to hire his or her own time, or to work for himself or herself, or any other, without the consent of said owner, hirer, or controller to do the specific act or work for which said slave is engaged, the said owner, hirer, or controller shall be fined five dollars; and any person who shall hire or employ any such slave shall be fined five dollars.

No place for the assemblage of colored persons to be erected without consent of trustees, &c.

§ 21. No place or house for the assembly of colored persons shall hereafter be located or erected within the limits of said town, for any use or purpose whatever, without the license and consent of the board of trustees of said town; and all such houses or places now existing in said town, and the assemblies of colored persons attending the same, and all such houses or places hereafter established and the

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persons attending the same, shall be regulated by ordinance, and also the conduct of persons going to and returning from such places, both free colored persons and slaves; and for any violation of any such ordinance, a free colored person shall be fined not less than ten dollars nor more than fifty dollars, and a slave shall receive not less than ten, nor more than thirty lashes, to be enforced before the police court of said town. And for good cause, the board of trustees may provide for the closing up any house or place of assembling of colored persons within said town, and may provide for silencing any preacher or teacher of colored persons for misconduct. And all assemblies of colored persons within said town shall be under the visitation of the police, and especially under that of the night police and watchmen.

§ 22. If any person shall sell, loan, or give, any spirituous liquors, or mixture of the same, to any minors, without the previous written consent of the father, mother, or guardian, attested by two witnesses, or shall suffer or permit any minor to have or drink any spirituous liquors, or mixture of the same, on his premises, or premises under his control, he shall be fined the sum of thirty dollars; and if he be a vender of ardent spirits by license, he shall be fined sixty dollars.

Penalty for giving or selling liquor to minors.

§ 23. If any person, other than the parent or guardian, shall sell, give, or loan, any pistol, dirk, bowie-knife, brass-knucks, slung-shot, colt, cane-gun, or other deadly weapon, which is carried concealed, to any minor, or slave, or free negro, he shall be fined fifty dollars.

Penalty for giving weapons to minors and slaves.

§ 24. If any person, other than the parent or guardian, shall sell, give, or loan, to any minor a deck, or part of a deck, of playing cards, or shall knowingly permit any minor to play cards on his premises, or premises under his control, he shall be fined ten dollars; and any minor having in his possession a deck, or part of a deck, of cards, shall be fined five dollars.

Penalty for giving or selling minor cards.

§ 25. The board of trustees shall have power to appoint not more than three policemen, who shall have the same power to execute process, arrest and apprehend violators of the penal and criminal law, and laws relating to the town of Harrodsburg, and town ordinances, that marshals have.

Trustees may appoint police.

§ 26. Upon the trial and conviction of any person in the police court of any crime or offense, he shall be committed to jail until the fine and costs are paid or replevied: *Provided*, That the imprisonment shall not be longer than at the rate of twenty-four hours for each two dollars of said fine and costs: *And provided further*, That a writ of *feri facias* may be issued, at any time thereafter, against the estate of the defendant or defendants, for the amount of the fine and costs until the same are satisfied.

Persons convicted in police court may be committed to jail until fine is paid.

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Officers to arrest disorderly persons.

§ 27. It shall be the duty of all peace officers and policemen to arrest all disorderly or drunken persons and take them before the police court, to be dealt with according to law: *Provided*, That when any drunken or disorderly person is arrested in the night time, the officer making the arrest may commit him to the county jail, or work-house, or watch-house, until the next morning, when he shall be carried before the police judge or court, to be dealt with according to law; and the jailer of Mercer county is hereby directed to receive such persons, when arrested and in custody of such officer, in the night time, without an order of commitment.

Officers may take bail.

§ 28. The officer executing any process requiring bail, shall have authority to take the bail.

Chairman of trustees to act in absence of police judge.

§ 29. In the absence of the police judge from town, the chairman of the board of trustees of said town shall have the same authority and power that said judge has.

Appeals.

§ 30. In all cases, civil and penal, where the judgment, exclusive of costs, is twenty dollars or more, either party may appeal to the circuit court: *Provided*, Said appeal is taken and a copy of the record filed in said court within sixty days from the rendition of the judgment: *And provided further*, That the party, except where the Commonwealth is appellant, files a bond, as now required by law.

Sec. 8 of act to which this is an amendment amended.

§ 31. Section 8 of the act to which this is an amendment, is hereby so amended as to insert after the words, "some newspaper of the town for two months, by successive weekly publications," the words, "or by the service of a written copy of the order, signed by the chairman of the board of trustees and attested by the clerk, upon the parties to be affected thereby."

Trustees may assess tax to pay debts of town.

§ 32. The board of trustees shall have power to assess a tax, not exceeding twenty cents, on every one hundred dollars of the taxable property of said town. They shall have power to allow the marshal, in addition to his regular fees, such compensation as to them may be proper.

Trustees may sell, convey, & close up streets in said town.

§ 33. Said board shall have power to sell and convey, or lease or close up, any of the alleys or parts of alleys in said town, with the consent of a majority of the qualified voters thereof.

§ 34. The present officers of said town shall continue in office and perform all the duties required under this act until their successors are elected and qualified, as provided by law.

§ 35. This act shall not be construed to repeal any portion of the act to which this is an amendment, except those portions which conflict with this amendment.

§ 36. This act shall be in force from its passage.

Approved January 12, 1860.