SCHEDULED FOR ORAL ARGUMENT ON SEPTEMBER 20, 2016

No. 16-7025

IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIAN WRENN, et al.,
Appellants,
V .
DISTRICT OF COLUMBIA, et al., Appellees.

ON APPEAL FROM AN ORDER OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

## STATUTORY ADDENDUM

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Division IV. Criminal law and procedure and prisoners.
Title 22. Criminal Offenses and Penalties.
Subtitle VI. Regulation and Possession of Weapons.
Chapter 45. Weapons and Possession of Weapons.

## Go to the District of Columbia Archive Directory

D.C. Code § 22-4506 (2016)

## § 22-4506. Issue of a license to carry a pistol.

(a) The Chief of the Metropolitan Police Department ("Chief") may, upon the application of a person having a bona fide residence or place of business within the District of Columbia, or of a person having a bona fide residence or place of business within the United States and a license to carry a pistol concealed upon his or her person issued by the lawful authorities of any State or subdivision of the United States, issue a license to such person to carry a pistol concealed upon his or her person within the District of Columbia for not more than 2 years from the date of issue, if it appears that the applicant has good reason to fear injury to his or her person or property or has any other proper reason for carrying a pistol, and that he or she is a suitable person to be so licensed.
(b) A non-resident who lives in a state that does not require a license to carry a concealed pistol may apply to the Chief for a license to carry a pistol concealed upon his or her person within the District of Columbia for not more than 2 years from the date of issue; provided, that he or she meets the same reasons and requirements set forth in subsection (a) of this section.
(c) For any person issued a license pursuant to this section, or renewed pursuant to § 7-2509.03, the Chief may limit the geographic area, circumstances, or times of the day, week, month, or year in which the license is effective, and may subsequently limit, suspend, or revoke the license as provided under § 7-2509.05.
(d) The application for a license to carry shall be on a form prescribed by the Chief and shall bear the name, address, description, photograph, and signature of the licensee.
(e) Except as provided in § 7-2509.05(b), any person whose application has been denied or whose license has been limited or revoked may, within 15 days after the date of the notice of denial or notice of intent, appeal to the Concealed Pistol Licensing Review Board established pursuant to $\S 7-2509.08$.

HISTORY: (July 8, 1932, 47 Stat. 651, ch. 465, § 6; May 21, 1994, D.C. Law 10-119, § 15(e), 41 DCR 1639; May 20, 2009, D.C. Law 17-388, § 2(f), 56 DCR 1162; June 16, 2015, D.C. Law 20-279, § 3(b), 62 DCR 1944.)

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District of Columbia Official Code Copyright © 2016<br>All rights reserved.<br>*** Statutes current through April 5, 2016 ***<br>Division I. Government of District.<br>Title 7. Human Health Care and Safety.<br>Subtitle J. Public Safety.<br>Chapter 25. Firearms Control.<br>Unit A. Firearms Control Regulations.<br>Subchapter IX. Licenses to Carry a Pistol.

## Go to the District of Columbia Archive Directory

D.C. Code § 7-2509.11 (2016)

## § 7-2509.11. Rules.

The Chief of the MPD, pursuant to subchapter I of Chapter 5 of Title 2 [ $\$ 2-501$ et seq.], shall issue rules to implement the provisions of D.C. Law 20-279, including rules:
(1) To establish criteria for determining when an applicant has, pursuant to section 6 of the Pistols and Other Dangerous Weapons Act [§ 22-4506]:
(A) Demonstrated a good reason to fear injury to his or her person, which shall at a minimum require a showing of a special need for self-protection distinguishable from the general community as supported by evidence of specific threats or previous attacks that demonstrate a special danger to the applicant's life;
(B) Demonstrated any other proper reason for carrying a concealed pistol, which shall at a minimum include types of employment that require the handling of cash or other valuable objects that may be transported upon the applicant's person; and
(C) Demonstrated the applicant's suitability to carry a concealed pistol, which shall at a minimum include evidence that the applicant meets the requirements of $\S 7-2509.02$;
(2) To establish the type and amount of ammunition that may be carried concealed by a licensee;
(3) To establish the methods by which a pistol may be carried, including any standards for safe holstering;
(4) To establish all application forms, investigation procedures, background checks, and fees necessary to process an application for a license to carry a concealed pistol;
(5) To specify any procedures or requirements specific to non-residents who apply to carry a concealed pistol
pursuant to $\S 22-4506$, with regard to the registration requirements in this unit;
(6) To specify requirements for signage on any private premises where the owner or person in control of the premises prohibits the carrying of a concealed pistol pursuant to $\S 7-2509.07$ (b); and
(7) To establish procedures for the renewal of licenses.

HISTORY: (Sept. 24, 1976, D.C. Law 1-85, § 911, as added June 16, 2015, D.C. Law 20-279, § 2(f), 62 DCR 1944.)
NOTES: Legislative history of Law 20-279. --
See note to § 7-2509.01.

## Editor's notes. --

D.C. Law 20-279, referred to in the introductory language of this section, enacted § 7-2502.11a and this subchapter, amended $\S \S 7-2502.01(b)(4), 7-2502.02(a)(4), 7-2502.03(a)(4), 22-4504(a)$, and 22-4506, and repealed $\S$ 22-2511.

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TITLE 24. PUBLIC SPACE AND SAFETY CHAPTER 23. GUNS AND OTHER WEAPONS

CDCR 24-2333 (2016)

Click here to view Emergency Reg. 62 D.C. Reg. 9854
24-2333. Good Reason to Fear Injury to Person or Property.
2333.1 A person shall demonstrate a good reason to fear injury to his or her person by showing a special need for self-protection distinguishable from the general community as supported by evidence of specific threats or previous attacks which demonstrate a special danger to the applicant's life.
2333.2 For the purposes of satisfying the specifications of $\S 2333.1$, a person shall allege, in writing, serious threats of death or serious bodily harm, any attacks on his or her person, or any theft of property from his or her person. The person shall also allege that the threats are of a nature that the legal possession of a pistol is necessary as a reasonable precaution against the apprehended danger.
2333.3 The person shall provide all evidence of contemporaneous reports to the police of such threats or attacks, and disclose whether or not the applicant has made a sworn complaint to the police or the courts of the District of Columbia concerning any threat or attack.
2333.4 The fact that a person resides in or is employed in a high crime area shall not by itself establish a good reason to fear injury to person or property for the issuance of a concealed carry license.

STATUTORY AUTHORITY: Unless otherwise noted, the authority for this chapter is an Act approved July 8, 1932, 47 Stat. 650, ch. 465; as amended by an Act approved December 27, 1967, 81 Stat. § 736, Pub. L. 90-226, title V, § 501, D.C. Official Code §§ 22-3201 et seq.; the Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85, D.C. Official Code §§ 7-2501 et seq.); section 29(d) of the Vital Records Act of 1981, D.C. Law 4-34, D.C. Official Code § 1-301.01; section 712 of the Firearms Registration Amendment Act of 2008, effective March 31, 2009 (D.C. Law 17-372; D.C. Official Code §§ 7-2505.04(e)(4), (f), and 7-2507.11) (2011 to 2013 Supp.)

SOURCE: Final Rulemaking published at 62 DCR 9781, 9785 (July 17, 2015).

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TITLE 24. PUBLIC SPACE AND SAFETY CHAPTER 23. GUNS AND OTHER WEAPONS

CDCR 24-2334 (2016)

Click here to view Emergency Reg. 62 D.C. Reg. 9854
24-2334. Other Proper Reason for Concealed Carry License.
2334.1 A person may allege any other proper reason that the Chief may accept for obtaining a concealed carry license which may include:
(a) Employment of a type that requires the handling of large amounts of cash or other highly valuable objects that must be transported upon the applicant's person; or
(b) The need for a parent, son, daughter, sibling, or other adult member of the immediate family to provide protection of a family member who is physically or mentally incapacitated to a point where he or she cannot act in defense of himself or herself, and the family member who is physically or mentally incapacitated can demonstrate a good reason to fear injury to his or her person by showing a special need for self-protection distinguishable from the general community as supported by evidence of specific threats or previous attacks which demonstrate a special danger to the applicant's life in the manner described in § 2333.

STATUTORY AUTHORITY: Unless otherwise noted, the authority for this chapter is an Act approved July 8, 1932, 47 Stat. 650, ch. 465; as amended by an Act approved December 27, 1967, 81 Stat. § 736, Pub. L. 90-226, title V, § 501, D.C. Official Code $\S$ 22-3201 et seq.; the Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85, D.C. Official Code §§ 7-2501 et seq.); section 29(d) of the Vital Records Act of 1981, D.C. Law 4-34, D.C. Official Code § 1-301.01; section 712 of the Firearms Registration Amendment Act of 2008, effective March 31, 2009 (D.C. Law 17-372; D.C. Official Code §§ 7-2505.04(e)(4), (f), and 7-2507.11) (2011 to 2013 Supp.)

SOURCE: Final Rulemaking published at 62 DCR 9781, 9785 (July 17, 2015).

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CDCR 1-1202 (2016)

1-1202. Appeals.
1202.1 Within the time periods established by the Act, a person may file an appeal with the Board if the Chief of the Metropolitan Police Department (Chief) has:
(a) Denied the person's application or renewal application for a license to carry a concealed pistol in the District pursuant to the Act; or
(b) Issued a limitation or revocation of a license to carry a concealed pistol pursuant to the Act.
1202.2 An appeal shall be submitted in writing to the Board at the address contained in any notice of final action of the Chief that was issued to the person. The request for appeal shall be filed within fifteen (15) days after the date of the appellant's receipt of the notice of the Chief's final action from which the appeal is being requested. The request for appeal may be filed by hand delivery, electronic mail, or by U.S. Mail or other delivery service, provided that the request for appeal is received by the Board within fifteen (15) days after the date of the appellant's receipt of the notice of the Chief's final action.
1202.3 The appeal need not follow any specific format, although blank forms may be created and made available by the Board. An appeal should contain the following information:
(a) A short description of the Chief's final action being appealed;
(b) A description of reasons why the Chief's final action was in error and the relief sought from the Board;
(c) A copy of the Chief's final action being appealed;
(e) The appellant's full name, address, email address, and telephone and fax numbers, as well as the same information for any attorney representing the appellant in the appeal; and
(f) All written materials that the appellant wishes the Board to consider at any hearing.
1202.4 Not later than ten (10) days after receipt of the appeal, the Chairperson of the Board shall:
(a) Assign a three (3) member panel (Panel) and appoint a presiding member (Presiding Member) to review the appeal or assign the appeal to the full Board;
(b) Send to the Chief a copy of the appeal, a notice of the names of the three (3) member panel and Presiding Member, if applicable, and a notice to provide the Board with information concerning the final action that is the subject of the appeal; and
(c) Send a notice to the appellant of receipt of the appeal, the names of the three (3) member panel, and the Presiding Member, if applicable.
1202.5 Not later than ten (10) days after receipt of any information provided by the Chief pursuant to § 1202.4(b), the Board or Panel shall meet to determine if based upon the information submitted by the appellant and Chief the appeal should be resolved through a summary disposition or by a contested case hearing.
1202.6 If the Board or Panel determines that, based upon the materials submitted by the appellant and the Chief, the matters in dispute appear to be appropriate for summary disposition, the Board or Panel shall follow the procedures in $\S$ 1210.
1202.7 If the Board or Panel determines that a contested case hearing is appropriate for the resolution of the appeal, then it shall issue a notice of hearing to the appellant and Chief. The hearing shall be scheduled to take place on a date not less than thirty (30) or more than forty-five (45) days from the date of the notice.

## STATUTORY AUTHORITY:

SOURCE: Final Rulemaking published at 62 DCR 11123 (August 14, 2015).

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CDCR 1-1221 (2016)

1-1221. Final Decision.
1221.1 Within ninety (90) days after the conclusion of a hearing, the Board shall render its decision in writing, setting forth findings of fact and conclusions of law and giving the reasons for its decision.
1221.2 The findings and conclusions in the decision shall be governed by and based upon the evidence adduced at the hearing along with any other evidence in the record.
1221.4 A decision shall be supported by substantial evidence on the record. Pursuant to the substantial evidence rule, courts shall uphold an administrative determination of fact if on the entire record the determination is rationally supportable and could have been arrived at reasonably.
1221.5 The decision shall sustain, reverse, or modify the final action as requested by the appellant or the Chief.
1221.6 The decision shall include an instruction that the appellant or the Chief may pursue judicial review in the manner provided by the Act.

## STATUTORY AUTHORITY

SOURCE: Final Rulemaking published at 62 DCR 11123 (August 14, 2015).
one thousand seven hundred and ninety-six, intituled "An act laying duties upon carriages for the conveyance of persons, and repealing the former act for that purpose," as limits the duration of said act, shall be and the same is hereby repealed, and said act is hereby continued in force, without limitation of time.

Approved, February 25, 1801.

Chap. XII.-An Act declaring the consent of Congress to an act of the state of Maryland, passed the twenty-eighth day of December, one thousand seven hundred and ninety-three, for the appointment of a Health Officer.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress be, and is hereby granted and declared, to the operation of an act of the General Assembly of Maryland, passed the twenty-eighth day of December, one thousand seven hundred and ninety-three, intituled "An act to appoint a health officer for the port of Baltimore, in Baltimore county," so far as to enable the state aforesaid to collect a duty of one cent per ton, on all vessels coming into the district of Baltimore from a foreign voyage, for the purposes in said act intended.

Sec. 2. And be it fiurther enacted, That this act shall be in force for three years, from the passing thereof, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, February 27, 1801.

Chap. XIII.-An Act to allow the transportation of goods, wares and merchandise, to and from Philadelphia and Baltimore, by the way of Appoquinimink and Sassafras.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any goods, wares and merchandise, which lawfully might be transported to or from the city of Philadelphia and Baltimore, by the way of Elkton, Bohemia or Frenchtown, and Port Penn, Appoquinimink, New Castle, Christiana Bridge, Newport or Wilmington, shall and may lawfully be transported, to and from the city of Philadelphia and Baltimore, by the way of Appoquinimink and Sassafras river, and shall be entitled to all the benefits and advantages, and shall be subject to all the provisions, regulations, limitations and restrictions, existing in the case of goods, wares and merchandise, transported by any of the routes before mentioned.

Approved, February 27, 1801.
riages," \&c. continued without limitation.
May 28, 1796, ch. 37.

Statute II.
Feb, 27, 1801.
[Espired.]

Continued by Act of March 1 , 1805 , ch: 19.

Statute II.
Feb. 27, 1801.

Goods import ed into Baltimore or Philadelphia may be transported by Appoquinimink and Sassafras rivers.

1799, ch. 22.

Statute II.
Feb. 27, 1801.
Laws of Virginia and Mary-

Section 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the

[^0]land continued in force in the district.
laws of the state of Virginia, as they now exist, shall be and continue in force in that part of the District of Columbia, which was ceded by the said state to the United States, and by them accepted for the permanent seat of government; and that the laws of the state of Maryland,
9. An act altering the times of holding the circuit courts in the District of Columbia, May 20, 1826, chap. 131.
10. An act to establish a criminal court in the District of Columbia, July 7, 1838, chap. 192.
11. An act to restrain the circulation of small notes as a currency in the District of Columbia, and for other purposes, July 7, 1838, chap. 212.
12. Resolution directing the manner in which certain laws of the District of Columbia shall be executed, March 2, 1839.
13. An act for granting possessions, enrolling conveyances and securing the estates of purchasers within the District of Columbia, May 31, 1832 , chap. 112.
14. An act changing the times of holding the courts in the District of Columbia, May 31, 1832, chap. 114. Act of February 30, 1839, chap. 30.
The decisions of the courts of the United States upon this and other statutes relating to the District of Columbia, and other questions arisiug in the district, have been :
The act of Congress of 27 Febroary, 1801, concerning the District of Columbia, directs that writs of error shall be prosecuted in the same manner, under the same regulations, and the same proceedings shall be had thereon, as is or shall be provided in case of writs of error ori judginents, or appeals upon orders or decrees, rendered in the circuit courts of the United States. United States $v$. Hooe et al., 1 Cranch, 318; 1 Cond. Rep. 322.

By the separation of the District of Columbia from the state of Maryland, the residents in that part of Maryland which became a part of the district ceased to be citizens of the state. Reilly, Appellant v. Lamar et al., 2 Cranch, $344 ; 1$ Cond. Rep. 419.

