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THE INEFFICIENT STATUTE

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In discussing inefficient statutes, it is but fair to say that a statute may be excellent in its intent, and may be the expression of a great moral principle of the community, without being enforced, and that another statute which bears all the earmarks of enforcibility, may yet fail of enforcement in fact. An example of the latter class has so recently been published to the world, that no news-reading community has failed to observe it with wonder. In investigating the Iroquois Theatre fire in Chicago, the coroner's jury finds adequate statutory provisions for the builders' work being thorough and safe, for ample exits, for fireproof curtain and scenery, for the separation of stage and auditorium by fireproof devices, for a supply of fire extinguishing apparatus, and even for the drilling of employees, and not least in the statutory provisions are requirements of periodical, thorough inspection, with authority in the executive to close the house if it fails to comply with these requirements. Yet with every statutory provision ample for enforcing the law, we find non-enforcement of the most glaring type. Granting, therefore, that statutes are perfect, we find instances where they are not enforced owing to official neglect or stupidity, but such instances are local, sporadic and incidental, not constant, nor inherent in the nature of statutory law. There are, however, certain classes of statutes which are not enforced because of inherent defects. These may be classed broadly as: First, those where the legislature has expressed the sentiment of a portion of the community, and this sentiment is not accepted by the balance, while the portion favoring the act is not strong enough to force the dissenters to yield; second, where public sentiment is so against the act of the legislative body that local, or general nullification follows; third, where infringement is so universal that the act is merely the expression of a sentiment as to what ought to be; fourth, where the infringement is so difficult of discovery that no one can know of it, or of the person who has done it, save in exceptional circumstances; fifth, where the machinery of enforcement is weak, a com-

mon development of the first two classes; sixth, where there are loopholes or "barn doors" in its phraseology and the act is by its own terms unenforceable; and lastly, when enforcement is left entirely to the individual harmed by the violation of the law.

As a matter of course, all comment must be illustrated chiefly from the statutes with which the commentator is most familiar, in this case those of Connecticut, and doubtless any person familiar with the statutes of other States would find there, some identical, and many different acts in illustration of the several principles. Living in a glass house, we yet dare throw a few stones in a gingerly way, but beg that no one may consider his own house stone proof because our stones do not fall without our own walls.

The first class, that where the legislature has expressed the sentiment of a non-masterful portion of the community, is really very sweeping, and embraces every statute which is complete in form and yet not in fact absolutely enforced, varying only in degree from those acts forbidding robbery and theft (which are, on the whole, enforced) to our act forbidding any person to injure a bicycle path in any way. This last act is the more typical of the class, because it is least complicated with other causes of failure and at the same time is not often enforced. Of like simplicity is the act forbidding the throwing of injurious articles on the highway. Both of these acts were passed when bicycling was at its zenith, and the wheelmen were powerful enough to obtain legislation formally protecting their mounts, yet were in a minority of the population, and have not since been strong enough to compel obedience to the statute. (For citations and other instances, refer to note A.)

In the second class, where public sentiment is against the act, the local or general nullification which follows, is far more difficult for the minority which initiated or urged the act to control, than any other form of opposition. Though the variance may lie between different classes in the same community, the greater portion of this nullification is by localities, induced by local prejudices, usually under the belief that the act was passed by other local influences which are not worthy of respect outside their own borders. An instance of this is the failure, in most of our cities, to collect the tax in commutation of military service. Our acts provide for the enrollment of all male citizens in the State between the ages of eighteen and forty-five years, with annotations upon the face of the rolls to show who are exempt from military service by reason of

