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PUBLIC GENERAL LAW

PASSED BY THE
GENERAL ASSEMBLY OF MD.,
At the January Session, 1872.

[PUBLISHED BY AUTHORITY.]

[CHAPTER 244.]

AN ACT

To Authorize the Appointment of Weighers of Grain by the Governor.

Section 1. Be it enacted by the General Assembly of Maryland, That the Governor, and with the advice and consent of the Senate shall, before the adjournment of the present General Assembly, biennially appoint one Weigher General and five assistant weighers of grain, in and for the city of Baltimore, who shall hold their office for the period of two years, from the first Monday in May next ensuing their appointment and qualification, and until their successors be duly qualified.

Section 2. And be it enacted, That every weigher of grain appointed under the provisions of the preceding section, before he proceeds to act as such, shall, under the penalty of five hundred dollars, take and subscribe the following oath, in addition to their oaths required by the constitution and laws, to wit: I, A. B., appointed weigher of grain, in the city of Baltimore, do swear that I will diligently and carefully weigh all grain that I shall be called upon to weigh, and that I will not receive, during the time I hold the office of Weigher General or weigher of grain, any fee or reward from any one directly, or indirectly, for the discharge of my duty, and that I will not buy or sell any grain, or act as agent for any one, or assist in the buying, selling or consigning any grain for any one during the time I shall hold the said office, and, in every other respect, fairly and honestly, without prejudice or partiality, will discharge all the duties of Weigher General or weigher of grain, to the best of my skill and judgment. So help me God.

Section 3. And be it enacted, That the Weigher General, before he enters upon the discharge of the duties of his office, shall give bond to the State of Maryland, with two securities, to be approved by the Comptroller, in the penalty of five thousand dollars, with a like condition as the bond of the Weigher General.

Section 4. And be it enacted, That in the event of a failure to perform any duties assigned the said weighers by this article, the said bond or bonds may be put in suit by order of the Comptroller, for the benefit of the State, and judgment rendered thereon as on other official bonds.

Section 5. And be it enacted, That all grain arriving in the city of Baltimore may be reported to the grain weigher's office, whether by steamers, sail vessels of all descriptions, barges or canal boats, and it shall be the duty of the Weigher General of grain to have weighed all grain carried to said city for sale, except grain carried on or through elevators; Provided, however, all grain sent to said city may be weighed by said Weigher General if the owners of said grain shall request it to be weighed by him. It shall be the duty of the Weigher General to proceed to weigh all grain within, at least, two hours after the same is reported, and continue weighing until the weighing is complete, and for every failure to comply

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with this provision, the said Weigher General shall be liable to a penalty of twenty dollars, to be recovered before any Justice of the Peace, in Baltimore city, one-half of the fine to go to the informer and the other half to the State, the suit to be brought in the name of the State.—If any grain shall be brought by water to Baltimore, for sale in bags, the said weighers shall weigh the said grain on board the vessel or steamboat, without removing it from the bags. If the buyer and seller shall mutually agree.

Section 7. And be it enacted, That the Weigher General shall keep an office in some station in the city of Baltimore, convenient to the wharves or places where the trade in grain is chiefly carried on, and shall be in said office, except when upon duty weighing grain, from 8 o'clock, A. M., until 5 o'clock, P. M., ready to receive all applications for weighing and measuring, and to hear and determine all controversies between the buyer and seller, in relation to grain bought or sold as hereinafter provided, and in case of sickness or inability to attend in said office at any time, he shall appoint some one of the other weighers to attend to his duties in his absence.

Section 8. And be it enacted, That the Weigher General, whenever application shall be made to him by any party interested in any grain, to have the same weighed and measured, shall proceed in person or direct some one of the assistant weighers to proceed at once and weigh the same.

Section 9. And be it enacted, That the weigher shall carefully weigh and determine the weight of all grain, and for that purpose shall procure, at his own expense, suitable weights and scales for that purpose.