A citizen of the District of Columbia, could not be discharged by the insolvent law of Maryland, out of the district. lbid

A citizen of the District of Columbia, cannot maintain an action in the circuit court of the United States, out of the district; he not being a citizen of a state within the meaning of the provision in the law of the United States, regulating the jurisdiction of the courts of the United States. Hepburn and Dundas v. Ellzey, 2 Cranch, 445; 1 Cond. Rep. 444.

A justice of the peace, in the District of Columbia, is an officer of the government of the United States; and is exempt from militia duty. Wise $v$. Withers, 3 Cranch, $331 ; 1$ Cond. Rep. 552.
Under the sixth and eighth segtiond of the act of assembly of Virginia, of the 22d of December, 1794, property pledged to the Mutual Assurance Society, \&c. continues liable for assessments, on account of the losses insured against, in the hands of a bona fide purchaser, without notice. The Mutaal Assurance Society v. Watts' Ex'r, 1 Wheat. 279; 3 Cond. Rep. 570.
A mere change of sovercignty produces no change in the state of rights existing in the soil; and the cession of the District of Columbia to the national government did not affect the lien created by the above act on real property situate in the town of Alexandria; though the personal character or liability of a member of the society could not be thereby forced on a purchaser of such property. Ibid.
Congress has authority to impose a direct tax on the District of Columbia, in proportion to the census directed to be taken by the constitution. Loughborough v. Błake, 5 Wheat. 317; 4 Cond. Rep. 660.
Congress, when legislating for the District of Columbia, under the fifth section of the first article of the constitution, is still the legislature of the Union, and its acts are the laws of the United States. Cohens v. Virginia, 6 Wheat. 264; 5 Cond. Rep. 90.

An act of the legislature of Maryland, passed the 19th of December, 1791, entitled 'An act concerning the territory of Columbia, and the city of Washington," which, by the 6th section, provides for the holding of lands by "foreigners," is an enabling act; and applies to those only who could not take lands without the provisions of that law. It enables a "foreigner" to take in the same manner as if he were a citizen. Spratt $v$. Spratt, 1 Peters, 343.
A foreigner who beccmes a citizen, is no longer a foreigner, within the view of the act. Thus, after purchase, lands vested in him as a citizen; not by virtue of the act of the legislature of Maryland, but because of his acquiring the rights of citizenship. Ibid.
Land in the county of Washington, and District of Columbia, purchased by a foreigner, before natural. ization, was held by him under the law of Maryland, and might be transmitted to the relations of the purchasers, who were foreigners: and the capacity so to transmit those lands, is given, absolutely, by this act, and is not affected by his becoming a citizen ; but passes to his heirs and relations, precisely as if he had remained a foreigner. Ibid.
The supreme court of the United States has jurisdiction of appeals from the orphans' court, through the circuit court for the county of Washington, by virtue of the act of Congress of February 13, 1801; and by the act of Congress subsequently passed, the matter in dispute, exclusive of costs, must exceed the value of one thousand dollars, in order to entitle the party to an appeal. Nicholls et al. v. Hodges' Ex'rs, 1 Peters, 565.
The statute of Elizabeth is in force in the District of Columbia. Dathcart et al. v. Rabinson, 5 Peters, 264.

The levy court of Washin $\xi_{\text {on }}$ county is not entitled to one half of all the fines, penalties, and forfeitures imposed by the circuit court in cases at common law, and under the acts of Congress, as well as the acts of assembly of Maryland, adopted by Congress as the law of the District of Columbia. Levy Court of Washington 2 . Ringgold,' 5 Peters, 451.
The supreme court of the United States has no jurisdiction of causes brought before it, upon a certificate of division of opinion of the judges of the circuit court for the District of Columbia. The appellate jurisdiction, in respect to that court, extends only to its final judgments and decrees. Ross $v$. Triplett. 3 Wheat. 600; 4 Cond. Rep. 351.
By the insolvent law of Maryland, of January 3, 1800, the chancellor of Maryland could not discharge one who was an inhabitant of the District of Columbia, after the separation from Maryland, unless previous
as they now exist, shall be and contiaue in force in that part of the said (istriet, which was ceded by that state to the United States, and by them accepted as aforesaid.

Sec. 2. And be it further enacted, That the said district of Columbia shall be formed into two counties; one county shall contain all that part of said district, which lies on the east side of the river Potomac, together with the islands therein, and shall be called the county of $W$ ashington; the other county shall contain all that part of said district, which lies on the west side of said river, and shall be called the county of Alexandria; and the said river in its whole course through said district shall be taken and deemed to all intents and purposes to be within both of said counties.

Sec. 3. Be it further enacted, That there shall be a court in said distriet, whieh shall be called the circuit court of the district -of $\mathbf{C o}$ lumbia; and the said court and the judges thereof shall have all the powers by law vested in the circuit courts and the judges of the circuit courts of the United States. Said court shall consist of one chief judge and two assistant judges resident within said district, to hold their respective offices during good behaviour; any two of whom shall constitute 3 quorum; and each of the said judges shall, before he enter on his office, take the oath or affirmation provided by law to be taken by the

It shall be formed into two counties.

Washington county.

Alexandria
county.

Circuit court established in it.

Te consist of one chief judge and two assistant judges.
to that separation he had entitled himself to a discharge by performing all the requisites of the act. Reilly v. Lamar et al. 2 Cranch, 344 ; 1 Cond. Rep. 419.

No appeal or writ of error lies, in a criminal case, from the judgment of the circuit court of the District of Columbia, to the supreme court of the United States: the appellate jurisdiction given by the act of Congress, is confined to civil cases. United States v. More, 3 Cranch, 159; 1 Cond. Rep. 480.

There is, in the District of Columbia, no division of powers between the general and the state governments. Congress has the entire control over the district, for every purpose of government: and it is reasonable to suppose that, in organizing a judicial department in the diatrict, all the judicial power, nebessary for the purpose of government, would be vested in the courts of justice. Kendall, Postmaster General v. The United States, 12 Peters, 524.

The circuit court of the United States, for the District of Columbia, has a right to award a mandamus to the postmaster-general of the United States, requiring him to pass to the credit of certain contractors for conveying the mail of the United States, a sum found to be due to them by the solicitor of the treasury of the United States, the solicitor acting under the special provisions of an act of Congress. Ibid.

There can be no doubt, that, in the state of Maryland, a writ of mandamus might be issued to an executive officer, commanding him to perform a ministerial act, required of him by the laws: and if it would lie in that state, there can be no good reason why it should not lie in the District of Columbia, in analogous çases. Ibid.

The powers of the supreme court of the United States, and of the circuit courts of the United States, to iasue writs of mandamus, granted by the fourteenth section of the judiciary act of 1789 , is only for the purpose of bringing the case to a final judgment or decree, so that it may be reviewed. The mandamua does not direct the inferior court how to proceed, but only that it must proceed, according to its own judgment, to a final determination; otherwise it cannot be reviewed in the appellate court. It is different in the circuit court of the District of Columbia, under the adoption of the laws of Maryland, which included the common law. Ibid.

The power of the circuit court of the District of Columbia, to exercise the juriediction to issue a writ of mandamus to a public officer, to do an act required of him by law, results from the third section of the act of Congress of February 27, 1804; which declares that the court and judges thereof shall have all the powers by law vested in the circuit courts of the United States. The circuit courts referred to, were those established by the act of February 13, 1801. The repeal of that law, fifteen months afterwards, and after that law had gone into operation, under the act of February 27, 1801, could not in any manner affect that law, any further than was provided by the repealing act. rbid.
' The circuit courts of the United States, sitting in the states of the Union, have no jurisdiction in a case in which a citizen of the District of Columbia is plaintiff. Westcott's Lessee v. Inhabitants, \&c. Peters ${ }^{2}$ C. C. R. 45.

The act of Congress of June, 1822, authorizes any person to whom administration has been granted in the states of the United States, to prosecute claims by suits in the District of Columbia, in the same manner as if the same had been granted by proper authority, in the District of Columbia, to such persons. The power is limited by its terms to the institution of suits, and does not authorize suits against an executor or administrator. The effect of this law was to make all debts due by persons in the District of Columbia, not local assets, for which the administrator was bound to account in the courts of the district, but general assets which be had full authority to receiye, and for which he was bound to account in the courts of the state from which be derived his letters of administration. Vaughan et al. v. Northup et al,y 15 Peters, Rep. 1.

The courts of the United States in the District of Columbia, have a like jurisdiction upon personal property, with the courts in England, and in the states of the Union; and in the absence of statutory provisions, in the trial of them they must apply the same common law principle which regulates the moda of bringing such actions, the pleadings and the proof. M'Kenna v. Fiske, 17 Peters' Rep. 245.

VoL. II. -14
judges of the circuit courts of the United States; and said court shall have power to appoint a clerk of the court in each of said counties, who shall take the oath and give a bond with sureties, in the manner directed for clerks of the district courts in the act to establish the judiciary of the United States.

Sec. 4. Be it further enacted, That said court shall, amnally, hold four sessions in each of said counties, to commence as follows; to wit: for the county of Washington, at the city of Washington, on the fourth Mondays of March, June, September and December; for the county of Alexandria, at Alexandria, on the second Mondays of January, April, July, and the first Monday of October.

Sec. 5. Be it further enacted, That said court shall have cognizance of all crimes and offences committed within said district, and of all cases in law and equity between parties, both or either of which sball be resident or be found within said district, and also of all actions or suits of a civil nature at common law or in equity, in which the United States shall be plaintiffs or complainants; and of all seizures on land or water, and all penalties and forfeitures made, arising cr accruing under the laws of the United States.

Sec. 6. Provided, and be it further enacted, That all local actions shall be commenced in their proper counties, and that no action or suit shall be brought before said court, by any original process against any person, who shall not be an inhabitant of, or found within said district, at the time of serving the w:it

Sec. 7. Be it further enacted, That there shall be a marshal for the said district, who shall have the custody of the gaols of said counties, and be accountable for the safe keeping of all prisoners legally committed therein; and he shall be appointed for the same term, shall take the same oath, give a bond with sureties in the same manner, shall have generally, within said district, the same powers, and perform the same duties, as is by law directed and provided in the case of marshals of the United States.

Sec. 8. Be it further enacted, That any final judgment, order or decree in said circuit court, wherein the matter in dispute, exclusive of costs, shall exceed the value of one hundred dollars, may be re-examined and reversed or affirmed in the supreme court of the United States, by writ of error or appeal, (a) which shall be prosecuted in the same manner, under the same regulations, and the same proceedings shall be had therein, as is ${ }^{t}$ or shall be provided in the case of writs of error on judgments, or appeals upon orders or decrees, rendered in the circuit court of the United States.
Sec. 9. Be it further enacted, That there shall be appointed an Ittorney of the United States for said district, who shall take the oath and perform all the daties required of the district attornies of the United States; and the said attorney, marshal and clerks, shall be entitled to receive for their respective services, the same fees, perquisites and emoluments, which are by law allowed respectively to the attorney, marshal and clerk of the United States, for the district of Maryland.

Sec. 10. Be it further enacted, That the chief judge, to be appointed by virtue of this act, shall receive an annual salary of two thou-

[^1]sand dollars, and the two assistant judges, of sixteen hundred dollars each, to be paid quarterly, at the treasury of the United States.(a)

Sec. 11. Be it further enacted, That there shall be appointed in and for each of the said counties, such number of discreet persons to be justices of the peace, as the President of the United States shall from time to time think expedient, to continue in office five years; and such justices, having taken an oath for the faithful and impartial discharge of the duties of the office, shall, in all matters, civil and criminal, and in whatever relates to the conservation of the peace, have all the powers vested in, and shall perform all the duties required of, justices of the peace, as individual magistrates, by the laws herein before continued in force in those parts of said district, for which they shall have been respectively appointed; and they shall have cognizance in personal demands to the value of twenty dollars, exclusive of costs; which sum they shall not exceed, any law to the contrary notwithstanding; and they shall be entitled to receive for their services the fees allowed for like services by the laws herein before adopted and continued, in the eastern part of said district.

Sec. 12. And be it further enacted, That there shall be appointed in and for each of the said counties, a register of wills, and a judge to be called the judge of the orphans' court, who shall each take an oath for the faithful and impartial discharge of the duties of his office; and shall have all the powers, perform all the duties, and receive the like fees, as are exercised, performed, and received, by the registers of wills and judges of the orphans' court, within the state of Maryland; and appeals from the said courts shall be to the circuit court of said district, who shall therein have all the powers of the chancellor of the said state.

Sec. 13. And be it further enacted, That in all cases where judgments or decrees have been obtained, or hereafter shall be obtained, on suits now depending in any of the courts of the commonwealth of Virginia, or of the state of Maryland, where the defendant resides or has property within the district of Columbia, it shall be lawful for the plaintiff in such case upon filing an exemplification of the record and proceedings in such suits, with the clerk of the court of the county where the defendant resides, or his property may be found, to sue out writs of execution thereon, returnable to the said court, which shall be proceeded on, in the same manner as if the judgment or decree had originally been obtained in said court.

Sec. 14. And be it further enacted, That all actions, suits, process, pleadings, and other proceedings of what mature or kind soever, depending or existing in the courts of Hustings for the towns of Alexandria and Georgetown, shall be, and hereby are continued over to the circuit courts to be holden by virtue of this act, within the district of Columbia, in manner following; that is to say: all such as shall then be depending and undetermined, before the court of Hustings for the town of Alexandria, to the next circuit court hereby directed to be holden in the town of Alexandria; and all such as shall then be depending and undetermined, before the court of Hustings for Georgetown, to the next circuit court hereby directed to be holden in the city of Washington: Provided nevertheless, that where the personal demand in such cases, exclusive of costs, does not exceed the value of twenty dollars, the justices of the peace within their respective counties, shall have cognizance hereof.

Sec. 15. And be it firther enacted, That all writs and processes whatsoever, which shall hereafter issue from the courts hereby established

Compensation of the judges.
Justices of the peace to be ap. pointed.

Their juris. diction.

Registers of wills and judges of the orphans court to be appointed.

Act of May 19,1828 , ch. 59.

How to obtain execution with. in the district, upon judgments already rendered in courts of Maryland and Virginia.

Suits in the courts of Hustinge for Alexan. dria-and Georgetown continued to the circuit court.

Test of writs.

[^2]within the district, shall be tested in the name of the chief judge of the district of Columbia.

Saving of the rights of corporations.

Statute II.
March 2, 1801.
[Obsolete.]
Act of May ${ }^{7}$
1800, ch. 41.
Certain suits
sevived.
Sec. 16. And be it further enacted, That nothing in this act contained shall in any wise atter, impeach or impair the rights, granted by or derived from the acts of incorporation of Alexandria and Georgetown, or of any other body corporate or politic, within the said district, except so far as relates to the judicial powers of the corporations of Georgetown and Alexandria.

Approved, February 27, 1801.

## Ceap. XVI.-An Act supplementary to an act, intituled" "An act to divide the territory of the Cnited States northwest of the Ohio, into two separate governments."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all suits, and process and proceedings, which, on the third day of July, one thousand eight hundred, were pending in any court of either of the counties, which by the act intituled "An act to divide the territory of the United States northwest of the Ohio, into two separate governments," has been included within the Indiana territory; and that all suits, process and proceedings, which, on the aforesaid third day of July, were pending in the general court of the territory of the United States northwest of the Ohio, in conseguence of any writ of removal or order for trial at bar, had been removed from either of the counties now within the limits of the Indiana territory aforesaid, shall be and they are hereby revived and continued; and the same proceedings, before the rendering of final judgment and thereafter, may and shall be had, in the same courts, in all suits and process aforesaid, and in all things concerning the same, as by law might have been had in case the said territory of the United States northwest of the Ohio had remained undivided.

Approved, March 2, 1801.

## Statute II.

March 2, 1801.
[Repealed.]
District of Massac.

District of

## Palmyra.

Section 16,
Act of March 2, 1799, repealed.

March 2, 1801.
[Obsolete.] .
Chap. XVII.-An Act to add to the district of Massac, on the Ohio, and to disscontinue the district of Palmyra in the state of Tennessee, and therein to amend the act, intituled "An act to egulate the collection of duties on imports and tonnage."
Be 'it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the district of Massac, in addition to the territory it already possesses, shall include all waters, shores, and inlets, now included within the district of Palmyra, and all rivers, waters, shores and inlets, lying within the state of Tennessee,

Sec. 2. And be it further enacted, That from and after the thirtieth day of June next, so much of the "Act to regulate the collection of duties on imports and tonnage," as establishes the district of Palmyra in the state of Tennessee, shall be repealed, except as to the recovery and receipts of such duties on goods, wares and merchandise, and on the tonnage of ships or vessels, as shall have accrued, and as to the recovery and distribution of fines, penalties and forfeitures, which shall have been incurred before and on the said day.

