

Case No. 8,874.

McLAUGHLIN v. STEPHENS.

[2 Cranch, C. C. 148.]<sup>1</sup>

Circuit Court, District of Columbia.

April Term, 1818.

MUNICIPAL CORPORATION—ORDINANCE—GAMING—STATE LAW.

The common council of Alexandria, have power to prohibit by their by-laws, the keeping of gaming-tables in the town, under a penalty to be recovered by warrant before the mayor, in the name of the common council, and to be levied upon the goods and chattels of the offender, although he may be also liable to prosecution under the laws of Virginia, adopted by the act of congress of the 27th of February, 1801 [2 Stat. 103].

[Cited in *Town of Van Buren v. Wells* (Ark.) 14 S. W. 40; *State v. Lee*, 29 Minn. 453, 13 n. W. 915.]

Trespass against the defendant (who was a constable,) for levying a penalty of \$20, under the by-law of the 15th of June, 1816, for keeping a faro-table. By the amended charter of 1804 (section 5) the common council of Alexandria has power to make “all laws which they shall conceive requisite,” “for the regulation of the morals and police of the town,” and “for the prevention and removal of nuisances,” “and to enforce the observance of their said laws by reasonable penalties and forfeitures to be levied upon the goods and chattels of the offender,” provided that such laws shall not be inconsistent with the laws and constitution of the United States.

Mr. Mason, for plaintiff, contended that the power to make by-laws, was not intended to give the corporation power to make laws concerning matters which were already regulated by the general law of the land; but only concerning such subjects as affected the morals or police of the town exclusively. That the offence was already provided for and prohibited by the act of assembly of Virginia of the 19th of January, 1798, p. 373. That gaming did not affect the town exclusively. That the plaintiff might be twice punished for the same offence, if he was liable to this penalty.

Mr. Taylor, contra. This by-law applies exclusively to the police of the town. The penalty is for keeping the gaming-table in the town, which is a circumstance of aggravation of the offence, and is necessary to the conviction.

THE COURT (nem. con.) was of opinion, that the corporation had power to pass the by-law, and to enforce it in this manner.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]