Section 10. And be it enacted, That no weigher shall weigh grain after it has been once weighed and delivered on its arrival in said city, nor shall he, during his office, directly or indirectly, buy or sell, either directly or indirectly, or receive any grain, by way of barter, loan or exchange, or in any way intermeddle with or buy or sell or procure to be sold or consigned to any merchant, or including any ship or vessel with grain, except the proper grain that may have been grown by the said weigher, under the penalty of two dollars for every bushel so bought or sold; and upon conviction for the offense, he shall be dismissed from his office.

Section 11. And be it enacted, That if any weigher shall accept or receive, directly or indirectly, any gratuity or reward for anything done by him in pursuance of his office, he shall, upon conviction, forfeit the sum of one thousand dollars, and ever after be incompetent to hold the office of weigher under the laws of this State.

Section 12. And be it enacted, That each weigher shall make a daily return to the Weigher General of the number of bushels of grain weighed by him, and the Weigher General shall make or cause to be made an entry of the same in a well bound book, showing the number of bushels weighed and measured for each person, and the said Weigher General shall charge and receive one-fourth cent per bushel for weighing, and shall charge one-fourth cent per bushel for measuring—said one-fourth cent per bushel for measuring shall be paid by the seller to the measurer, and the first named amount shall be paid by the purchaser to the Weigher General.

Section 13. And be it enacted, That the Weigher General shall make a return on the first day of every month, or within ten days thereafter, to the Comptroller, verified by affidavit before some Justice of the Peace, of the number of bushels of grain weighed, and the amount of money received therefor, and shall pay the amount thereof, after deducting necessary office rent, and the payment of the wages of not more than two clerks, at a salary of not more than six hundred dollars per annum for each, to the Treasurer, upon the warrant of the Comptroller.

Section 14. And be it enacted, That the Treasurer, upon the warrant of the Comptroller, shall allow and pay over to the Weigher General and the other weighers one-fourth cent per bushel upon all grain weighed by them; Provided, the same shall not amount to more than two thousand dollars in the aggregate, for any one year for their Weigher General, and the sum of sixteen hundred dollars for each weigher.—It being intended hereby that not to pay said office in gross more than two thousand dollars to the Weigher General and sixteen hundred dollars to each assistant.

Section 15. The said weighers shall carefully weigh one bushel in every sixty of wheat, and one bushel in every one hundred of corn, rye and oats, for the purpose of ascertaining the average weight of the cargo or parcel of grain, and that in weighing grain sold, it shall not be necessary to measure sixty bushels of wheat, or one hundred bushels of other grain, before taking a draft for weighing; but it shall be the duty of the weigher, at any stage of the delivery of the grain, to require that any intermediate draft shall be weighed, and if each party shall have caused an intermediate draft to be weighed, the average weight of the two drafts shall be taken as the accurate weight of the said

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sixty, or one hundred bushels, as the case may be; and in case only one of the parties shall require an intermediate draft to be weighed, then the average of said intermediate draft and the weigher's draft shall be taken as the weight of said sixty bushels, as the case may be.

Section 16. The term grain used in this article shall be construed to mean wheat, rye, oats, corn, buckwheat and barley, and that the standard weight of wheat shall be sixty pounds to the bushel; and corn each fifty-six pounds to the bushel; and oats twenty-six pounds to the bushel; and barley forty-seven pounds to the bushel; and in all contracts hereafter made, a bushel of either of said articles shall be determined by the said weighers respectively, unless the parties to any such contract shall otherwise expressly stipulate.

Section 17. The amount to be so paid under the warrant of the Comptroller to the Treasurer to the Weigher General and weighers, and for other expenses which may accrue under this Act, shall not exceed the amount to the credit of the weighing fund, as provided by law, and if there shall not be in the Treasury, to the credit of said grain weighing fund, a sufficient sum after paying the expenses incurred under this Act, to pay in full the said salaries of the Weigher General and said weighers, then a ratable deduction shall be made between the said Weigher General and said weighers.