Approved, March 2, 1801.
Stayute II.
Chap. XVIHI.-An Act making appropriations for the Military establishment of the United States, for the year one thousand eight hundred and one.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for defraying the

## ACTS

Crain+cuscia, "

- OF


# THE CORPORATION 

of the<br>CITY OF WASHINGTON,

PASSED By

THE FIRST COUNCIL.

TO WHICH IS PREFIXED

## THE ACT OF INCORPORATION.

## Zatanington:

> PRINTED BY A. AND G. WAY.
> 1803.
be paid them by the seller. Before they

Oath of office. shall take an oath before some justice of the peace for the faithful performance of their duty.
Approved, November 23d, 1809.

AN ACr making an appropriation for C street north, from 8th street to Pennsylvania avenue.

Be it enacted by the first and second chambers of the city council of Washington, That the sum of eighty dollars be, and the Appropria- same is hereby appropriated for opening $\mathbf{C}$ tion for C street north, from 8th street to Pennsylvania st. north. avenue, out of any monies in the treasurer's hands not otherwise appropriated, and that the same be expended under the direction of the mayor.
Approved, November 23d, 1809.

AN ACT to suppress horse running and shooting, in certain cases, in the city of Washington.

Sec. 1. BE it enacted by the first and second chambers of the city council of Washington, That from and after the first of January next, it shall not be lawful for any person
to run an animal of the norse
kind in any of the streets or avenues in the Horse-runcity of Washington, within three hundred ning in the yards of any house or building in said city, streets prounder a penalty of ten dolars for city, hibited. offence.

Sec. 2. And be it enacted, That if the owner of any horse shall permit any minor, Owners of slave, or other person, to run his horse in horses inany street or avenue of, the city, within cur a penthree hundred yards of any house or build. alty if they ing in said city, he shall incur the penalty of permit ten dollars for each offence, one half to po them to be to the informer and the other half to the sun in the corporation, and any person shall be autho- slaves, \&ec. rized to stop or seize any horse so running until the owner shall pay the above penalty.

Sec. 3. And be it enacted, That if any slave shall be seen running any horse in any Slaves to be street or avenue of the city, within three publicly hundred yards of any house or building, it whipped shall be the duty of any constable to take for running such slave before a magistrate, and on his horses in bin the streets. being convicted of such offence he shall be publicly whipped any number of lashes not exceeding thirty-nine.

Sec. 4. And be it enacted, That if any person or persons, from and after the first day of January next, shall shoot with a gun Shootingin or other fire arms, within four hundred yards the streets of any house in said city, or on the sabbath prohibited. in any part of the city, shall forfeit and pay a fine of ten dollars, one half of said penalty to go to the informer and the other half to the use of the city.

Approved, December 9th, 1809.
which such offender may be, upon complaint made to him upon oath that such crime or offence hath been committed, or upon receiving a copy of the indictment or other process, if any, which shall have been found or issued in the said District of Columbia against such offender, to issue his warrant to apprehend such offender, and to cause him, at the expense of the United States, to be arrested and imprisoned or bailed (as the case may require) for trial before such court in the District of Columbia, as may have jurisdiction of the offence; and copies of the process shall be returned as speedily as may be into the clerk's office of such court, together with the recognizance of bail, and the recognizances of the witnesses for their appearance to testify in the ease, if any such shall have been taken: which recognizances the said judge may require on pain of imprisonment ; and the said judge, if bail shall not have been given, shall seasonably issue and the marshal of his district shall execute a warrant for the removal of the offender and the witnesses (in case they shall be in prison) or either of them, (as the case may be) to the said District of Columbia : and the expenses of such arrest, commitment, and removal being ascertained and certified by the judge of the district in which the offender shall have been so arrested, shall be charged by the marshal of the said district in his account with the United States, and shall be allowed by the proper accounting officers of the treasury. And in ease such recognizance of bail, Recognizance. or the recognizances of the witnesses should be forfeited, scire facias and execution may issue upon a certified copy thereof in any judicial district within the jurisdiction of the United States in which the respective reeognitors may reside or may be found.

Sec. 40. No man, great nor small, of what condition soever he be, except the ministers of justice in executing the precepts of the courts of justice, or in executing their office, and such as may be in their

2 E. 3. c. 3. 2 R. 2. c. 13. 20 R. 2. c. 1. V.L. 80. c. 21. Punishing affrays.

Punishment of crimes.

No person to come before the court with force and arms; nor to go about armed, to the terror of the country.

1. G. 1. st. 2. c. 5. § 1 , Riots, \& c.
Penalty for not dispersing when ordered.
company assisting them, shall be so hardy as to come with force and arms before the justices or judges of any court within the District of Columbia, or either of their ministers of justice, doing their office, on pain to forfeit his armour to the United States, and his body to prison, at the pleasure of such court ; nor go, nor ride armed by wight nor by day, in fairs, or markets, or in other places, in terror of the country, upon pain of being arrested and committed to prison by any justice or judge on his own view, or proof by others, and of forfeiture of his armour to the United States; but no person shall be imprisoned for any offence against this act, by a longer space of time than one month.
Sec.41. If any persons, to the number of twelve or more, being unlawfully, riotously, and tumultuously assembled together, to the disturbance of the public peace in the District of Columbia, and being required or commanded by any one or more justice or justices of the peace, or by the marshal of the said District, or his deputy, or by the mayor, or other chief officer of any city or town corporate in the said District, where such an assembly shall be, by proclamation, to be made in the name of the United States, in the form $\sigma$ to the effect herein after directed, to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, shall, (notwithstanding such proclamation made) to the number of twelve or more, unlawfully, riotously, and tumultuously remain or continue together by the space of one hour after such request or command made by proclamation, as aforesaid, then such continuing together, to the number of $t$ welve or more, after such request or demand made by proclamation, as aforesaid, shall be adjudged a high - misdemeanor, and the offenders therein not being slaves, shal!, upon conviction, be confined at hard labour, or in solitude, not exceeding ten years, and may be fined not exceeding one thousand dollars.

Case 1:15-cv-00162-FJS Document 9-2 Filed 02/20/15 Page 1 of 3 pos 8 district Columbia. Laws, statutes, etc) 9

# REVISED CODE ${ }^{c \dagger}$ 

OP THE

## DISTRICT OF COLUMBIA,

PREPARED

UNDER THE AUTHORITY OF THE ACT OF CONGRESS,

ENTITLED

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S S / D I
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washington:

1857.

567
Ssc. 2. On the trial of every indictment, the party accused shall be allowed to be heard by counsel, and he may defend himself, and he shall have a right to produce witnesses and proofs in his favor, and to be confronted with the witnesses who are produced against him.
Skc. 3. No person indicted for an offence shall be convicted thereof, unless by confession of his guilt in open court, or by admitting the truth of the charge against him by his plea or demurrer, or by the verdict of a jury, accepted and recorded by the court.
Sre. 4. No person shall be held to answer on a second indictment for any offence of which he has been acquitted by the jury, upon the facts and merits, on a former trial; but such acquittal may. be pleaded by him in bar of any subsequent prosecution for the same offence, notwithstanding any defect in the form or in the substance of the indictment on which he was acquitted.

Sec. 5. No person who is charged with any offence against the law, shall be punished for such offence, unless he shall have been duly and legally convicted thereof in a court having competent jurisdiction of the cause and of the person.

## CHAPTER 141.

of proceedings to prevent and detect the commission of CRIMES.

## Sletion

1. Officers anthorized to keep the peace.
2. Complaint ; how made.
3. Arrest.
4. Trial ; recognizance to keep the peace.
5. Party; when to be discharged.
6. Refusing to recognise, to be committed.
7. Party, when discharged ; and complainant, when to pay costo.
8. Payment of coste in other cases.
9. Appeal allowed.
10. On appeal, witnesses to recognise.
11. Proceedings upon an appeal.
12. Recognizance; when to remain in force.
13. Persons committed for not recognising ; how discharged.
14. Recognizances to be transmitted to the court.

## Section

15. Recognizances; when to be required on view of the court or magistrate.
16. Persons who go armed may be required to find sureties for the peace, \&c.
17. Proceedings when person is suspected of eelling liquor contrary to law.
18. Surety may surrender his principal, who may recognise anew.

## bearch warbants.

19. Search warrants for property stolen.
20. In what other cases to be issued.
21. Warrant; to whom directed, and when
22. $\}$ and how executed.
23. Property seized may be kept as evidence, and then restored to owner or destroyed.
discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court shall think proper, and may also make sach order in relation to the costs of prosecution as may be deemed just and reasonable.

Sec. 12. If auy party appealing shall fail to prosecute his appeal, his recognizance shall remain in full force and effect, as to any breach of the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.
Skc. 13. Any person committed for not finding sureties, or refusing to recognise, as required by the court or magistrate, may be discharged by any judge or justice of the peace on giving such security as was required.
Sic. 14. Every recognizance taken pursuant to the foregoing provisions shall be transmitted by the magistrate to the criminal court on or before the first day of the next term, and shall be there filed by the clerk.
Sec. 15. Every person who shall, in the presence of any officer mentioned in the first section of this chapter, make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, and every person who, in the presence of such officer, shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognise for keeping the peace, or being of good behavior, for a term not exceeding one year, and in case of refusal may be committed as before directed.
Sec. 16. If any persou shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury or violence to his person, or to his family or property, he may, on complaint of any person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace for a term not exceeding six months, with the right of appealing as before prorided.

Sec. 17. If any justice of the peace suspect any person of selling, by retail, wine or ardent spirits, or a mixture thereof, contrary to law, he shall summon the person and such witnesses as he may think

## CORPORATION LAWS

or the<br>CITY 0F WASHINGTON,<br>TO THE<br>End of the Fiftieth Council,<br>(To June 3d, 1853, inclusive,)<br>REVIBED AND COMPILED<br>BY JAMES W. SHEAHAN,<br>Under the direction of a Joint Committee, consisting of the Mayor and one member of the Board of Aldermen and one member of the Board of Common Council :

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\text { AND, AL. } 80
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THE ACTS OF INCORPORATION AND OTHER ACTS OF CONGRESS, WITH AN APPENDIX,

TO WHICH ARE ADDED

TEE LAWS ENACTED FROM JUNE 3, 1853 TO JUNE 1, 1860,
bMBRACING THE


the limits of this city, shall be fifty dollars per annum, to be paid to this Corporation by the insurance company or agent applying for such license before the issuing thereof; and all licenses under this act shall be issued for one year from the date of the application and payment of the tax, and shall be issued by the Register, under the direction of the Mayor, by whom they shall be signed, and countersigned by the Register, and shall express on their face the name of the insurance company authorized by it to establish an agency in this city, where such company is established or located, the kind of insurance it is authorized to effect, and the name of its agent; and such licenses shall confer suthority to establish an agency in this city only to the company and the agent therein named: Provided, That a license issued to one insurance company or agent may be transferred to another insurance company or agent: but no such transfer shall be valid, or confer any rights or privileges under it until the transfer has been recorded in the Register's office, and endorsed on the license by the Register: And provided, also, That no person shall he authorized, under one license, to act as agent for more than one insurance company, and that one the company named in such license; and any person offending against the provisions of this section shall be liable for every offence to the fine imposed by the first section of this act.
Sec. 3. And be it enacted, That all former acts or parts of acts inconsistent with the provisions of this nct be, and the same are hereby repealed: Provided, That this act shall not be construed so as to affect licenses for insurance agencies already issued until the expiration of the time for which said licenses huve been so issued.-(See page 78, Sheahan's Digest.)

Approved October 29, 1857.

## CHAP. 5.

AN ACT to prevent the carrying of dangerous weapons in the City of Washington.
Be it enacted by the Board of Aldermen and Board of Common Council of the city of Washington, That it shall not hereafter be lawful for any person or persons to carry or have about their persons any deadly or dangerous weapons, such as dagger, pistol, bowie knife, dirk knife, or dirk, colt, slung shot, or brass or metal knuckles, within the city of Washington; and any person or persons who shall be duly convicted of so carrying or having on their persons any such weapon shall forfeit and pay apon such conviction not less than twenty nor more than fifty dollars, which fines shall be prosecuted and recovered in the same manner as other penalties and forfeitures accruing to the city are sued for and recovered: Provided, That the police officers, members of the Auxiliary Guard, and the military, when on duty, shall be exempt from such penalties and forfeitures.

Approved November 4, 1857.
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stationery, and for all other contingent and necessary expenses of each of said schools; and it shall be the duty of the two Boards to make provision by law for the payment of all such salaries and other necessary expenses, out of any money to the credit of the School Fund, and when that shall be insufficient, out of the General Fund; and all such appropriations shall be subject to the order of the Board of. Trustees, from time to time, as the same may be required, to be properly disbursed, and for which, receipts shall in every case, be taken and returned to the Register of the Corporation, for settlement.

Sec. 12. And be it enacted, That all acta or parts of acts heretofore passed relative to the Public Schools; to organize and establish a Board of Trustees of the Public Schools, the salary of the Secretary and Treasurer, and the duties of the Board, be, and the same are hereby, repealed.-(See page 261, Sheahan's Digest.)

Approved November 12, 1858.

## CHAP. 11.

AN ACT to prevent the carrying of concealed and dangerous weapons in the City of Washington.
Be it enacted by the Board of Aldermen and Board of Common Council of the city of Washington, That it shall not hereafter be lawful for any person or persons, to carry or have concealed about their persons any deadly or dangerous weapons, such as dagger, pistol, bowie-knife, dirk-knife or dirk, colt, slung-shot, or brass or other metal knuckles, within the city of Washington, and any person or persons who shall be duly convicted of so carrying or having concealed about their persons any such weapon, shall forfeit and pay upon such conviction, not less than twenty dollars nor more than fifty dollars : which fines shall be prosecuted and recovered in the same manner as other penalties and forfeitures accruing to the city, are sued for and recovered; Provided, That the Police officers and the members of the Auxiliary Guard, when on duty, shall be exempt from such penalties and forfeitures.

Approved November 18, 1858.

## CHAP. 12.

AN ACT explanatory of the Seventh section of the "Act regalating Auctions in the City of Washington," approved Jone fourth, eighteen handred and twenty-nine.
Be it enacted by the Board of Aldermen and Board of Common Council of the city of Washington, That the true intent and meaning of the seventh section of the "Act regulating auctions in the city of Washington," is to prevent two or more persons who shall take a joint license as auctioneers, from having different houses of business or es-
submitting plan and estimate for its improvement; and the Chief of Engineers shall submit to the Secretary of War the reports of the local and division engineers, with his views thereon and his opinion of the public necessity or convenience to be subserved by the proposed improvement; and all such reports of preliminary examinations with such recommendations as he may see proper to make, shall be transmitted by the Secretary of War to the House of Representatives, and are hereby ordered to be printed when so made.
Sec. 8. For preliminary examinations, contingencies, expenses connected with inspection of bridges, the service of notice required in such cases, the examination of bridge sites and reports thereon, and for incidental repairs for which there is no special appropriation for rivers and harbors, one hundred and twenty-five thousand dollars: Provided, That no preliminary examination, survey, project, or estimate for new works other than those designated in this act shall be made: And provided further, That after the regular or formal report on any examination, survey, project, or work under way or proposed is subnitted, no supplenental or additional report or estimate, for the same fiscal year, shall be made unless ordered by a resolution of Congress. The Government shall not be deemed to have entered upon any project for the improvement of any water way or harbor mentioned in this act until funds for the commencement of the proposed work shall have been actually appropriated by law.

Approved, July 13, 1892.

July 13, 1892.
CHAP. 159.-An Act to punish the carrying or selling of deadly or dangerous weapous within the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be lawful for any person or persons within the District of Columbia, to have concealed about their person any deadly or dangerous weapons, such as daggers, air-guns, pistols, bowie-knives, dirk knives or dirks, blackjacks, razors, razor blades, sword canes, slung shot, brass or other metal knnckles.
Sec. 2. That it shall not be lawful for any person or persons within
Openty carrying ful ipons with unlaw the District of Columbia to carry openly any such weapons as hereinbefore described with intent to unlawfully use the same, and any person or persons violating either of these sections shall be deemed guilty of
Punishment, first offense.