disability, or who are in some of the classes which are honorably exempt from militia duty. Upon this roll the towns and cities are required to collect two dollars from each individual who is not in an exempt class, and to pay the amount presumably collected (whether collected in fact or not) to the State, so that where the tax is not collected from the individuals the moneys paid to the State must be taken from the proceeds of other forms of taxation. As a matter of fact, the law if enforced would reach so many voters who are not otherwise held to any taxable liability, that the political rulers in many of our local governments are afraid to enforce it (although it would appear on the face of the statutes that the section providing imprisonment for failure to pay would be amply severe to establish success if attempt were made), in the belief that public sentiment among the irresponsible voters is against such enforcement, and in abject terror lest they make enemies and thereby lose their political power. The inevitable result of this is contempt of law among these voters, and an illegal burden upon the shoulders of those who have other forms of taxes to pay. Unfortunately the cost of legal proceedings to force these faithless officials to do their duty is more than the cost of submitting in silence to the wrong. Here then is a case where an unestablished expectation that public sentiment may possibly be against a law, nullifies it, as South Carolina in 1832 attempted to nullify a federal tariff act which really had public sentiment in that locality established against it. Had South Carolina found similar political weakness in the Federal Government at that time, there would have been disunion, and the wreck of our nation. In Connecticut the wide tire law is a remarkable instance of general nullification. Passed in 1895, it provided that on and after the first day of July, 1896, all vehicles except those already in use, used on the highways of this State in the transportation of merchandise, should have tires of specified widths, according to the burden that the axles in these vehicles, of specified sizes, were presumably capable of carrying. In 1899 this was re-enacted and the exception omitted, so that old vehicles would require re-tiring, and time was given till July, 1902, for this. In 1901 the law was re-enacted, but granting an additional year for re-tiring. In 1903 it was modified, practically granting a few more months leeway, and exempting vehicles in use before July, 1896, on certain terms. The time for taking advantage of this has passed, and yet we have not heard of anyone obeying the law, certainly so far as old vehicles are concerned. Game laws in every State suffer

local nullification, usually at the hands of the rural population, who condemn them as "city made" and unworthy of obedience, while city and country unite in nullifying the trespass laws, which may be considered country made. These, however, are better described under the next class. (For citations and other instances of nullification refer to note B.)

The third class, where infringement is so universal that the act is no more than the expression of a sentiment as to what ought to be, is well illustrated by the act which declares that "Every person who shall use any profane oath, or shall wickedly curse another, shall be fined one dollar." If this act was strictly enforced for a single day, and each oath was prosecuted as a separate offense, what a rolling of dollars there would be. The act undoubtedly has the moral consent of the major part of the community, and yet the instances of its enforcement are practically unheard of.

The trespass law lies about equally in this and in the previous class. Its infringement is universal, with yet a sentiment in its favor, widely diffused, but with a mental qualification in the mind of each individual as to just where the law applies to him, which results as a whole in disregard of the law except where the owner of the land has indicated that he will enforce it, either by building a high fence, or by posting signs. The act (although there are two or more, we need consider but the most recent and complete) has strong machinery, apparently liberally ample for its enforcement, and yet how many of the citizens of this State who ever leave the limits of the cities, have not, within the last twelve months "entered upon the land of another without the permission of the owner, occupant, or person in charge thereof for the purpose of hunting, trapping, fishing . . . or gathering nuts, fruits or berries," for which trespass the act in no uncertain terms declares that the trespasser "shall be fined not more than fifty dollars, or imprisoned not more than thirty days, or both"? Who has ever heard of an arrest and conviction under this act? It fails, because immemorial custom and public sentiment are against it, except where the privilege we have always enjoyed is wantonly abused, or the owner of the land has publicly expressed his wish to reserve it for some special purpose. There will also be occasion to refer to this act in the last class, as one which is left to individuals to enforce. In the present class, two other acts are especially worthy of comment as conspicuous examples of universal infringement, the act which reads, "Every person who affixes to a tree in a public way or place, a playbill,

picture, notice, advertisement or other thing . . . except for the purpose of protecting" the tree "and under a written permit from a tree warden (an officer who is not in existence in most towns) shall be fined not more than fifty dollars"; and the one which reads, "No person shall kindle a fire upon the land of another without permission of the owner or his agent," another fifty dollar offense. There are innumerable like statutes, less glaringly inefficient, but of no more real worth as judged by results. (Refer to note C.)