Section 18. And be it enacted, That if either the Weigher General or any assistant weigher shall fail or refuse to make the report and pay over the money required of them by this Article, or shall make a false report, on complaint of the Comptroller to the Governor, (and it is hereby made his duty to complain whenever either of said officers shall fail to do their duty,) the Governor shall forthwith suspend him from office, and he shall remain suspended until he complies with the provision of this section; and if the Weigher General shall fail to comply for two weeks after the time provided by this Article, he shall be dismissed from office.

Section 19. And be it enacted, That if the Weigher General, or any assistant weigher, shall make a false return, or shall in any way intermeddle with or buy or sell or procure to be sold or consigned to any merchant, or including any ship or vessel with grain, except the proper grain that may have been grown by the said weigher, under the penalty of two dollars for every bushel so bought or sold; and upon conviction for the offense, he shall be dismissed from his office.

Section 20. And be it enacted, That if any weigher shall accept or receive, directly or indirectly, any gratuity or reward for anything done by him in pursuance of his office, he shall, upon conviction, forfeit the sum of one thousand dollars, and ever after be incompetent to hold the office of weigher under the laws of this State.

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SHARP PRACTICE.

In the absence of law, Mark Mungen had many superiors; in the arts of practice, he had few equals. His feat lay in fighting off a case. He would have been no match for Dupiel Webster in the Dartmouth College case; but in the opinion of the writer that the Dartmouth College case would not have been tried yet, had Mark been on the other side of it.

He came to the case somewhat late in life, his chief training for the calling being an extensive experience acquired in defending suits against him, after having been filled in the law by a miscellaneous assortment of business, including a Temperance conspiracy to "beat" the market.

He was the favorite attorney of relegatee debtors. If a man wanted time, Mark was invariably employed to get it. He was a legal Fabius—a walking form-book of dilatory pleas. There was a moving eloquence in his affidavits that would have melted a less obtuse heart than that of the presiding Judge, on whom they were very often thrown away.

"Very sorry, Brother Mungen," was the latter's usual answer, "but the trial must go on."

But that was no sign it would go on. Mark would sit down dolorously while his adversary rose to open, when, ten to one some important paper would be missing from the files, and Mark's opponent would himself be forced to apply for an adjournment. The missing document in time would turn up, probably in the wrong pigeon-hole, and the lawyers would growl and bark, and the clerk at the lawyers, and a notable fact that these accidents nearly all happened in Mark's cases.

A case of Mark's, after many adjournments, had been set down "peremptorily." Mark appeared for the defence—was generally on that side. It was an action to set aside as fraudulent some sort of an instrument for which no legal name could be found, drawn up by Mark himself to enable an embarrassed client to cover up his property.

The case had been sworn off as long as swearing could put it off, and the Judge said it must go on or on.

Mark made a final appeal. He had about twenty witnesses, and sick witnesses, and didn't feel well himself. But all to no purpose.

"Proceed, gentlemen," said his Honor curtly.

Finding further expostulations useless, Mark set down with the look of a martyr waiting for his crown. His opponent, Watt, a sharp, wiry little fellow, keen as a tiger and alert as a Scotch terrier, stepped up to the bar. After a few seconds his fingers began to twitch nervously, and the papers in his hands rustled as he fumbled them over.

"I—I don't find our depositions," he stammered anxiously.

"A rapid but unavailing search was made. 'Can you go without them?' inquired the Judge.

"No, your Honor."

"Well, well, Brother Wiley," said Mark, with the benign air of one ready to return good for evil. "I'll take no advantage of you. The case may be put off till next morning."

"But I don't want it off," said Watt, turning sharply on his opponent. "Have you seen anything of the papers, Mr. Mungen?"

"Not since yesterday," Mark answered, "when I read them over in the clerk's office."