Provisos.
Exceptions.

Lawful use of weapons.

[^4]a misdemeavor, and upon conviction thereof shall, for the first offense, forfeit and pay a fine or penalty of not less than fifty dollars nor more than five hundred dollars, of which one half shall be paid to any one giving information leading to such conviction, or be imprisoned in the jail of the District of Columbia not exceeding six months, or both such fine and imprisonment, in the discretion of the court: Provided, That the officers, non-commissioned officers, and privates of the Uuited States Army, Navy, or Marine Corps, or of any regularly organized Militia Company, police officers, officers guarding prisoners, officials of the United States or the District of Columbia engaged in the execution of the laws for the protection of persons or property, when any of such persons are on duty, shall not be liable for carrying necessary arms for use in performance of their daty: Provided, further, that nothing contained in the first or second sections of this act shall be so construed as to prevent any person from keeping or carrying about his place of business, dwelling honse, or premises any such dangerous or deadly weapons, or from carrying the same from place of purchase to his dwelling house or place of business or from his dwelling house or place of business to any place where repairing is done, to lave the same repaired, and back again: Provided further, That nothing contained in the first or second sections of this act shall be so constred as to apply
of Columbia, and anthority is hereby given to any such judge to grant such permit for a period of not more than one month at any one time, upon satisfactory proof to him of the necessity for the granting thereof; and further, upon the filing with such judge of a bond, with sureties to be approved by said judge, by the applicant for such permit, conditioned to the Cnited States in such penal sum as said judge shall require for the keeping of the peace, save in the case of necessary selfdefense by such applicant during the continuance of said permit, which bond shall be put in suit by the United States for its benefit upon any breach of such condition.

Sec. 3. That for the second violation of the provisions of either of the preceding sections the person or persons offending shall be prosceeded against by indictment in the supreme court of the District of Columbia, and upon conviction thereof shall be imprisoned in the penitentiary for not more than three years.

SEC. 4. That all such weapons as hereinbefore described which may be taken from any person offending against any of the provisions of this act shall, upon conviction of such person, be disposed of as may be ordered by the judge trying the case, and the record shall show any and all such orders lelating thereto as a part of the judgment in the case.

SEC. 5. That any person or persons who shall, within the District of Columbia, sell, barter, hire, lend or give to any minor under the age of twenty-one years any such meapon as hereinbefore described shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, pay a fine or penalty of not less than twenty dollars nor more than one hundred dollars, or be imprisoned in the jail of the District of Columbia not more than three months. No person shall engage in or conduct the business of selling, bartering, hiring, lending, or giving any weapon or weapons of the kind hereinbefore named without having previously obtained from the Commissioners of the District of Columbia a special license authorizing the conduct of such business by such person, and the said Commissioners are hereby anthorized to grant such license, without fee therefor, upon the filing with them bv the applicant therefor of a bond with sureties to be by them approved, conditioned in such penal sum as they shatisfix to the United States for the compliance by said applicant with all the provisions of this section; and upon any breach or breaches of said condition said bond shall be put in suit by said United States for its benefit, and said Commissioners may revoke said license. Any person engaging in said business without having previously obtained said special license shall be guilty of a misdemeamor, and upon conviction thereof shall be sentenced to pay a fine of not less than one huodred dollars nor more than five hundred dollars, of which one half shall be paid to the informer, if any, whose information shall lead to the conviction of the person paying said tine. All persons whose business it is to sell barter, hire, lend or give any such weapon or weapons shall be and they hereby, are, required to keep a written register of the name and residence of every purchaser, barterer, hirer, borrower, or donee of any such weapon or weapons, which register shall be subject to the inspection of the major and superintendent of Metropolitan Police of the District of Columbia, and further to make a weekly report, under oath to said major, and superintendent of all such sales, barterings, hirings, lendings or gifts. And one half of every fine imposed under this section shall be paid to the informer, if any, whose information shall have led to the conviction of the person paying said fine. Any police officer failing to arrest any person guilty in his sight or presence and knowledge of any violation of any section of this act shall be fined not less than fifty nor more than five hundred dollars

SEC 6. That all acts or parts of acts inconsistent with the provisions of this act be, and the same hereby are, repealed.

Approved, July 13, 1892,

States, for the purpose of having such communication delivered by the post-office establishment of such foreign country to the post-office establishment of the United States and by it delivered to such addressee in the United States, and as a result thereof such communication is delivered by the post-office establishment of such foreign country to the post-office establishment of the United States and by it delivered to the address to which it is directed in the

Punishment for.
Propiso. Jurisdiction. United States, then such person shall be punished in the same manner and to the same extent as provided in section 1 of this Act: Provided, That any person violating this section may be prosecuted either in the district into which such letter or other communication was carried by the United States mail for delivery according to the direction thereon, or in which it was caused to be delivered by the United States mail to the person to whom it was addressed.

Approved, July 8, 1932.

## [CHAPTER 465.]

AN ACT


Definitions.
"Pistol."
" Sawed-off ghotgun."
"Machine gun."
"Person."
"Sell" and "purchase," otc.
"Crime of violence,"
"Crime of violence" as used in this Act, means any of the following crimes, or an attempt to commit any of the same, namely: Murder, manslaughter, rape, mayhem, maliciously disfiguring another, abduction, kidnaping, burglary, housebreaking, larceny, any assault with intent to kill, commit rape, or robbery, assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment in the penitentiary.

## COMMITTING CRIME WHEN ARMED

Committing crime of violence when armed.
Punishment for.

Sed. 2. If any person shall commit a crime of violence in the District of Columbia when armed with or having readily available any pistol or other firearm, he may, in addition to the punishment provided for the crime, be punished by imprisonment for a term of not more than five years; upon a second conviction for a crime of violence so committed he may, in addition to the punishment provided for the crime, be punished by imprisonment for a term of not more than ten years; upon a third conviction for a crime of violence so committed he may, in addition to the punishment provided for the
crime, be punished by imprisonment for a term of not more than fifteen years; upon a fourth or subsequent conviction for a crime of violence so committed he may, in addition to the punishment provided for the crime, be punished by imprisonment for an additional period of not more than thirty years.

## PERGONS FORBIDDEN TO POSSESS CERTAIN FIREARMS

Sec. 3. No person who has been convicted in the District of Columbia or elsewhere of a crime of violence shall own or have in his possession a pistol, within the District of Columbia.

Persons forbidden to possess cartain fire passes

Convicted of a crime

## CARRYING CONCEALED WEAPONS

Sec. 4. No person shall within the Distrıct of Columbia carry concealed on or about his person, except in his dwelling house or place of business or on other land possessed by him, a pistol, without a license therefor issued as hereinafter provided, or any deadly or dangerous weapon.

## EXCEPTIONS

Sec. 5. The provisions of the preceding section shall not apply to marshals, sheriffs, prison or jail wardens, or their deputies, policemen or other duly appointed law-enforcement officers, or to members of the Army, Navy, or Marine Corps of the United States or of the National Guard or Organized Reserves when on duty, or to the regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States, provided such members are at or are going to or from their places of assembly or target practice, or to officers or employees of the United States duly authorized to carry a concealed pistol, or to any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person having in his possession, using, or carrying a pistol in the usual or ordinary course of such business or to any person while carrying a pistol unloaded and in a secure wrapper from the place of purchase to his home or place of business or to a place of repair or back to his home or place of business or in moving goods from one place of abode or business to another.

## ISGUE OF LICENEES TO CARRY

Sec. 6. The superintendent of police of the District of Columbia

Illegally carrying otc., dangerous weapon.

Exceptions.

Law enforcement of ficers

Army, Navy, or Ma rine Corps.

National Guard, tc., on duty
Other organizations.
Carrying to places of assembly, etc.

Manufecturer, etc.

## gEMTIING TO MINORS AND OTHERS

## Selling to minors or others.

Sec. 7. No person shall within the District of Columbia sell any pistol to a person who he has reasonable cause to believe is not of sound mind, or is a drug addict, or is a person who has been convicted in the District of Columbia or elsewhere of a crime of violence or, except when the relation of parent and child or guardian and ward exists, is under the age of eighteen years.

## TRANSFERS REGULATED

Time, etc., provislons.

Eegister to be kept.

Wholesale trade.

Sec. 8. No seller shall within the District of Columbia deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof, except in the case of sales to marshals, sheriffs, prison or jail wardens or their deputies, policemen, or other duly appointed law-enforcement officers, and, when delivered, said pistol shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a pistol the purchaser shall sign in duplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, make, model, and manufacturer's number of the pistol to be purchased and a statement that he has never been convicted in the District of Columbia or elsewhere of a crime of violence. The seller shall, within six hours after such application, sign and attach his address and deliver one copy to such person or persons as the superintendent of police of the District of Columbia may designate, and shall retain the other copy for six years. No machine gun, sawed-off shotgun, or blackjack shall be sold to any person other than the persons designated in section 14 hereof as entitled to possess the same, and then only after permission to make such sale has been obtained from the superintendent of police of the District of Columbia. This section shall not apply to sales at wholesale to licensed dealers.

DEALERS TO BE LICENGED
Dealers to be liconsed.

Seo. 9. No retail dealer shall within the District of Columbia sell or expose for sale or have in his possession with intent to sell, any pistol, machine gun, sawed-off shotgun, or blackjack without being licensed as hereinafter provided. No wholesale dealer shall, within the District of Columbia, sell, or have in his possession with intent to sell, to any person other than a licensed dealer, any pistol, machine gun, sawed-off shotgun, or blackjack.

DEALIRS' LICENSES, BY WHOM GRANTED AND CONDITIONS THEREOF
Sec. 10. The Commissioners of the District of Columbia may, in their discretion, grant licenses and may prescribe the form thereof, effective for not more than one year from date of issue, permitting the licensee to sell pistols, machine guns, sawed-off shotguns, and blackjacks at retail within the District of Columbia subject to the following conditions in addition to those specified in section 9 hereof, for breach of any of which the license shall be subject to forfeiture and the licensee subject to punishment as provided in this Act.

1. The business shall be carried on only in the building designated in the license.
2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can be easily read.
3. No pistol shall be sold (a) if the seller has reasonable cause to believe that the purchaser is not of sound mind or is a drug addict or has been convicted in the District of Columbia or elsewhere of a crime of violence or is under the age of eighteen years, and (b) unless the purchaser is personally known to the seller or shall present clear evidence of his identity. No machine gun, sawed-off shotgun, or blackjack shall be sold to any person other than the persons designated in section. 14 hereof as entitled to possess the same, and then only after permission to make such sale has been obtained from the superintendent of police of the District of Columbia.
4. A true record shall be made in a book kept for the purpose, the form of which may be prescribed by the Commissioners, of all pistols, machine guns, and sawed-off shotguns in the possession of the licensee, which said record shall contain the date of purchase, the caliber, make, model, and manufacturer's number of the weapon, to which shall be added, when sold, the date of sale.
5. A true record in duplicate shall be made of every pistol, machine gun, sawed-off shotgun, and blackjack sold, said record to be made in a book kept for the purpose, the form of which may be prescribed by the Commissioners of the District of Columbia and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other and shall contain the date of sale, the name, address, occupation, color, and place of birth of the purchaser, and, so far as applicable, the caliber, make, model, and manufacturer's number of the weapon, and a statement signed by the purchaser that he has never been convicted in the District of Columbia or elsewhere of a crime of violence. One copy of said record shall, within seven days, be forwarded by mail to the superintendent of police of the District of Columbia and the other copy retained by the seller for six years.
6. No pistol or imitation thereof or placard advertising the sale thereof shall be displayed in any part of said premises where it can readily be seen from the outside. No license to sell at retail shall be granted to anyone except as provided in this section.

## FALSE INFORMATION FORBIDDEN

Sec. 11. No person, shall, in purchasing a pistol or in applying Frideo Intormation or for a license to carry the same, or in purchasing a machine gun, sawed-off shotgun, or blackjack within the District of Columbia, give false information or offer false evidence of his identity.

## ALTERATION OF IDENTIFYING MARKS PROHIBITED

Suc. 12. No person shall within the District of Columbia change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark or identification on any pistol, machine gun, or sawed-off shotgun. Possession of any pistol, machine gun, or sawed-off shotgun upon which any such mark shall have been changed, altered, removed, or obliterated shall be prima facie evidence that the possessor has changed, altered, removed, or obliterated the same within the District of Columbia: Provided, however, That nothing contained in this section shall apply to any officer or agent of any of the departments of the United States or the District of Columbia engaged in experimental work.

## EXCEPMIONS

Sec. 13. This Act shall not apply to toy or antique pistols unsuit-

Proviso.
Experimental work. able for use as firearms.

## POSSESSION OF CERTAIN DANGEROUS WEAPONS

Possession of certain dangerous weapons forbidden.

Proviso.
Exceptions.

Sec. 14. No person shall within the District of Columbia possess any machine gun, sawed-off shotgun, or any instrument or weapon of the kind commonly known as a blackjack, slung shot, sand club, sandbag, or metal knuckles, nor any instrument, attachment, or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearms: Provided, however, That machine guns, or sawed-off shotguns, and blackjacks may be possessed by the members of the Army, Navy, or Marine Corps of the United States, the National Guard, or Organized Reserves when on duty, the Post Office Department or its employees when on duty, marshals, sheriffs, prison or jail wardens, or their deputies, policemen, or other duly appointed law-enforcement officers, officers or employees of the United States duly authorized to carry such weapons, banking institutions, public carriers who are engaged in the business of transporting mail, money, securities, or other valuables, wholesale dealers and retail dealers licensed under section 10 of this Act.

## PENALIIES

Punishment for violations.

Sec. 15. Any violation of any provision of this Act for which no penalty is specifically, provided shall be punished by a fine of not more than $\$ 1,000$ or imprisonment for not more than one year, or both.

## CONSTTIUTIONALITY

Invalidity of any provision not to affect remainder.

Sec. 16. If any part of this Act is for any reason declared void, such invalidity shall not affect the validity of the remaining portions of this Act.

## CERTAIN ACTS REPEALED

Sec. 17. The following sections of the Code of Law for the District of Columbia, 1919, namely, sections 855,856 , and 857 , and all other Acts or parts of Acts inconsistent herewith, are hereby repealed.

Approved, July \&, 1932.

## [CHAPTER 466.]

## JOINT RESOLUTION

Making an approprlation to provide transportation to their homes for veterans of the World War temporarily quartered in the District of Columbia.
Resolved by the Senate and House of Representatives of the United States of America in, Congress assembled, That to enable the Administrator of Veterans' Affairs, upon the request of any honorably discharged veteran of the World War, temporarily quartered in the District of Columbia, who is desirous of returning to his home, to provide such veteran with railroad transportation thereto prior to July 15, 1932, together with travel subsistence at the rate of 75 cents per day, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $\$ 100,000$ : Provided, That all amounts expended under this appropriation in behalf of any veteran shall constitute a loan without interest which, if not repaid to the United States, shall be deducted from any amounts payable to such veteran on his adjusted-service certificate.

Approved, July 8, 1932.

# [CHAPTER 295] 

$\frac{$|  November 4,  1943 |
| :---: |
| $[S .970]$ |}{$[\text { Public Law 181] }$}

Postal Service. Interchange of personnel.

Termination.

November 8, 1943
[H. R. 2859]
[Public Law 183]

Naval Reserve Act
of 1938 , amendments. 56 Stat. 730 .
I, U. S. C., Supp
,
Women's Reserve.
Ranks and ratings.

Grade of captain.

Military authority of officers.
${ }_{36}$ Stat. ${ }^{730}$ U. S. O., Supp. II, 8485 U . S.

AN ACT
Authorizing the Postmaster General to use post-office clerks and city letter carriers interchangeably.

Be it enaoted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General may, in an emergency, when the interest of the Service requires, temporarily assign any post-office clerk to the duties of city delivery carrier or any such carrier to the duties of such clerk and in an emergency, when the interest of the Service requires, may temporarily assign any post-office clerk or city delivery carrier to the duties of a railway postal clerk or any railway postal clerk to the duties of a post-office clerk or city delivery carrier without change of pay-roll status, the compensation of any temporarily assigned employee to be paid from the appropriation made for the work to which he is regularly assigned.