The fourth class of acts, whose infringement may not be discovered save under exceptional circumstances, is well illustrated by our statutes forbidding rooting up, or injuring creeping fern and arbutus. It is well nigh impossible to pick arbutus flowers without occasionally pulling up a rootlet, and the infringement is usually accidental, but the weakest point of all is the fact that no one except the person doing the act need know that it has been done. This particular pair of statutes will be spoken of later, as illustrations of other classes as well, for they are typical failures in several ways. Another instance of this same class is the act forbidding anyone save the person to be naturalized, paying for naturalization papers. Only the two involved can have any knowledge of the transaction, if there is any desire to conceal it, and one is subject to the penalty, while the other gains by the violation, and as a rule is too ignorant to have any idea that it is a criminal offense. It is quite possible that machinery can be devised to effect the desired end, but as the act now stands it is dead wood. Some two dozen acts are cited as falling within this class, a difficult one to remedy (refer to note D), and it is quite possible that most of these acts are affected by weak machinery, but by no means fail fundamentally from that cause.

Acts with weak machinery as the cause of their failure, coming under our fifth class are usually complicated with other causes of failure. They are so frequently left with weak machinery because of those other causes (such as the first three already considered) that an unmixed instance is rare. Perhaps the act which requires a session of the legislature to remove a sheriff who has abused his office, is as good an example as any. Another series of weak-kneed acts are those concerning escheats to the State of the proceeds from the sale of property left with hotel keepers, common carriers and administrators of estates of deceased persons. One of these acts is not even indexed in the statute book, and none of them are followed up by any efficient means.

Since the punishment which may be inflicted on the wrongdoer is a portion of the routine which is established to deter those who might otherwise violate the law, it is properly considered part of the machinery of enforcement. Therefore, among the acts in this class are several where the legislature has not seriously considered what form of penalty is most disagreeable to the criminal, but has lazily applied the commonplace and ineffective forms. These are considered more in detail on a later page. Another type of weak machinery is exemplified in our game laws, where in order to apprehend violators the officers must cover a wide and indefinite ground, and the body of officers on whom this task is laid are dependent solely on uncertain and occasional fees for their reward. Moreover they must ordinarily act on their own initiative, and they therefore fall under the constant stigma of being interested only in obtaining their fees, and having no real interest in doing their duty. That there are any efficient officers under such a system is a wonder, yet we have a very few. In this State, and probably in every others, there is a large number of acts which fail largely because of weak machinery. (Refer to note E.)

The sixth class is composed of acts so carelessly drawn or expressed that their presumable intent cannot be enforced under their terms, or acts where the legislature has deliberately provided an exception to the penalty which is so wide, that anyone who wishes to get within the exception may readily do so, either in fact, or in a form to defy detection. An exception may be granted to a narrow and easily determined class, such as to blind persons or children under a certain age, and be justifiable from the moral side in cases where the individual must personally appear in order to claim the benefit, on the ground that an impostor is readily detected and punished. There is, however, a large group of exceptions granted to such wide classes of individuals that anyone may be readily shielded under the exceptions. An interesting instance of this is the act passed by the last session of our legislature, granting to all the residents of one town an exception, over a large area of land and shore line, to the act forbidding the killing of certain water birds at night. What officer, hearing a gun fired at night within that area, would go one step out of his way to determine the residence of the hunter? A like series of exceptions has been granted on one's own land, to acts forbidding certain deeds, such as rooting up arbutus and creeping fern, spoken of above. So long as the object of the prohibitive act is to protect something not an article

of commerce in any form, this provision may possibly be wise, though a better form is prohibition on the land of another, with liability in a civil action for the injury. When the protected article becomes an article of commerce and is removed from the vicinity where the exception is granted, as are arbutus flowers, fish, game (not by statute removed from the range of commerce), and like matters, the permission of the prohibited deed on one's own land makes prosecution practically impossible and opens a wide door for everyone to slip into the excepted class, and by a lie which cannot be proven, avoid the consequences of a wanton and direct violation of law. If it be granted that there are individuals who will deliberately violate the law, the legislature in planning for its enforcement must also grant that the word of such individuals when apprehended will be absolutely worthless. Before a court every man is presumed innocent and his word good until the contrary is proven, but the legislature must consider in passing every act that all men are potential criminals, and just so soon as they become actual criminals will they throw dust in the eyes of the judge and jury, if apprehended, regardless of morals.