"Maybe you forgot, and put them in your pocket."

As a last resort, Watt asked to have the swearing called up till next morning. Mark strenuously objected. He would not meet to his learned brother the same measure the latter had sought to mete out to him. He would not seek to force him to trial unprepared. That was not his practice. But, when a case was called, the rule was to try it or put it off for the term. His learned brother might take his choice.

SHARP PRACTICE.

What?" cried Watt, pointing to the latter's pocket.

"Send for a doctor," said Mark, "I'm burning up."

"Send for a doctor," roared Mark, "I'm burning up!"

Watt dispatched a messenger for the nearest physician.

"If you've anything to say, you'd better say it," he suggested.

For a time Mark was speechless with agony.

"What?" at length he gasped faintly.

"Well?"

"You know I've always tried to live an honest life."

Watt turned aside, overcome with some sort of emotion.

"You're aware," Mark proceeded, "that in our last moments we are apt to remember things till then forgotten?"

Watt had heard so.

"Well, it seems to me—I'm not sure, but I wish to have it off my mind before I die—that I've a faint recollection of putting those depositions in my inside breast pocket, and forgetting them there."

A faint recollection of forgetting a thing, struck Watt as a curious psychological feat, but without stopping to speculate on it, he thrust his hand into the receptacle indicated, and drew forth the missing papers.

Just then the Doctor arrived, and in a brief time, Mark was the recipient of a dose of *lobelia*, that soon left neither pole nor north of anything else in him.

"Of course I shall," was Watt's reply.

"In my present condition?"

"I'll make an affidavit."

"And I'll make another."

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"I'll swear that I'm still suffering from the effects of poison."

"And I'll swear that the only poison you took was a moderate dose of 'Four-bells,' seasoned with Cayenne pepper. I mixed it myself, and believe it's the only medicine that ever physiced the truth out of you."

The case went on.

USKRTI, TARTUS.—Deserve friends and stout old store-keeper, blowing with exertion, descended from his perch, where he was straddling from shelf to counter. As soon as he reached the floor, the old Virginian remarked that he had not got enough yet.

"Oh, you want 'em for your niggers?" said the store-keeper. "Well, why didn't you say so when I was up?" and again proceeded to perch himself up like a mercantile Colossus. When he had bowed himself into his former position, the old man quietly remarked:

"Why, stranger, I wasn't talking anything about niggers. The fact is, the old man was enjoying the extra tobacco he had put the Tennesseean to."

"Well, what do you want with so many hats?"

"I want them for my sons," said the old man.

The store-keeper began to count them on the counter. "Eight," said he, "a pretty big spread of boys already. I'll swear, but here goes," and added one, and then another, and yet a fourth, and packed off a fifth, and finally seeing the old man unmoved, he tossed down three more, and was about to descend himself, when the old man told him to hold on and throw down a few more.

"Oh, come, uncle," said he, "you are joking; but just to please him, he threw down twenty."

"That's just one too many," said the old man.

"What—you don't mean to say that you have nineteen sons? Wear, in the name of the State of Tennessee, are they?"

"They are in Tennessee—right here in the city—up at the hotel," said the man.

"Stranger," said the store-keeper, "if you ken show me nineteen boys of your rank, that's the hats."

"Hold on, then," said the old man, and off he started. In about ten minutes, down the street he came, leading a line of nineteen boys, marching single file, each bearing a good gun, and followed by their venerable mother. They entered the merchant's store, and ranked along the counter; the store-keeper ran his eyes along the line with astonishment.

"And you say these boys are all yours?" he inquired.

"Ask their mother—she says they are," replied the old man.

"Do you say so, madam?" he inquired.

"Yes, I do, and I ought to know," was the reply.

SHARP PRACTICE.

"Well, you might, I'll swear," said the store-keeper. "Old friend," he added, "I ain't got a word to say—just take them hats, and mine too."

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