Sec. 2. This Act shall terminate on June 30, 1945, or such earlier date as the Congress by concurrent resolution may prescribe.

Approved November 4, 1943.

## [CHAPTER 296]

AN ACT
To amend the law of the District of Columbia relating to the carrying of concealed weapons.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Act entitled "An Act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes", approved July 8, 1932 (47 Stat. 651; D. C. Code, 1940 edition, title 22 , sec. 3204 ) be, and it hereby is, amended to read as follows:
"Sec. 4. No person shall within the District of Columbia carry either openly or concealed on or about his person, except in his dwelling house or place of business or on other land possessed by him, a pistol, without a license therefor issued as hereinafter provided, or any deadly or dangerous weapon capable of being so concealed."

Approved November 4, 1943.
[CHAPTER 297]

## AN ACT

To amend the Naval Reserve Act of 1938, as amended.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Naval Reserve Act of 1938, as amended, is hereby further amended as follows:

Strike out section 502 and substitute therefor the following:
"Sed. 502. Members of the Women's Reserve may be commissioned or enlisted in such appropriate ranks and ratings, not above the rank of captain, corresponding to those of the Regular Navy, as may be prescribed by the Secretary of the Navy: Provided, That there shall not be more than one officer in the grade of captain, exclusive of officers appointed in the Medical Department of the Naval Reserve: Provided further, That military authority of officers commissioned under the provisions of this title may be exercised over women of the Reserve only and is limited to the administration of the Women's Reserve."

Strike out section 506 and substitute therefor the following:

## Right of Tithes 1 and Patronage.

## Pecuniary <br> Pecuniary Peanance.

Amends for
Violence
to a Clerk.
And if Debate hang in a Spiritual Court for the Right of Tithes, having his Original from the Right of the Patronage, and the Quantity of the same Tithes do pass
the fourth part of the value of the Benefice, a Prohibithe fourth part of the value of the Benefice, a Prohibition shall lie.
Also if a Prelate enjoin Penance pecuniary to any Man for his Sin, if the Money be demanded before Prelates, a Prohibition shall lie.
And if any lay violent Hands on a Clerk or LayBrother for the (') Peace broken, Amends shall be made before the King, and for the Excommunication before before the King, and for the Excommunication before
a Bishop or Prelate; and if a Corporal Penance be enjoined, which (') the Offender will (') redeem by giving Money to the Prelate, or to the Party grieved, a Prohibition shall not lic.
Delamation.
In Causes of Defamation, Prelates may freely correat the King's Prohibition notwithstanding; first enjoining a Corporal Penance, which, if the Pariy will redeem, the Prelate may lawfully receive the Money, though the Prohibition be shewed.
' King', 'if
Ibe mag

Iterif si contencio sit (') de jure decimax̧, origiñ thens de jure patronatus, \& eay decima̧̧ q"ntitas excedat quartam partem ecctie, locū het Regia prohibicio.
Item si Prelatus imponat penā pecuniariam alicui p peito \& petat illam pecuniam, lociu net Regia phibicio, si coram Prelatis pecuniz exigat'.
Item si quis manus violentes injecit in cticum, (') p (') pace Dĩi Regis debent emende fieri coram Rege; pexEficacione vero coram (') Ẽ̃o, \& si imponat' pena corporalis, quam si reus velit redime dando plato vel leso pecuniam potest, nec in tiby locus est phibiedi.
In diffamacioniby [liboş '] corrigant Prelati regia prohibicione non obstante, [licet porrigat'. ${ }^{\circ}$ ]

$$
\begin{array}{ll}
\text { ' in Curia Christianitatis vel conversum, } & \text {, lihere } \\
\text { vinata }
\end{array}
$$

${ }_{3}$ violata prelato vel ${ }^{2}$ libere mere porrigatere recipiat prelatus pecuniam, licet prohibitio porrigatur.

## Statuta Cibitatis 五onooñ.

## STATUTES for the CITY of LONDON.

None thall Sulk the stmed, after
Curfer, ace.

THESE be the Articles which Our Lord the King doth command to be well kept in his City of London, for the keeping and maintenance of his Peace.

First, Whereas many Evils, as Murders, Robberies, and Manslaughters have been committed heretofore in the City by Night and by Day, and People have been beaten and evil intreated, and divers other Mischances have befallen against his Peace; It is enjoined that none be so hardy to be found going or wandering about the Streets of the City, after Cur. few tolled at St. Martins le Grand, with Sword or Buckler, or other Arms for doing Mischief, or whereof evil suspicion might arise; nor any in any other Manner, unless he be a great Man or other lawful Person of good repute, or their certain Messenger, having their Warrants to go from one to another, with Lanthern in hand. And if any be found going about contrary to the Form aforesaid, unless he have cause to come late into the City, he shall be taken by the Keepers of the Peace and be put into the place of confinement appointed fur such Ofenders; and on the morrow he shall be brought and prevented before the Warden, or the Mayor of the City for the Time being, and before the Aldermen; and according as they shall find that be hath offended, and as the Custonn is, he shall be punished.
And Whereas such Offenders as aforesaid going about by Night, do commonly resort and have their Meetings and hold their evil talk in Taverns more than elsewhere, and there do seek for shelter, lying in wait, and watching their time to do Mischief; It is enjoined that none do keep a Tarern open for Wine or Ale, after the tolling of the aforesaid Curfew; but they shall keep their Tavern shut after that hour, and none therein drinking or resorting; Neither shall auly Man admit others in his House except in common Taverns, for whom be will not be answerable unto the King's Peace. And if any Taverner be found doing the contrary, the first time be thall be put in pledge by his Tavera drinking cup, or by other good pledge there found, and be amerced fortypence; and if he be found a recond time offending, he shall be amerced half a mark; and the third time Ten Shillings; and the fourch time he shall pay the whole Penalty double, that is to asy, Twenty Shillings: Aud the fifth time he shall be forejudged of bis Trade for erer.

Ex magno Rot. Stat. in Turr. Lond. m. 42, in Cedula. CES sont les Articles le queus nre Se ob $n^{\prime}$ le Rey Comaunde q̣ bien seient gardez en sa Citee de Loundres, ${ }^{\prime}$ 'sa pes garder e meyntenir. Primeremēt $\mathrm{p}^{\prime}$ ceo $\mathfrak{q}$ multz des mals com des murdres, Robberyes, e homycides ont este fetz ca en arrere deinz la Citee de nuyt e de Jour, e gentz Batues e mal tretes, e aut's di叉ses aventures de mal avenuz encontre sa pes; Defendu est $\tilde{q}$ nul seit si hardi estre trove alaunt ne wacraunt D my les Ruwes de la Citee, aps Cocverfu psone a Seint Martyn le g'nt, a Espeye ne a Bokuyler ne a autre arme $\mathrm{p}^{\prime}$ mal fere, ne dount mal supecion poet avenir ; ne en autre mane nule, sil ne seit g'nt Seign' ou altre prodome de bone conysaunce, ou lour Tteyn message $\tilde{q}$ de els serra garaunty ${ }^{\text {à vount }} \mathrm{li}$ un a lautre p conduyte de Lumere. E si nul seit trove alant encontre la fourme avandite, ou $\tilde{y}$ il seit encheson de tart venir en vyle, seit p's ples Gardeyns de la pes e seit mys en L.e Tonel, la quel $p^{\prime}$ tiels meffesours est assigne, e lendeıneyn seit amene e psente devant le Gardeyn nu le Meyre de la Citee $\tilde{4} \mathrm{p}^{\prime}$ tens serra, e devant les Aldermans, e solong ceo $\tilde{q}$ il troveront qil eit trespasse ea ceo seit coustumers seit puny. E pur ceo $\tilde{q}$ tiels meffesours avauntditz, alant nutauntre, communalment ont lour Recet e lour Covynes, e font lour mauveyses purparlances en taverne plus $\ddot{q}$ aillours, e illoekes querent umbrage attendanz e geitant lor tens de mal fere; Defendu est $\tilde{q}$ nul ne tiegne taverne overte de $\mathrm{V}_{\mathrm{y}} \mathrm{n}$ ne de Cerveyse ap)s le Coevertiu avantdit $p$ sone; mes ij il tiegne sa taverne close apps cel houre, e nul leinz Bevaunt ne recettant ne en sa mesoun heis de Communes tavernes nul ne recelte: $\mathrm{p}^{\prime}$ quy il ne voillit estre respuignant a la pes le Rey. E si nul taiher seit trove è autrement faceo, primerement seit degage $p$ soen Hlanap de la l'avne, ou paltre bon gage leinz trove, e seit anricye a quaraunte deniers ; E. si altre fiez seit trove ĩ ceo faceo, seit anilcye a demy mark ea la tierce fiez a dys souz; ca la quarte fiez paie tute la peyne double, cest asav vynt souz. E la quynte fiez scit forsjugge del mestier $p^{\prime}$ tutz jourz.

THE Eing to All who these Letters shall see or hear, Greeting. Know Ye that in our Parliament at Westminater, the Sunday next after the Feast of St. Matthew the Apoutle, in the Seventh year of our Reign; for certain and expedient Causes, It was provided and granted by Ths, and by the Archbishops, Bishopt, Abbots, Priors, Earls, and Barons, and all the Commonalty of our Realm, there being at our command, with one accord assented and agreed; That no one, of what estate or condition soever he be, in any time to come be challenged, taken, nor imprisoned, hindered, moletted, nor aggriered, nor into judgement brought by Us, nor by any other at our Suit, nor at the Suit of any other whomsoever, in our Court nor elsewhere, by reason of the return of Monsieur Piers de Gavaston into England, nor of any Aid, Maintenance, Adherance, nor of any Counsel nor Receipt of him, nor Alliance made with him, or for him, by writing or otherwise, nor by reason of tarrying in his Company or Service in any time passed heretofore. And We will that this Grant and Accord be affirmed and established in all its Points, and that each of them be holden and kept for ever. In Witness whereof, \&cc. Given as above.

## Ex Rot. Pat. 7 Ed. II, P. 1.m. 14 in Crdula. ${ }^{*}$

TERoy, a tuz ceux, qi cestes lǐes Pront, ou orront De eodem Salutz. Sachetz, qen nr̈e plement, cömence a negotio. Westmoistier le dimeynch prehein apps la feste de Seint Matheu le Apostle, en lan de nre regne septisme, $p$ Cteines \& covenables enchesons, p'veu est \& $g^{\prime n t e} p n 0^{9}, \& p \cdot$ Ercevesq̃s, Evesq̃s, Abbes, Priours, Contes \& Barons, \& tote la cōmunalte de nré roiaume, illoeq̣̃s a nr̃e maundement, uniement assentuz \& acorde; $\uparrow$ quul de quel estat, ou condicion qiil soit, en nul temps avenir, soit chalange, p's, ne enp'sonetz, empeschez, molestez, ne grevez, nen jugement menez, $p 0^{9}$, ne $p$ autre a nre suite, ne a suite Jautri, qi qiil soit, en nre Court ne nulle pt aillors, p encheson du revenir de monf Piers de Gavastoñ en EnglePre, ne de cide, meintenaunce, aerdaunce, ne de conseil, ne de recette de li, ne dalliaunce fait a li, ou por li, pescrit ou autrement, ne $\mathrm{P}^{\prime}$ encheson de demorer en sa compaignie, ne en Svice, en nul tempt passe cea en arrieres. E volons $\tilde{q}$ ce $g^{\prime} n t ~ \& ~$ acord soit ferm \& estable en touz sez pointz, \& chescun de cux soit tenu \& garde a ppetuite. En tesmaigñ, \&c. Doñ ut sup".

- This follows on the Patent Roll immediately after the Article given in the Note in page 169. In the Old Printed Copies this Arricle is, intituled "Ne quis oceasionetur pro reditu Petri de Gavecton̄." It begina "Edwarde par la grace de dieu \&ce. as toutz ceux" and ends "Done a Weflō le vii. jour de Novembre lan de nostre reigne feptifme."


A STATUTE forbidding Beaming of ARMOUR.

THE King [to the Justices of his Bench, '] sendeth Greeting. Wheress of late before certain Persons deputed to treat upon sundry Debates had between Us and certain great Men of our Realm, amongst other things it was accorded, That in our next Parliament after, Provision [shall'] be made by $U_{8}$, and the common assent of the Prelates, Earls, and Barons, that in all Parliaments, [Treatises,'] and other Assemblies, which should be made in the Realm of England [for ever,'] that every Man shall come without all Force and (') Armour, well and peaceably, to the Honour of Us, and the Peace of Us and our Realm; and now in our [next ${ }^{\circ}$ ] Parliament at Westminster, after the said Treatise, the Prelates, Earls, Barons, and the Commo. nalty of our Realm, there assembled [ro take'] Advice of this Business, have said, that to Us it belongeth, and our part ( ${ }^{2}$ ) is, through our Royal Seigniory, straitly to defend [Force ${ }^{\text { }}$ ] of Armour, and all other Force against our Peace, at all 'Times when it shall please Us, and to punish them which shall do contrary, accord. ing to [our $\left.{ }^{\text {"0 }}\right]$ Laws and Usages of our Realm; and (") hereunto they are bound to aid $U s$ as their Sovereign Lord at all Seasons, when need shall be: We com. mand you, that ye cause these Things to be read afore you in the said [Bench,"] and there to be enrolled. you in the said Bench, he thirtieth day of Oetober.
Given at Westminster, the
And It was commanded to Sir Roger Brabazon and his Fellows, Justices assigned to hold the King's Pleas before him, that these thingt they do cause to be read before them, and there to be enrolled.
And It was commanded to the Justices of the Bench, that these things they do cause to be read before them in the said Bench, and there to be enrolled.


- This Tite is in the Margin of the Roll. In the Old Printed Copies thinis intituled "Statutum de Defensione portandi Arma s" and is ascribed to the Serenth Year of King Edward I. The English Tite is from the Old Translations.

Grandfather to our Lord the King that now is, wherein is contained, that Justices assigned to take Assises, if they be Laymen, shall make Deliverance; and if the one be a Clerk, and the other a Layman, that the Lay Judge, with another of the Country associate to him, shall deliver the Gaols: Wherefore it is enacted, That such [Justices'] shall not be made against the Form of the said Statute ; and that the Assises, Attaints, and Certifications be taken before the Jústices commonly assigned, which should be good Men and lawful, having Knowledge of the Law, and none other, after the Form of another Statute made in the Time of the said [King Edward the First ;'] and that the Oyers and Ter[King Edward the First;'] and that the Oyers and Ter-
miners shall not be granted but before Justices of the miners shall not be granted but before Justices of the
one Bench or the other, or the Justices Errants, and that for great [hurt,] or horrible Trespasses, and of the King's special Grace, after the Form of the Statute thereof ordained in Time of the said Grandfather, and none otherwise.

ITEM, It is enacted, That no Man great nor small, of what Condition soever he be, except the King's Servants in his presence, and his Ministers in executing of the King's Precepts, or of their Office, and such as be in their Company assisting them, and also [upon a Cry made for Arms to keep the Peace, and the same in such places where ruch Acts happen,'] be so hardy to come before the King's Justices, or other of the King's Ministers doing their office, with force and arms, nor bring no force in affray of the peace, nor to go nor ride armed by night nor by day, in Fairs, Markets, nor in the presence of the Justices sor other Ministers, nor in no part elsewhere, upon pain to forfeit their nor in no part elsewhere, upon pain to forfet their King's pleasure. And that the King's Justices in their King's pleasure. And that the King's Justices in their
presence, Sheriff, and other Ministers (') in their Bailipresence, Sheriffs, and other Ministers ( ${ }^{\circ}$ ) in their Bailiwicks, Lords of Franchises, and their Bailiffs in the same, and Mayors and Bailiffs of Cities and Boroughs, within the same Cities and Boroughs, and BoroughHolders, Constables, and Wardens of the Peace within their Wards, shall have Power to execute this Act. And that the Justices assigned, at their coming down into the Country, shall have Power to enquire how such Ollicers and Lords have exercised their Offices in this Case, and to punish them whom they find that have not done that which perrained to their Office.