So far as statutes indefinite in terms, or readily avoidable by their own terms, are concerned, comment is unnecessary, but several are cited below, and shrewd criminals have undoubtedly discovered many other statutes with loopholes, not so obvious, but none the less available from the criminal's standpoint. (Refer to note F.)

Our last class, that of criminal acts whose enforcement is left solely to the individual harmed, is in this State a very large one. It is but necessary to point out that a wandering hen may make her owner a criminal, and that placing barbed wire on a divisional fence within twenty-five rods of another's house, or fishing in Farm River —a trout stream leased from adjoining owners by private parties— may make other criminals, to show the initial error of such acts. Where the occasional individual is left to enforce a criminal law, it is not necessary to discuss whether the purpose of the act is wise or unwise, the error lies in its haphazard nature. A criminal law should be strictly enforced, or it should be repealed. Is it not an error of policy at the least, if not a positive wrong to the community, to make a deed which harms the individual only, and has theretofore established only liability in a civil action, a criminal offense, and then leave it in the hands of an occasional individual to enforce both his civil and the criminal liability on an unsuspecting, and ordinarily innocent-minded person? As showing what false

ideas of the State's function of protection this leads to, we now have a statute providing for the regular expenditure of State moneys for employing oyster police, who are confined to patrolling private oyster beds and nothing else, and for the hire of boats for the use of these police. It is a scarcely appreciable step from this to State employment of private watchmen for manufacturing houses.

An exceedingly interesting development in the wrong way may be traced in one portion of our trespass law, which our last legislature made into a penal act simply, with elaborate machinery for enforcement. In 1726 it was provided that the person or persons throwing down or leaving open, bars, fences or gates, should pay to the party injured double damage and five dollars, "and forasmuch as it is at some times very difficult to detect or convict any trespassers against this act in the ordinary method or course of the law, by reason the trespasses are generally committed where full evidence can scarcely be had, Be it therefore enacted" that if there were "any dispute" the plaintiff had but to show probable cause, and there was a real burden of proof (as the community at that time considered a burden of proof) then laid upon the defendant to prove his defence; and providing further a flogging for persons who disguised themselves and then committed the trespass, this being properly considered evidence of criminal intent and malice. In the revision of 1902 the same misdeeds were united with other offenses in a single paragraph, and the breach was made for the first time purely criminal, apparently relieving the trespasser from any civil liability whatsoever. In the Acts of 1903 this was repeated and machinery was provided which "looks well," but is as a matter of fact, no more efficient than that of the Act of 1726. Inasmuch as the point of a trespass law lies in the detection of the offender, is it not at least an open question whether the civil action under the Act of 1726 was not as effective as is the criminal action under the present act, and whether the owner of the land was not really in a better position, first by reason of the necessity of far less strict and formal proof in a civil, than in a criminal action, and second, by obtaining direct recompense for his loss or damage, with an additional "bonus" to make good other losses occasioned by undiscovered trespassers. So far as other provisions of our trespass act are concerned, forbidding mere entry on the land of another (as referred to in the earlier part of this article), which are the deadest of dead letters, they should be either strictly enforced and our lands at once take on the exclusive ownership rights of Eng-