ITEM, Because the Peace caunot be well kept withou good Ministers, as Sheriffs, Bailiffs, and Hundreders, good Ministers, 28 Sheriffs, Bailifts, and Hundreters,
which ought to do Execution as well of the King's which ought to do Execution as well of the King's
Privities as of other Things touching our Lord the Privities as of other Things touching our Lord the
King and his People; It is ordained and established, That the Statute made in the time of King Edward, Father to the King that now is, at Lincoln, containing that Sheriffs, Hundreders, and Builiffs shall be of such People as have Lands in the same Shires or Bailiwicks siall be olserved in all Points after the Form therenf and that Sheriffs and Baililis of Fee shall cause their Counties and Bailiwicks to be kept by such as have Lands therein.

ITEM, Where it was ordained by the Statute of West minster the Second, that they which will deliver their Writs to the Sherif, shall deliver them in the full County, o: in the Rere County, and that the Sheriff or under Sheriff shall thereupon make a Bill; It is accorded and established, that at what lime or Mace in the County a Man doth deliver any Writ to the Sheriff or to the Under-Sheriff, that they shall receive the same Writs, and make a Bill, after the form contained in the same Statute, without taking any Thing therefore; and same Statute, without taking any Thing therefore ; and
if they refuse to make a Bill, others that be present shall if they refuse to make a Bill, others that be present shall
set to their Seals; and if the Sheriff or Under-Sheriff set to their Seals; and if the Sheriff or Under-Sheriff
do not return the said Writs, they shall be punished Jo not return the said Writs, they shall be punished
after the form contained in the same Statute; and also the Justices of Assises shall have power to enquire thercof at every Man's Complaint, and to award Damages, as having respect to the Delay, and to the loss and peril that might happen

- Commintions

Conmintions :Grumelfother

- upon a Proclumation of Derais of firms in time of Proce, and
 Sces. We,tint, fo. 122 b. a Writ recting a Grant of K. Richard I. " qu" orrcamita sint in Angt in v. plecias: InQ Sarf \& Wiltoñ:
 wíc uú infringet', $n^{e}$ potestas Ju=ticiaria minorabit' Nec de

nr̃e Serign' le Roi qore est, en quele est contenuz $\tilde{\text { q }}$ les Justices as assises phdre assignez sils soient lais, facent les deliVances; et si lun soit clerc, \& lautre lais, © le dit lais, associe a lui un autre du pais, facent la delivance des gaols; p qoi acorde est \& establi, đั tiels Justiceries ne soient mes gintees countre la forme du dit estatut, \& $\tilde{q}$ les assises, atteintes, \& Ctifications soient p'ses devant les Justices cömunement assignez, $\ddagger$ soient bones gentz \& loialx \& conissantz de la lei, \& nemie autres; solone la forme dun autre statut fait en temps meisme le ael; et $\bar{q}$ les oiers \& Pminers ne soient grantees forsq .... devant les Justices de lun Baunk \& de lautre, ou les Justices errantz; \& ce p' led \& orrible trespas, \& de lespeciale g'ce le Roi, solone forme de statut de ce ordene en temps meisme le ael; \& nemie autrement.
Ensement acorde est \& establi, ẽ nul, g'nt ne petit de quele condicion qil soit, sauve les §jantz le Roi en la psence le Roi, \& les Ministres le Roi, enfesantz execucion des mandementz le Roi, ou de lour office, \& ceux qi sont en lour compaignies, eidantz as ditz ministres, \& auxint au cri de fait darmes de pees, \& ce en licux ou tielx faitz se ferront, soit si hardi de venir devant les Justices le Roi, ou autres Ministres le Roi enfesant lour office, a force \& armes; ne force mesner en affrai de la pees, ne de chivau. cher ne daler arme, ne de nuit ne de jour, en faires, marchees, nen Psence des Justices, ne dautres Ministres, ne nule part aillours, sur peine de pdre lour armures au Roi \& de lour corps a la prisone a la volunte le Roi. Et $\ddagger$ Justices le Roi en lour $p$ sences, viscountes \& autres Ministres le Roi en lour baillies, seign's des fraunchises \& lour baillifs en yceles, \& Meire \& Baillifs des Citees \& Burghs deinz meismes les Citees \& Burghs, Burghaldres, conestables, \& gardeins de la pees deinz lour gardes, cient poair affaire execucion de cest acord. Et $\mathfrak{q}$ les Justices assignez, a lour venu en pais, eient poair denquere coment tielx Ministres \& seign's ont use lour office en ce, \& de punir ceux qils trovont, qi nount mie fait ce $\check{q}$ a lour office appent.
Et p'ce ã la pees ne poet mie estre bien garde sauntz bons ministres, come Viscountes, Baillifs, \& Hundreders qi deivent faire execucion, auxibien des p'vetez le Roi come dautrer chnses tochantes le Roi \& son poeple, acorde est \& establi ỳ lestatut fait en temps le Roi Edward, piere le Roi qure est, a Nicole, contenant ì Viscontes, Hundreders \& Baillifs soient des gentz eantz Pres en meismes les Countez, ou baillies, soit garde en toaz pointz solonc la forme dycel, \& auxint $\tilde{q}$ les Viscountes \& Baillifs de fee, facent garder meismes lour Countez \& Baillies $D$ gentz eantz Pres en yceles.
Ensement la ou ordine est, p statut de Westmons? le secund, $\tilde{q}$ ceux $\tilde{q}$ liver volent lour briefs as viscountes, les livent en plein Counte, ou en rerecounte, \& $\tilde{q}$ visconte ou southrisconte facent sur ce bille; acorde est \& establi q̃ a quele heure ou a queu lieu deinz le Counte home livre a viscountes, ou a southviscontes, briefs, qils les resceivent \& facent bille en la forme con. tenue en le dit estatut, \& ce sanz rien pindre; et sils refusent de faire bille, mettent autres lour mealx gi Gront Psentz; et si le Viscounte ou le Southvis. counte ne retorne mie les briefs, soient puniz solone la forme contenue en le dit estatut; \& jadumeins cient les Justices as assises Pndre assignez poair denquer de ce a chescuny pleinte \& de agarder damages, eant regard au delai, \& a les ptes \& pils qi p'ront avenir.


# Statutū apud cauestm in jo'liamento in festo क'ci mitlarit anno regni  

## A STATUTE made at WESTMINSTER;

In the Parliament holden in the Feast of Saint Hilary;
In the Twenty-fifth Year of the Reign of K. EDWARD the Third.

Ex magno Rot. Stat, in Turr. Lond. m. 16.
A Uplement somonz a Westm, en la feste de Seint A Hiller lan du regne nree Seign' le Roi Edward DenglePre vintisme quint, \& de France douzisme, nie f'le Roi del assent des Prelatz, Ducs, Countes, Barons, \& de tout la comunalte de son Roialme Dengle?re, au dit plement somons, al hon' de Dieu \& de Seinte Eglise, \& en amendement de son dit Roialme, ad ordeine \& establi les choses soutzescriptes.
En p'mes, p'ce $\begin{gathered}\text { ã tresg'untz \& tresourg geouses da- }\end{gathered}$ mages \& grevances sont faites au poeple ples pno's \& $p^{\prime}$ 'veo's des vitailles $p^{\prime}$ les hosteux nre $f^{\prime}$ le Roi, ma dame la Roigne, \& de lot enfantz, Si est acorde \& assentuz en le dit plement, ỳ les pno's \& p'veio's des bledz $\mathrm{p}^{\prime}$ les ditz hosteux les pignent p mesure
 touz bledz, feyns, litere \& bestaill, \& touz aupis vitailles \& choses quecîqes, queles sont aprendre $p^{\prime}$ meismes les hosteux, soient p'sez a la Proie value, ples Conestables \& aups bons gentz des villes ou tieles priset se feront, sanz ce $\mathbb{q} \mathrm{D}$ manaces, ou duresces soient les preisours chacez a mettre autre pris $\bar{q}$ lour Sement ne voet, \& come curt cõement en les pscheins marchees: et đ̃ entre les Purveours et ceux des queux les biens Sront prises, en la Psence des Conetables \& preisours, soient tailles tantost faites, saunz ceo ö les gentz des queux les biens 今̂ront prises soient aillours traitz ou t'vaillez; \& meismes les tailles ensealez des seals les pnours des choses issint prises, $p$ les queles tailles gre soit fait as ceux des queux les choses tront issint prises: et si nul pnour ou P'veour $p^{\prime}$ ' les ditz hosteux face $p$ autre mahe, soit meintenant arettu $p$ la villee ou la prise Sra faite, et mesne a la preheine gaole, et si de ceo soit atteint, soit la fait de lui come de laron, si la quancite des biens le demand; solone ceo qen un estatut fait en temps meisme nire f' le Roi lan de son regne quint, \& en un autre estatut fait en temps laiel nire Seign' le Roi s' tieles prises, est con. tenuz plus au plein: et $\AA$ desore soit contenuz es cömissions des tieux P'veours et pnours, lentent et la peine contenuz en cest estatut: et $\bar{q}$ nule cömission wit faite forsq soulement souz les $g^{\prime n t}$ ou prive sealx le Roi; ne đั nul hōme soit tenuz de obeier a autre cōmis. sion nen autre manle q̃ nest dit en avant; et $\widetilde{q}$ meisme lestatut tiegne lieu en toutz pointz devs chescun pnour \& p'veour, de chescune mane des vittailles en chescune ptie du Roialme de quele condition qil soit.

Auxint p'ceo ẽ divses opinions ount este cinz ces heures qeu cas, $q^{\prime n t}$ il avient doit estre dit treson, \& en quel cas noun, le Roi a la requeste des Seign's $\& d$ de la Cüe, ad fait declarissement $\tilde{q}$ ensuit, Cest assavoir;

## Statute the Fifth.

A the Parliament summoned at Westminster in the A Feast of St. Hilary, the Year of the Reign of our Lord King Edward the Third [after the Conquest,] of Zngland the Five and twentieth, and of France the Twelfth; our said Lord the King, by the assent of the Twelfth; our said Lord the King, by the assent of the
Preates, Earls, Barons, and of all the Commonalty of Preates, Earls, Barons, and of all the Commonalty of
his Realm of England summoned to the Parliament, to the honour of God and Holy Church, and in Amendment of his said Realm. hath ordained and established the Things underwritten.
FIRST, Forasmuch as great and outrageous damage and grievance hath been done to the People by the Takers and Purveyors of Victuals, for the Houses of our Sovereign Lord the King, the Queen, and their Children; It is accorded and assented in the said Parliament, That the Takers (') of Corn for the said Houses shal take the same by Measure striked according as it is used through the Land. And that such Corn, Hay, Litier, Bestall and all other ViAuals and Things, which shall be taken for the said Houses, shall be [taken']
by the very Value, by the Constable and other good by the very Value, by the Constable and other good Peeple of the Towns where such Taking shall be made,
without that that the Praisers by Menace or Duress shall be driven to set any other Price than their Oath will, and as commonly runneth in the next Markets. And that betwixt the Purveyors and them whose Goods shall be taken in the presence of the Constables and Praisers, Tallies be made incontinently, without that that Prisess, Tallies be made incontinently, without that that
the People whose Goods shall be taken, shall be drawn or travelled elsewhere, and the same Tallies sealed with the Seals of the Takers of the Things so taken, by which Tallies Gree shall be made to them whose Goods thall be so taken; and if any Purveyor or Taker for the said Houses, do in any other Manner, he slall be [maintenant ${ }^{2}$ ] arrested by the Town where the Taking
shall be made, and brought to the next Gaol; and if he be thereof attainted, it shall be done of him as of a Thief, if the Quantity of the Goods the same require according as in a Statute made in the Time of our Soaceorimg ard ane Kitute made in the Time of our So-
vereign Lord the King that now is, the Fifth Year of his Reign, and in another Statute made in the Time of the Reign, and in another Statute made in the Time of the
King's Grandfather upon such Takings, is contained more at the full: and that from henceforth in the Commistions of such Takers and Purveyors, the Intent and Pain limited in this Statute shall be contained: and that no Commission be made, but only under the King's great Seal or Privy Seal; nor that no Man be Manner '] than is aforesaid; and that the same Statute take place in all Points against every Taker and Purtake place every Manner of Vietual in every part of the
veyor of every Manst veyor of every Manner of victual in every
Realm, of what Condition soverer he be.
ITEM, Whereas divers Opinions have been before this Time [in what Case Treason shall be said, and in what not ; ' $'$ the King, at the Request of the Lords and of the Commons, hath made a Declaration in the Manner as hereafter followeth, that is to say; When a Man

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5 E. III.c. 3 .
5

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Declaration
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adjudged
Treaton.
II.
adjudged

doth compass or imagine the Death of our Lord the King, or of our Lady his [Queen'] or of their eldent Son and Heir ; or if a Man do violate the King's [Companion,'] or the King's eldeat Daughter unmarried or the Wife (') the King's eldest Son and Heir ; or if 2 Man do levy War agzinst our Lord the King in his Realm, or be adherent to the King's Enemies in his Realm, giving to them Aid and Comfort in the Realm, Realm, giving to them Aid and Comfort in the Realm, or elsewhere, and thereof be [probably'] attainted o open Deed by [the People'] of their Condition: And if a Man counterfeit the King's Great or Privy Seal, or his Money; and if a Man bring false Money into this Realm, counterfeit to the Money of England, as the Money called Lushburgh, or other, like to the said Money of England, knowing the Money to be false, to merchandise or make Payment in Deceit of our saic Lord the King and of his People; and if a Man slea the Chancellor, Treasurer, or the King's Justices of the one Bench or the other, Justices in Eyre, or Justices of Assise, and all other Justices assigned to hear and deAssise, and all other Justices assigned to hear and de-
termine, being in their Places, doing their Offices: And ermine, being in their Places, doing their Offices: An ts to be understood, that in the Cases above rehearsed, [that I] ought to be judged Treason which extends to our Lord the King, and his Royal Majesty: And of such Treason the Forfeiture of the Escheata pertaineth to our Sovereign Lord, as well of the Lands and Tene nents holden of other, as of himself : And moreover there is another manner of Treason, that is to say, when a Servant slayeth his Master, or a Wife her Husband, or when a Man secular or Religious slayeth his Prelate, to whom he oweth Faith and Obedience; and [of such Treason the Escheats ought to pertain'] to every Lord Treason the Escheats ought to pertain to every Lord
of his own Fee: And beeause that many other tike Cases of Treason may happen in Time to come, which ${ }_{2}$ Man cannot think nor declare at this present Time; It is accorded, That if any other Case, supposed Treason, which is not above specified, doth happen (') before any Justices, the Justices shall tarry without any going to Judgement of the Treason, till the [Cause'] be shewed [and declared before the King and his Parlia. ment,'] whether it ought to be judged Treason or [other "] Felony. And if percase any Man of this Realm ride armed [covertly"] or secretly with Men of Arms against any other, to slay him, or rob him, or take him, or retain him till he hath made Fine or Ransom for to have his Deliverance, it is not the Mind of som for to have his Deliverance, it is not the Mind of
the King nur his Council, that in such Case it shall be judged 'Ireason, but shall' be judged Felony or Trespass, according to the Laws of the Land of old Time used, and according as the Case requireth. And if in such Case, or other like, before this Time any Justices have judged Treason, and for this Cause the Lands and Tenements have comen into the King's hands as Forfeit the chief Lords of the Fee shall have the Escheats of the Tenements holden of them, whether that the same Tenements be in the King's hands, or in others, by Gift or in other Manner ; Saving always to our Lord the King the Year, and the Waste, and the Forfeitures of Chattels, which pertain to him in the Cases above named; and that [the Writs "'] of Scire facias be named; and that [the Writs of Scire facias be other Original, and without allowing [any Protection "] in the said Suit; and that of the Lands which be in the King's hands, Writs be granted to the Sheriffs of the Counties where the Lands be, to deliver them out of the King's hands without Delay.
q'nt hōme fait compasser ou ymaginer la mort nre Seign' le Roi, ma dame sa compaigne, ou de lour fitz primer \& heir; ou si höme violast la compaigne le Roi, ou leisnesce filt le Roi nient marie, ou la compaigne leime fitz \& heir du Roi; \& si hōme leve de guerre contre nfe dit Seign' le Roi en son Roialme, ou soit aberdant as enemys nĩe Seign' le Roi en le Roialme, donant a eux eid ou confort en son Roialme ou paillours, \& de ceo pvablement soit atteint de opt faite $p$ gentz de lour condicion: et si hōme contreface [les g'nt ou prive sealx le Roi,'] ou sa monoie, et si hōme apport faus monoie en ceste Roialme contrefaite a la monoie Denglè're, sicome la monoie appelle [Lucynburgh'] ou autre semblable a la dite monoie Dengletre, sachant la monoic estre faus, $p^{\prime}$ marchander, ou paiement faire en deceit nĩe dit Seign' le Roi \& son poeple ; et si hūme tuast Chanceller, Trescrer, ou Justice nr̈e Seign' le Roi del un Baunk ou del autre, Justice en Eir \& des assises \& toutes auts Justices assignez a oier \& Pminer estciantz en lours places en fesantz lours offices: ct fait a entendre çen les cases suisnomez doit estre ajugge treson [ $ั$ reitent '] a nīe Seign' le Roi \& a sa roial majeste; et de tiele mahe de treson la forfait'e des eschetes apptient a nïe Seign' le Roi, si bien des Pres \& teñz tenuz des aups, come de lui meismes : et ovesq ceo il yad autre mahe de treson, cest assavoir q'nt un Brant tue son meistre, une feme q̃ tue son baron, $q^{\circ}$ nt hōme seculer ou de religion tue son Prelat, a qii il doit foi \& obedience; \& tiele ma凡le de treson donn forfairte des eschetes a chescun Seign' de son fee ppre: et $\mathrm{p}^{\prime}$ ceo $\tilde{q}^{\prime}$ plusurs aups cases de semblable treson p'ront escheer en temps a venir, queux hōme ne p'ra penser ne declarer en psent, assentu est đ̃ si autre cas tupposee treson $ั$ §̃ nest especifie $p$ amount aviegne de novel devant ascunes Justices, demoerge la Justice saunz aler au juggement de treson, tanq $D$ devant nie Seign' le Roi [en'] son plement soit le cas monstree \& desclarre le quel ceo doit estre ajugge treson ou autre felonie. Et si p cas ascun hõme de cest Roialme chivach arme descovert ou secrement od gentz armees contre ascun autre, $\mathrm{p}^{\prime}$ lui tuer ou derober, ou $p^{\prime}$ lui Phdre \& retenir tanqil face fyn ou raunceon $p^{\prime}$ sa deliverance avoir, nest pas lentent du Roi \& de son conscil $\tilde{4}$ en tiel cas soit ajugge treson, einz soit ajugge felonie ou Pspas solonc la lei de la Pre auncienement usee, \& solone ceo ö le cas demand: et si en tieu cas, ou autre semblable devant ces heures, ascune Justice eit ajugge treson, \& $D$ celle cause les Pres \& teīzz soient devenuz en la main nĩe Seign' le Roi come forfaitz, cient les chiefs Seign's de fee lours eschetes des teīz de eux tenuz, le quel $̃$ q̃ les teīz soient en la main nrée Seign' le Roi, ou en la main des ours, D donn ou en autre mane; Sauvant totefoitz a nie Seign' le Roi lan \& le wast, \& auls forfait'es des chatcux $\tilde{\text { ä a }}$ a lui attenent en les cases suisnomez; et $\AA$ ö briefs de Scire face vo les Pres tenantz soient g'ntez en tieu cas, asunz autre originale \& saunz allower la pteccion nëe Seign' le Roi en la dite seute; et $\overline{\text { a }}$ de les Pres $\tilde{0}$ sont en la main le Roi, soit g'nte brief as viscontes des Countees la our les Pres gront de ostier la main le Roi saunz outre delaie.

Auxint acorde est, థ̃ nul enditour soit mys en enquest a' la deliivance del endite de ispas ou de felonie, sil toit chalange $p$ tiele cause $p$ celui qest endite.
' le grant seal le Roi, Ret. Parl. 25 E.3. P. II. nu. vij. (17.)

- Lusceburgh Rot. Parl. $\quad 1$ ą se estent Rot. Purl.
- \& Rol. Parl.

Estre ceo, come contenu soit en la g'nt Chre des franchises Denglefre q̃ nul soit pris ne emprisone, ne ouste de son frank teî ne de ses franchises ne de ses franches custumes, sil ne soit $p$ lei de la rre; Acorde est, assentu \& establi, $\mathfrak{q}$ nul desore soit pris p peticion ou suggestion faite a nre Seign' le Roi ou a ton conseill, sil ne soit $p$ enditement ou $p$ sentement des bones \& loialx du visnee ou tiele fait se face, \& en due mañe, ou pees fait sur brief original a la cöe lei; ne đi nul soit ouste de ses franchises ne de son fräkteĩ sil ne soit messne duement en respons, \& forjugge dyceles $p$ voie de lei; et si rien soit fait al encontr soit redresse \& tenue $p^{\prime}$ nul.

Ensement acorde est \& establi, $\tilde{q}$ executours des executours eient accion des dettes, acomptes, \& des biens emportez du primer testatour, \& execucion des estatutz marchantz \& reconissances faites en court de record au $P_{\text {mer }}$ Testatour, en meisme la mane come le $\mathrm{p}^{\text {per }}$ testatour aDoit sil en vie, auxibien daccions de temps passe, come de temps avenir, en toutz cases ou juggementz ne sont pas renduz unqore entre tieux executours des executours; mes q̃ les juggementz a contire en temps passe, estoisent en lour force; et $\mathfrak{q}$ meismes les executours des executours respoignent as aups de tant come ils averont recovi des biens du $\rho$ mer testatour, sicome les $p$ mers executours ferroient sils feussent en pleine vie.

Auxint acorde est \& assentu, ${ }^{\text {q. }}$ nul pnour de buche ou de maerisme al oeps nre Seignt le Roi, $\mathrm{p}^{\prime}$ oveyns ne $\mathrm{p}^{\prime}$ auts choses faire, coupe, ne abate les arbres de nully cressantz entour ou dedeinz sa mansion; et si nul face au contire face gre a la ptie du damage au treble, \& eit la prisone dun an, \& soit forjugge de son office.
Estre ceo est acorde \& establi, $\bar{q}$ nul Forester ne Gardein des forestes, ou des chaces, ne nul autre Ministre, ne face ne coille put'e ne nul autre coillect des vitailles ne de nul autre chose, p colour de son office contre nully volunte, deinz lour baillie ne dehors, forspris ce qest due dauncien droit.

Auxint acorde est \& assentu, $\tilde{q}$ nul hōme soit arte de trover gentz darmes, hobellers narchers aups $\tilde{q}$ ceux $\begin{gathered}\text { a tiegnent } p \text { tiele Ŝvice, sil ne soit de cõe assent }\end{gathered}$ \& g'nt fait en plement. Ensement p'ce q̃ tresgrant damage \& desceit est fait au poeple, $p$ tant $\tilde{g}$ plus's marchantz usent dachater \& poiser leines \& auts marchandises $D$ une pois qest appelle Aunsett, acorde est \& establi, $\tilde{q}$ celle pois appelle Aunsett entre achatour et vendour soit del tout oste, \& $\bar{q}$ chescun vend \& achatte $p$ balances, issint $\tilde{q}$ les balances snient owels \& les leines \& auts marchandises owelment poisez $p$ droit pois; et ĩ le sak de leine ne poise $\tilde{q}$ vint \& sys peres, \& chescun pere poise quatorze livres, \& y lestater de la balance ne encline ne a lune ptie, ne al autre, \& q le pois soit acordant al estandard del Escheker : et si nul achatour face al encontre, soit grevousement puny si bien a la seute de ptic come a la seute nr̃e Seign' le Roi.
Auxint come contenue soit en la $g^{\text {'nde }} \mathrm{C} \hbar \tilde{\mathrm{r}} \mathrm{e}$ qu une mesure soit usee pmy tout Engle?re, la quele chartre nad mic este tenu bien en ceo point avant ces heures; si est acorde \& assentu, $\tilde{q}$ touz les mesures cest asavoir bussel, di bussel, \& peck, galon, potel \& quart, p toute Englei're deinz franchise \& dehors soient acordauntz al estandard nïe Seign' le Roi; \& contiegne

ITEM, Whereas it is contained in the Great Charter of the Franchises of England, that none shall be imprisoned nor put out of his Freehold, nor of his Franchises no: free Custom, unless it be by the Law of the Land; It is accorded assented, and stablished, That from henceforth none shall be taken by Petition or Suggestion made to our Lord the King, or to his Council, unless it be by Indietment or Presentment of good and lawful People of the same neighbourhood where such Deeds be done, in due Manner, or by Process made by Writ original at the Common Law ; nor that none be out of his Franchises, nor of his Frecholds, unless he be duly
brought into answer, and forejudged of the same by brought into answer, and forejudged of the same by
the Course of the Law; and if any thing be done the Course of the Lawy; and if any thing be done
against the same, it shall be redresseed and holden against th
for none.
ITEM, It is accorded and stablished, That Executors of Executors shall have Actions of Debts, Accompts, and of Goods carried away of the first Testators, and Execution of Sta:utes Merchants and Recognizances made in Court of Record to the first Testator, in the same Manner as the first Testator should have had if he were in Life, as well of Actions of the Time past, as of the Time to come, in all Cases where Judgement is not yet given betwixt such Executors ('); but that the Judgements given to the contrary to this Article in Times past shall stand in their Force; and that the same Executors of Executors shall answer to other of as much as they have recovered of the Goods of the firs: Testators, as the first Executors should do if they were in full Life.
ITEM, It is accorded and stablished, That no Taker of Wood nor of Timber to the King's Use for work, nor for to make other thing, shall cut or cast down the Trees of any Man growing about or within his House ; and if any do to the contrary, he shall make Gree to the Party of his Treble Damage, and to have one year's Prison and to be forejudged of his office.
MOREOVER It is accorded and stablished, That no Forester, nor Keeper of Forest or Chase, nor any other Minister, shall make or gather Sustenance, nor other Gathering of Victuals, nor other Thing, by colour of
their Office, against any Man's Will, within their Bailiwick nor without, but that which is due of old Right.
ITEM, It is accorded and assented, That no Man shall be constrained to find Men of Arms, Hoblers, nor Archers, other than those which hold by such Services, if it be not by common Assent and Grant made in Parliament.

ITEM, Whereas great Damage and Deceit is done to the People, for that divers Merchants use to buy and weigh Wools and other Merchandises, by a Weight which is called Auncel; It is accorded and established, That this Weight called Auncel betwixt Buyers and That this Weight called Auncel betwixt Buyers and
Sellers, shall be wholly put out; and that every Person Sellers, shall be wholly put out; and that every Person
do sell and buy by the Balance, so that the Balance be do sell and buy by the Balance, so that the Balance be
even, and the Wools and other Merchandizes evenly even, and the Wools and other Merchandizes evenly
weighed by right Weight; so that the Sack of Wool weigh no more but xxvi Stones, and every Stone to weigh xivl. and that the Beam of the Balance do not bow mure to the one part than to the other ; and that the Weight be according to the Standard of the Ex. chequer: And if any Buyer do the contrary, he shall be grievously punished, as well at the Suit of the Party, as at the Suit of our Lord the King.
ITEM, Whereas it is contained in the Great Charter that one Measure shall be throughout England, which Charter hath not been well kept and holden in this point in Times past ; It is accorded and assented, That all the Measures, that is to say, Bushels, Half.bushels, Peck, Gallon, Pottle, and Quart, throughout England, within Franchises and without, shall be according to the King's Standard; and the Quarter shall contain Eight Bushels by the Standard, and no more; and every Measure of Corn shall be striken without Heap, saving the Rents and Ferms of Lords, which shall be measured by such Measures as they were wont in Times past.
' of Executors

| Juations shall inguire of and puniah the Offendert. | And the Purveyon of the King, of the Queen, and all other, shall make their Purveyances by the same Measure striked in the same manner; and at all Times that shall be needful, [and'] our Lord the King shall assign certain Justices in every County to inquire, hear, and determine upon the Points aforesaid, and upon the same to do Punishment according to the Trespass, as well at |
| :---: | :---: |
| Saring of <br> Franchives. | the Party's Suit as at the King's ; so always, that all Manner of Franchises be saved to the Lords in all Points without Blemish to be made in any Manner. |
| XI. <br> Aid to make the King's Son Knight, of to marry his Daughter. | ITEM, It is aveented, That reasonable Aid to make the King's eldest Son Knight, and to marry his eldest Daughter, shall be demanded and levied after the Form of the Statute thereof made, and not in other Manner, that is to say, of every (') Fee holden of the King without mean, Twenty Shillings and no more, and of every twenty pound of Land holden of the King without mean in Socage twenty Shillings and no more. |
| $\begin{aligned} & \text { XII. } \\ & \text { None shall } \\ & \text { take Profit } \\ & \text { by Exchange } \\ & \text { nf Gold or } \\ & \text { Silver. } \end{aligned}$ | ITEM, It is accorded, That it shall be lawful for every Man to exchange Gold for Silver, [or Silver for Gold, or for Gold and Silver,'] so that no Man hold [the same as exchanged,'] nor take no Profit for making such Exchange, upon Pain of Forfeiture of the Money so exchanged; except the King's Exchangers, which take Profit of tuch Exchange, according to the Orditake Profore made. |
| XIII. The current Coin thall not be impaims. | ITEM, It is accorded, That the Money of Gold and Silver which now runneth, shall not be impaired in Weight nor in Allay; but as soon as a good way may be found, the same be put in the antient State, as in the Sterling. |
| xIv. <br> Proces Provent indicted of Felong. | ITEM, It is accorded, That after any Man be indicted of Felony before the Justices in their Sessions to hear and determine, it shall be commanded to the Sheriff to attach his Body by-Writ or by Precept, which is called a Capias; and if the Sheriff return in the same Writ or Precept, that the Body is not found, another Writ or Precept of Capias shall be incontinently made, returnable at three weeks after; and in the same Writ or Precept it shall be comprised, that the Sheriff shall cause to be seised his Chattels, and safely to keep then! till the Day of the Writ or Precept returned; and if the Sheriff return, that the Body is not found, and the Indiftee cometh not, the Exigend shall be awarded, and the Chattels shall be forfeit, as the Law of the Crown ordaineth; but if he come and yield himself, or be taken by the Sheriff, or by other Minister, before the Return of the second Capias, then the Goods and Chattels shall be saved. |
| XV. <br> The Penalty of Purverors Shing mofe thearing Time than are wanted. | TTEM, Forasmuch as the Takers and Buyers of the King's Prises, do take Sheep from the People betwixt Easter and the Feast of Sant John Baptist, with their Wools, and prise the same at a small Price, and after send them to their own Houses, and do them to be shorn to their own Profit, in deceit of the King, and great ()ppression of the People; It is accorded, that no such Taker, Purveyor, nor Buyer, shall take any Sheep before the Time of shearing, but as much as may reasonably Time of shife the Time of shearing; and after that Tiime they shall take as many Sheep shorn, and not other, that may reasonably suffice them for the Time to come: And if any Taker, Purveyor, or Buyer of the Realm, do against the same, and be thereof attainted at the Suit of the King, or of the Party, it shall be done of him as of a Thief or a Robber; and the pain shall be contained in every Commission of such Purveyors. |
| XVI. <br> Ereeption of Nontenurr of Pareel. | ITEM, It is accorded, That by the Exception of Nontenure of Parcel no Writ shall be abated, but for Quantity of the Nontenure which is allelged. |
| XVII. <br> Proces of Exigrat ${ }^{1} \mathrm{D}$ Debi, Dertiaue, Replevin. | TTF,M, It is accorded, That such Process shall be made in a Writ of Debt, and Detinue of Chattels, and taking of Beaste, by Writ of Capias, and by Process of F.xigend [by '] the Sherif's Return, as is used in a Writ of Accompt. |
|  | Omit this Word. 'Knigk', 'or for Gold, or Silver for Silver or for Coild, in upon |

et facent les p'veours le Roi, ma dame la Roigne, \& toutz autres, lours p'veances $p$ meismes les mesures rases, \& en meisme la mafle; \& a toutes les foitz $\tilde{q}$ mestier $\mathrm{Y}^{2}$, nüe Seign' le Roi assignera cteines Justices en chescune Countee, denqueer \& doier \& Pminer $s^{\prime}$ les pointz suisditz, \& de faire $z^{\prime}$ ce due punissement, solone chescun Papas, si bien a la seute de ptie, come a la seute le Roi; Issint totes foitz $\tilde{q}$ toutes manes des franchises soient sauvez as Seign's en touz pointz