land's, barring all but the owner and his personal friends from the enjoyment of woods and fields, or else the act should suffer the fate that all haphazard laws deserve. In its present condition it is a continual menace to respectful treatment of all our laws. While it is only proper that, following injuries which are subject to redress by civil action, the initiative in such action should rest in the individual, it scarcely conduces to the dignity of the State to make a deed an offence against its sovereignty, and then provide no State machinery to detect the offense until some individual is so harmed that he is driven to action. If the deed is an injury to the whole community it is not right to trust the interests of the whole community to indifferent, occasional and unskillful hands. If the injury is to one or two individuals within the community who can obtain redress by a civil action, it is "using a cannon to kill a chipping bird" to make the injury to an insignificant portion of the community a crime. In this State it is a crime to pull up arbutus roots, to destroy walking fern, to permit fowls (after notice) to trespass on a neighbor's land, to pick a huckleberry or a cranberry on another's waste land, to walk in another's orchard in the dead of winter, or to fish in Farm River, which is leased from the owners of the land by a private fishing club, and there are many other crimes of like insignificance. Lest anyone shall take exception to the name "crime" for these minor statutory offenses, it may be well to cite the definition of the word as given by our Supreme Court: "A crime is an act committed or omitted in violation of a law forbidding or commanding it." We have invented many such crimes; in fact, we have one whole chapter in our statute book chiefly given up to them, and they are sprinkled elsewhere throughout the book. Some of them are cited below. (Refer to note G.)

Perhaps it is as well at this point to give some attention to the principles which govern the successful enforcement of law. Of course the great guarantee of strict enforcement is that universal sentiment which instantly condemns the offender upon the commission of the deed, and which freely insures such assistance to the officers and courts as every citizen is able to give. Murder, robbery, rape and arson are such crimes, and the criminal finds friends only among like criminals or his own immediate family, while they, too, very often join the community in its wrath. Closely following are such acts as are generally obeyed in form at least, if not in spirit, by the individual, and enforced by public opinion because it is recognized that they are necessary for the life or commercial ease of the

community, such as tax laws in general and the rules of the road.

The next principle of enforcement lies in the power of the majority to establish machinery by which the minority may be forced to accept its rulings. A portion of this machinery may be self acting, and other portions may have only capacity for motion which must be started and maintained by outside effort. The effectiveness of all statutes must depend upon this machinery, from those providing for the exercise of the right of eminent domain to those requiring the registry of dogs (and including even the effectiveness of the statutes by which the law-abiding majority attempts to coerce the minority of criminals who are hostile to all law because it is law), and statutes are only effective so far as the machinery is really self-acting, or the sentiment of the majority insures prosecution by individuals of every known infringement. Where the act defining the law permits the individual to represent the majority in a trivial matter when he sees fit, and to prosecute or not, at will, for a violation which his neighbor considers unworthy of notice, the provisions can hardly be called effective. The trespass acts, spoken of above, and those considered in the last class under the general classification of unenforceable laws, come under this head, and are so completely subject to individual and local option that in a distance of a few miles they may vary from live issues to dead wood, and in many cases but a single individual in a community will enforce some provision of these laws, while all his neighbors take no interest, and may even jeer at him for his position.

Permissive acts, or acts such as those providing for registry of deeds, etc., where the benefits outweigh the cost, are, of course, self enforced. There are a series of acts, however, which are futile attempts to enforce the will of a body or a majority, which are well worth attention. These acts depend for their enforcement upon nominally self-acting machinery, but are either drafted with loopholes which permit evasion, or have a divided sentiment of the community behind them, so that evasions are ordinarily overlooked (as is the case with the liquor laws in some communities), or with an inadequate official system, so that nobody is responsible, or can be held to his responsibility, for their enforcement. Such laws may "look well" on the statute book as indicating that we have good intentions, but it is said that "the road to hell is paved with good intentions," and when that which should be used as a barricade is converted into stepping stones along that way, it is a disgrace to the community which permits it. The moral effect of unenforced stat-

utes on the weak and easily tempted, and on that portion of the community which only obeys any law because of fear of physical force, is subtle and disastrous. Every time such an individual says, "Oh, yes, it is against the law, but the law isn't enforced," his phrase, and usually his whole mental attitude, includes all law, and his respect for law as a whole is weakened. In his mind obedience of law gradually becomes a question merely of investigating the chances of being hit, and of determining how hard the blow will be if he is not successful in avoiding it. The fact that because it is law it should be obeyed becomes nothing. Soon only the grasp of an officer's hand on his shoulder means "law" to him, and to the criminal in that condition all the rest is a game of chance and a gamble against more or less carefully calculated odds when he disobeys. If he loses, it is all part of the game, and merely indicates that he was not quite careful enough of his odds. So we build criminals and encourage their development in accordance with a law higher than any legislative act, the law that the individual always acts for his own ultimate gain. Some of us may be able to see this gain in the advancement of the community at our own personal temporary loss, sometimes we are ready to postpone our gain and leave it to our descendants, but the reason is fundamentally the same, that we find satisfaction in one form or another as the reward of our forbearance. How far the individual yields to the community or to posterity depends on how keen an imagination he has, and how keenly he sees the result of his forbearance, consequently the temptation to violate unenforced laws is in direct proportion to the real intelligence and training of the individual, and the undermining influences of such laws are greatest where respect for law is most necessary to the community.

In order to have any statute enforced we must have machinery, courts to determine whether or not there has been an invasion of the prohibited ground, officers to apprehend invaders, either of their own motion or on complaint, and to execute the penalty after judgment, and we are also accustomed to a pardoning power which may be used in case of error, or where leniency may well be of benefit to the community. In order that the statutes and laws may be respected the courts must be impartial, but it is no less necessary if we would maintain this respect for law, that the officers be efficient and that apprehension be almost as certain as the commission of the offense, and conviction almost as certain as apprehension. There has grown up in our criminal courts a system of excluding every

possible error, which is so perfect that a false conviction is practically an impossibility, but it has also made the ratio of escape for criminals so great that it is growing to be a serious question whether we have not drawn the lines too closely, and in protecting the liberties of the innocent man at the hands of the law, laid him open to unlimited encroachments on his liberty at the hands of the lawless. There is no pardoning power to remedy this latter error, as there is for an error of law or court. Exact statistics of crime are not to be had, but let us consider that there have been in one year in the United States, some 700 cases of murder, in only 600 of which were there any arrests, and in only 200 have the murderers been punished. This is our most universally detested crime, yet he who would commit deliberate murder can count on his chances of punishment being less than one in three, if such be the true proportion, and can readily determine whether his gain is worth the chance. If statistics of the violation of our statutory crimes were possible, how minute would be the proportion of arrests, and how infinitesimal the proportion of convictions! That some percentage must go unpunished is inevitable under any system of law which protects the innocent from suffering unmerited and unjust penalties, but the point to consider is, that the irresponsible and vicious elements in the community figure on their chances of punishment for every violation of every law which they know is in existence, and their contempt of all law, and their encroachment upon the law-abiding portion of the community, is in direct proportion to the number of statutes which within their knowledge are not enforced, or are but negligently enforced.

The machinery is, therefore, aside from that weight of public opinion which is irresistible, the most potent instrument of enforcement and the one which is most susceptible of development by well considered legislation.

The reader may ask what is to be done about these inefficient acts. It is easy to destroy, but nothing is so unjustifiable as mere destructive criticism of matter which has any foundation whatsoever in right or policy. One session of our legislature might well do nothing but repeal or amend all the acts which are not capable of enforcement, cutting out and correcting also all of the penal acts where the injury is rather to the individual than to the State, and where adequate redress may be had if the offender is discoverable, by a civil action. (If the offender may not be discovered, one type of action is as futile as another.) In some cases the recoverable damages

may be made penal, though the action is civil, as our fathers and forefathers made them for one hundred and seventy-five years under part of the trespass act, and as we still do in civil actions for bringing false suit and for forgery, where they are doubled, and for willful removal of a bridge, taking unlawful interest, and injury to guide posts, where they are trebled. The ruling in the case of *Osborne v. Warren* in 1877 makes of this type of redress an exceedingly efficient weapon in the hands of the injured party, holding that the party needs but to prove the injury, unless the statute requires proof also of malice. Would it not be all sufficient if to these civil rights be added the provision that irresponsible parties shall suffer imprisonment until these penal damages be paid or worked off? This may be done in an action under one statute (Sec. 1098), which provides "when any person shall wilfully and without color of right, commit trespass on the lands of another by cutting or destroying any trees, carrying away any wood or rails" . . . and the judgment against him remains unpaid thirty days, "he shall be committed to the county jail or workhouse, there to be kept at hard labor not exceeding sixty days" under certain qualifications which do not change the spirit of the act, though limiting its effectiveness by making the injured party, in some cases, pay the offender's board in jail. If the action were criminal, these qualifications would not exist, it is true, but they are by no means a fundamental part of the civil action, and are, in fact, a detriment to it, since the court, in determining the original judgment, will always consider the ability of the defendant to save himself from prison if he is poor and not vicious.

If our legislature after removing from the statutory list of crimes all injuries which are solely to the individual, should then provide adequate machinery for the apprehension of all whose misdeeds are a harm to the community as a whole, its session would perform a labor whose consummation would add more dignity to this State in the eyes of all the rest of the States of the Union, and represent a more notable achievement in genuine advancement of respect for law and order than has ever been accomplished since Magna Charta.

In our great republic, with a population of the best and the worst elements from every race, our only hope for permanent institutions is that fundamental respect for law, because it is law, which is native and inborn in the Anglo-Saxon, and which the children of our citizens from other lands learn, without realizing it, in a

generation or two, if they come into contact with it in its best form. Every time a law is consciously violated because it is not enforced, a blow is struck which tells most severely on our foreign-born citizens, but nevertheless undermines and weakens the best and most patriotic among us in direct proportion to our realization of what we are doing. *Charles G. Morris.*

NOTES AND CITATIONS.

A.

(First Class.)

ACT, THE EXPRESSION OF SENTIMENT OF A PORTION OF COMMUNITY, WHICH CANNOT BE ENFORCED STRICTLY.

1176. Injury to bicycle paths (cited in D).
1177. Throwing injurious articles on highway.
43. Illegal practices to obtain election.
1404. Prize packages.

Many other instances, standing more specially under other classes, and there noted, such as wide tire law (B), betting laws (C), limit on fish or game (D), gaming (E), repair to highway (F), and entering orchard (G).

B.

(Second Class.)

PUBLIC SENTIMENT AGAINST THE ACT OF THE LEGISLATURE, CAUSING GENERAL NULLIFICATION.

1895 (Chap. 301). Wide tire law.
1901 (Chap. 34). Wide tire law.
1903 (Chap. 138). Wide tire law.
1405. Unauthorized credit to minor student.
1370. Sunday concerts.
1177. Throwing injurious articles on highway (cited in A).

LOCAL NULLIFICATION.

2693 and 2694. Furnishing liquors to person receiving town aid.
2696. Furnishing liquors to an intoxicated person.
4472. Search for unregistered dogs.
2995, 2998 and 2395. Military commutation tax.
2313. Poll taxes on individuals not otherwise taxed.
2045. Guide posts.
3132. Sunday shooting (cited under E).
3130. Snaring and trapping game.
1296. Boycotting and intimidation.
1173. Destruction of posters and notices (cited in D).
1179. Vehicle with chained wheel.
1180. Repairs after injury to highway (cited in E).
1213. Trespass acts (cited in C).
1221. Kindling fire not properly protected (cited in C).
1288. Fourth of July celebration.

C.

(Third Class.)

UNIVERSAL INFRINGEMENT, ACT MERELY EXPRESSING A SENTIMENT AS TO WHAT OUGHT TO BE.

1903 (Chap. 199). Trespass act (often cited).
1323-1324. Profanity or cursing.
1374. Wild carrots and thistles.
4447. Posters on trees.
1220. Kindling fires on another's land.
1221. Kindling fires on own land.
3163. Fishing in water supplies.
1387. Betting on horse racing (cited under D).
2296-2297. Feeble attempt to get list of personal property (cited in E).
1213. Trespass act.
1701. Betting on election (cited in D).
1711. Covering "pairing" at election.
2029. Cutting brush along highway.

D.

(Fourth Class.)

INFRINGEMENT MAY NOT BE DISCOVERED SAVE UNDER EXCEPTIONAL CIRCUMSTANCES.

1223 and 1224. Arbutus and creeping fern (cited in F).
4418. Paying for naturalization papers.
1176. Injury to bicycle paths (cited in A).
1222. Fire from cigar, etc.
4674. Riding on bicycle sidepath without license.
4614. False statements by employment agencies.
3249. Taking shellfish at night.
3140. Number of trout limited.
3123-3126. Number of game birds.
3125. Transportation of game.
43. Illegal practices to obtain election (cited in A).
3156. Misrepresenting stream shad come from.
1173. Injury to posters (cited in B).
1174. Injury to library book.
1216. Poisoned food.
1373. Neglect to close bars or gate at railroad crossing.
1387. Betting on horse racing (cited in C).
1701. Betting on election (cited in C).
2595. Intentionally injuring drinking water.
2622-2623. Explosive compounds, making and marking.
1218-1223. Injury to property of another (cited in G).
1233. Releasing animals with intent to impound.

These are almost all affected by, but do not necessarily fail because of weak machinery, and might often be classed under E.

E.

(Fifth Class.)

WEAK MACHINERY OF ENFORCEMENT, OR NO MACHINERY AT ALL.

1762. Requires a session of the General Assembly to remove a faithless sheriff from office.

4166. Escheats, not even indexed, from hotels.

4676 and 4679. Escheats from carriers.

413 and 414. Escheats from estates.

4447. Posters on trees (cited in C).

4068. Barbed wire along highways.

3139, 3145, 3146, 3151, 3152. Small fish.

3132. Sunday shooting (cited in B).

2296 and 2297. Feeble attempt to get list of personal property (cited in C).

1249. Baggage smashing.

1388. Gambling.

2693, 2694 and 2696. Furnishing liquor to person receiving town aid, or already intoxicated.

1316, 1319, 1320. Keeping house of ill fame (fines no deterrent, imprisonment only real penalty for keeper).

1336. Tramps (imprisonment during winter no deterrent).

F.

(Sixth Class.)

LOOPHOLES, BARN DOORS AND OTHER FAILINGS WHICH MAKE EVASION EASY.

INDEFINITE IN TERMS.

4368. Requiring officer to make "annual visits to different sections of the State" to investigate, etc.

3248. Taking oysters from unmarked grounds. Meaning owner, or thief? Worthless by own terms.

4374 and 4375. Together release a horse with an infectious disease, from quarantine after 30 days.

3299. Words "from said water" refer to nothing, yet limit the effect of the statute to an undiscoverable body of water.

DODGEABLE BY OWN TERMS.

3252. Intent to speculate in oyster beds.

3206. "Presumptive evidence" readily rebutted under Sec. 3205.

1180. Repair after injury to highway (cited in B).

3856. Written permit.

PERMISSION TO AN INDEFINITE CLASS IS PERMISSION TO THE WORLD.

1223 and 1224. Creeping fern and arbutus "on land of another."

1903 (Chap. 8). Exemption to all residents of one town, night shooting.

3142. Sale of hatchery trout for eating.

1903 (Chap. 95). Exemption from attachment.

1694 and 1695. Permission to pay to irresponsible "political agents" vitiates both sections.

G.

(Last Class.)

INJURY TO INDIVIDUAL RATHER THAN TO STATE, ACTION LEFT IN HIS HANDS.

1903 (Chaps. 41 and 199). Trespass acts which developed the wrong way.

1225. Trespass by chickens.

1218, 1223, 1230 and 1234. Injury to property of another.

3253. Towing dredge on private oyster bed. Either theft and amply covered by 3246 or else merely ground of civil action.

1903 (Chap. 21). Tampering with gas pipes and meter. Like preceding.

4069. Barbed wire on division fence.

3308. Injury to dams or gate of oyster bed.

3305. Injury to private oyster grounds.

3168. Fishing Farm River.

1296. Intimidation (cited in B).

1229. Enticing bees.

1228. Entering orchard.

And a large number of the 72 acts under Chap. 84 of the General Statutes (Secs. 1182 to 1233 inclusive).

AS SHOWING WHAT THIS LEADS TO:

3240. State money used for private purposes, oyster police are to patrol private beds only.

1071. Special reward for capture of chicken and horse thieves only.