Estre ceo acorde est \& assentu ${ }^{\text {q }}$ renable cid, $\mathrm{p}^{\prime}$ faire leisne fitz le Roi Chivaler, \& sa eisnesce filt marier, soit demande \& leve solone la forme del estatut ent fait, \& nemie en autre mane, cest assavoir de chescun fee (') tenue du Roi saunz meen, vint souldz \& nient plus ; \& de chescun vint livree de Pre tenue du Roi saunz meen en sokage vint souldz \& nient plus.
Ersement acorde est \& establi, $\overline{4}$ bien lise a chescun höme de chaunger or $p^{\prime}$ argent ou $p^{\prime}$ or, ou argent $p^{\prime}$ argent ou $p^{\prime}$ or, issint $̀$ ỳ nul hōme tiegne cöe eschaunge, ne rien pigne de pfit $p^{\prime}$ tiel eschaunge faire, $s^{\prime}$ peine de forfait'e de la monoie issint chaungee, forprises les Chaungeours le Roi, les queux Pignent pfit $\mathrm{p}^{\prime}$ tiele eschaunge solone lordenance avant faite.
Auxint acorde est \& establi, ĩ la monoic dor \& dargent qore coert, ne soit mie empire, en pois nen alai; mes au plus tost đ̈ hōme pusse trover bone voie gele soit mys en launcien estat, come en csterling.
Et auxint ent acorde \& assentu, 广ั apps ceo यั ascun hürme soit endite de felonic devant Justices en lour sessions doier \& Pminer, soit cōmande au viscont dattack son corps, $p$ brief ou peept qest appelle Capias, \& le viscount retourn en le dit brief ou peept q le corps soit mie trovee, meintenant soit autre brief ou peept de Capias fait, retournable as trois symeignes $a p_{s} ;$ \& en meisme le brief ou ppept soit compris $\overline{\text { q. le viscount }}$ face seisir les chateux \& les sauvement garder tanch, a jour de brief ou pcept retournable; et si le viscount rexpoigne õ le corps nest pas trovee, ne lendite vient point, soit lexigend agarde \& soient les chateux forfaitz, sicome la lei de la corone demand; Mes sil viegne \& se rend ou soit pris $p$ viscount ou $p$ autre Ministre devant le retourî del síde Capias, adonỳs soient les biens \& les chateux sauvez. Ersement p'ce è les achatours \& pnours des prises le Roi pacnt berbitz du poeple, pentre la Pasch et la fest de Ssint Johan od les leines, \& les fount preiser a [mene'] pris, \& puis les mandent a lours mesons demesne \& les fount tounder a lour pfit demesne, en deceit du Roi \& g'nt opìssion du poeple, Si est acorde \& assentuz, थั nul des ticux Purveours, pnours \& achatours ne Pligne nules berbitz devant la scisone du toundeson, forsp a tantz ï p'ront suffire resonablement tantq, zu temps du toundison, \& ap)s cel temps pigne il a tantz de berbitz tounduz \& nemie aurs, come p'ront suffire resonablenent $p^{\prime}$ le temps avenir; et si nul P'venur, pnour ou achatour du Roialme, face al encontre, \& de ceo suit atteint a la seute le Roi ou de ptic, soit fait de lui come de laron ou de robbour, \& soit la peine contenue en chescune cömission des tieux p'veours.
Auxint acorde est \& assentue, $4 p$ excepcion de nounten'e de pcell null brief soit abatu forsg $p^{\prime}$ la quantite de la nounten'e qest alegge. Ensement acorde est \& assentue, $\overline{\text { q }}$ autiele pces soit fait en brief de dette, deteneu des chateux, \& en prises des avers $p$ brief de Capias, \& p pees dexigend, $p$ retouri de viscount, sicome est usee en brief dacompt.
'ds Chivaler Rut. Parl, $2 s$ E. III. P. II. mus. xix. (29.)
'petit Printed Copirt-mesne Rot. Porl, xxxj. (4t.)

Eatre ceo acorde est \& assentue, $\bar{q}$ nient contreesteant adjournement faite en Eire $p$ brief de libtate pbanda p'chacee en farour des neifs, $p^{\prime}$ delaier lea Seign's de lours accions deVs tieux neifi, soient les Seign's receux dalegger excepcions de villenage contre lours vileins en toutz briefs le quel ã les ditz briefs de libtate pbanda soient p'chacez $p$ deceit ou en autre malte, et iq les Seign's pussent seisir les corpu de lours vileins, auxi bien come ils p'roient devant $\frac{q}{}$ tieux briefs de libtate pbanda feurent ordenez \& p pchacez.

Auxint come nree Seign' le Roi eit avant ces heures fait pteccions as divses gentz a lui estoisent tenuz en ascuñ make des dettes, qiis ne Bront mic empledez des dettes queles ils deivent as aups, tanq, ils eussent fait gre a nïe Seign' le Roi de ceo q̃ lui estoit due peux prenoun de sa progative, \& issint durantes tieles pteccions nul hoome ad este osee dempleder tieux dett's; acorde est \& assentue, $\tilde{q}$ nient contreesteant tieles pteccions les pties qount accions a lours dettours, soient respounduz en la Court le Roi p lours dettours, et si juggement soit sur ceo rendu $\mathrm{p}^{\prime}$ le pleintif ou demandant, soit lexecucion de cel juggement mys en suspens tang gre soit fait au Koi de sa dette; et si les Creansours voillent empndre p' la dette le Roi, soient ils a ceo receuz, \& outre eient execucion devs lours dettours de dette a eux due, \& auxint recolent deVs eux tant come ils paieront $p^{\prime}$ eux au Roi.

Ensement acorde est $\&$ assentue, $\AA$ les Moneours, \& auts gardeins \& Ministres de la monoie, receivent plat dor \& dargent $p$ pois, \& en meisme la manke deliivent les monoies q'nt eles Gront faitz p pois, \& nemie p nombre, saunz nully targer. Estre ce, come avant ces heures les Botillers nure Seign' le Roi \& loun deputees soleient Pondfr, \& pnent de joar en autre, moult plus des vyns, $p$ colour de lour office al oeps nïe Seign' le Roi gil ne bosoigneroit, des queux les plus fiebles ils delivent al oeps nĩe f' le Roi, \& les meillours en g'nt nombre ils retiegnent devs cux a vendre \& a faire ent lour pfit, \& alafoitz ils relessent as marchantz ceo qils ount pris de eaux, $p^{\prime}$ fines \& donnes qils Pignent de meismes les marchantz pextorsion, en g'nt damage \& empovissement des ditz marchantz ; si est acorde \& establi $\tilde{q}$ le Seneschal del Hostiel le Roi, \& le Tresorer de la Garderobe, mandent as touz les portz Dengletre la ou vyns sont a Pndr al oeps le Roi le etein nombre ê le Botiller Pondra en chescun port, si ã rien soit pris outre cel nombre; et $\begin{gathered}\text { q̃ Meir \& Baillifs des ditz portz Ceti- }\end{gathered}$ fient les ditz Seneschal \& Tresorer le nombre des toneux issint prises p le Botiller ou ses lieutenantz, souz les seals des ditz Meir \& Baillifs, \& pendenture faite entre eaux \& les pnours des ditz vines; et en cas qil soit trove q̃ le Botiller ou ses lieu tenantz pignent plus ou pignent lower de nully ou delaie nully $D$ colour de son office, come $D$ arest, face gre de double a la ptie \& soit ouste de son office, \& eit la prison \& soit reint a la volunte le Roi; et le Roi assignera tes Justices q'nt lui plerra denquere sur cesten choses; \& respoigne le Botiller sibien $p^{\prime}$ sea deputees come $p^{\prime}$ lui meismes, la ou ils ne sont mie sufficeantz.
Auxint p' ce $\ddagger$ à ascuns p'chacent a la Court de Rome pvisiont, davoir Abbeies \& Priories en Engletre, en deatruccion du Roialme \& de seinte religion, acorde est $\&$ asentue $\bar{q}$ chescun $\bar{q} p^{\prime}$ chace tieles $p$ visions dabbeie ou de priorie, $\tilde{q}$ lui \& ses executours \& peuratours $\tilde{q}$ suent \& fount execucion de tieles pvisious, soient hors de la pteccion nüe Seign' le Roi ; \& $\mathfrak{q}$ hōme pusse faire

ITEM, It is accorded and assented, that notwithstanding adjournment made in Eyre, by Writ of Liberrate probanda, purchased in favour ofc Villaines to delay the Lords of their Actions of such Villaines, the same Lords shall be received to alledge the Exception of Villainage against their Villaines in all Writs, whether that the said Writs of Libertate probanda were purchased by deceit or in other manner; and that the Lords may seise the Bodies of their Villaines, as well as they might before that the Writs of Libertate probanda were ordained or purchased.

ITEM, Forasmuch as our Lord the King hath made before this Time Protections to divers People, which were bounden to him in some manner of Debt, that they should not be impleaded of the Debts which they owed to other, till they had made Gree to our Lord the King of that which to him was due by them, by reason of his Prerogative ; and so during such Protections no Man [hath used, nor '] durst implead such Debtors ; It is accorded and assented, That notwithstanding such Procections, the Parties which have Actions against their Debtors, shall be answered in the King's Court by their Debtors; and if Judgement be thereupon given for the Plaintiff or Demandant, the Execution of the same Judzement shall be put in Suspence till Gree be made to the King of his Debt; and if the Creditors will undertake for the King's Debt, they shall be thereunto received, and shall have Execution against the Debtors of the Debt due [and adjudged '] to them, and also shall recover against them as much as they shall pay to the King for thern.

ITEM, It is accorded and assented, That the Moneyorn, and other Wardens and Ministers of the Money, shall receive Plate of Gold and Silver by the Weight; and in the sarne Manner shall deliver the Money when it shall be made, by Weight, and not by Number, with. out any tarrying.

ITEM, Whereas before this Time the King's Butlers and their Deputies were wont to take, and daily do take much more Wine, by Colour of their Office, to the King's Use, than they shall need, whereof the worst they deliver to the King's Use, and the best in great Number they retain to themselves, to sell and make therzof their Profit ; and sometime they release to Merchants that which they have taken of them, for Fines and Gifts, which they take of the same Merchants by Extortion, to the great Damage and Impoverishment of the said Merchants ; It is accorded, That the Steward of the King's House, and 'Treasurer of the Wardrobe, shall send to all the Ports of England, where Wines be to be taken to the King's Use, the certain number which the Buter shall take in every Port, so that nothing be taken over this Number; and that the Mayor and Bailiffs of the said Ports certify the said Steward and Treasurer of the Number of all the T'uns so taken by the Rutler or his Lieutenant, under the Seal of the said Mayor and Bailiffs, by Indentures made betwixt them and the Takers of the said Wines; and in case that it be found, that the Butler or his Lieutenant take more, or take Reward of any, or delay any by Colour of his Office, as by arrest, he shall make Gree to the Party of the double, and shall be put out of his Office, and have Imprisonment, and be ransomed at the King's Will ; and the King shall assign his Justices when it shall please him, to enquire upon these Things; and the Butler shall answer as well for his Deputies as for himself, where they be not sufficient.

ITEM, Because that some do purchase in the Court of Rome Provisions, to have Abbies and Priories in England, in Destruction of the Realm, and of Holy Religion ; It is accorded, That every Man that purchaseth such Provisions of Abbies or Priories, that he and his Executors and Procuratorn, which do sue and make Execution of such Provisions, shall be out of the King's Protection; and that a Man may do with them as of
.\} Old Pristed Copirs omit thew Words.


Enemies of our Sovereign Lord the King and his Realm; And he that offendeth against such Provisors in Body or in Goods, or in other Possessions, shall be excused againat all People, and shall never be impeached nor grieved for the same at any Man's Suit.

ITEM, Whereas much People of the Realm, which have made Contrads with Lombards, that be named of the Companies dwelling in the same Realm, which Lombards after that they have made their Obligations Lombards after that they have made their Obligations
to their Creansours, have suddenly escaped out of the to their Creansours, have suddenly escaped Creansours,
Realm without Agreement made to their said Crean in decerit and great damage of the People: It is accorded and assented, That if any Merchant of the Coinpany, knowledge himself bound [by the Manner,'] that the Company shall answer of the Debt. So that another Merchant which is not of the Company, shall not be thereby grieved or impeached.
' in that manner,
The King to the Sheriff of Kent, Greeting. Certain Statutet passed in our Parliament assembled at Wetminster in the Featt of St. Hilary last past, by Us, the Prelates, Dukes, Earlh, Baront, and others of the Cummonalty of our Realm of England, summoned to the said Parliament, We do vend to you under our Seal; charging you to cause the said Statutes to be read in your full County Court, and the aame to be atrialy obserred, and holden. Witnes the King at Weatminster, the sixth day of March.

Like Writs are direqed to all the Sheriffi through England, onder the same date.
A like Writ in direacd to the Justice of Ireland, changing
what ought to be changed, under the ame date.
Like Writs are diretted to the Perions under-written, under the ame date; that is to ary:
William de Sharechull and his Companions, Jutices assigned to hold Pleas before the King himelf:
John de Stonore and his Companions, Justices of the Common Bench :
The Treasurer and Barons of the Exchequer.
de lui come de enenny du Roi et du Roialme; et $\tilde{q}$ celui ŏ face contre tiels pvisours en corps ou biens ou en auts possessions, soit excuse devs touz gentz, \& ptant ne soit james greve nempeschee au seute de nully.

Auxint p'ce q̃ plusurs gentz du Roialme, qont fait contrates ove Lumbardz $\tilde{q}$ sont nomez des compagignies demorantz en meisme le Roialme, queux Lombardz apls qils ount fait lours obligacions a lours Creansours, se sont sodeinement eschapez hors du Roialme, saunz gre faire a les ditz Creansours, en deceit \& $g^{\text {nt }}$ nt damage du poeple; acorde est $\&$ assentuz $\tilde{q}$ si nul marchant de comprignie conue se oblige pla mahe, $\mathfrak{q}$ la compaignie - respoigne de la dette. Issint $q$ q autre marchant qi nest mie de la compaignie ne soit $p$ tant grevez nempeschez.
B. Vier Kanc̃, satem. Quedam statuta, in pliamento nĩo apud Westm̄ in festo sci Hillar̃ $p^{\bar{X}}$ PRito convocato, $p$ nos Prelatos Duces Comites Barones \& alios de cõitate regni nĩi Angt ad đcm pliamentum sûmonitos, edita, tibi mittim ${ }^{9}$ sub pede sigilli $n \bar{n}$, mandantes qd statuta Pďa in pleno Com̃ tuo legi \& ea firmî observari \& teneri fac. T. R. apud Westm̄ vi. die Marč.
ConI bria dirigunt' singulis vicecomitiby $p$ Angt sub eadem data.
Cons bre dirigit' Justic Hitīn mutatis mutana sub eadem data.

Cons bria dirigunt' subscriptis sub eadem data vidett.
Wilto de Shareshull \& sociis suis Justix ad ptita coram rege tenend assigñ.

Joh de Stonore \& sociis suis Justix de cïi Banco. Thes \& Baroniby de scactio.

## $\mathfrak{A}$ Drinatio $\mathfrak{p}^{\prime} \mathbb{C l e r o}$ <br> 

> In Margine
> Rotuli.

An ORDINANCE for the CLERGY,
Made at Westminster in the Twenty-fifth Year of the Reign of K. Edward III.

Statute the Sixth.*
UR Lord the King, seeing and examining by good UR Lord the King, seeing and examining by good
Deliberation the Petitions and Articles delivered to him in his Parliament holden at Westminster in the Feast of St. Hilary, the Year of his Reign of England the Five and twentieth, and of France the Twelfth, by the Honourable Father in God, Simon Archbishop of Canterbury, and other Bishops of his Province, upon and for certain Grievances, which they alledged to be done to Holy Church, and to the Clergy, against the Privileges of Holy Church; and then they prayed, that

Ex magno Rot. Stat. in Turr. Lond. m. 16 d.
Nie Seignour le Roi, veues \& examinez $D$ bone deliberacion les peticions \& articles a lui bailliez en son plement, tenuz a Westmonster en la feste de seint Hillar lan de son regne Dengleifre vintisme quint, \& de France duszisme, p Lon'able piere en Dieu Simon Ercevesq de Canrbirs et aups Evesq̃s de sa prince, $s^{\prime} \& p^{\prime}$ Cteines grevances queles ils disoient estre faites a seinte eglise et a la clergie, encontre les privileges de seinte eglise, \& dunk ils prierent $\tilde{q}$ cove-

[^7]to the manifert Detruation and Injury of the nid People, and agrintt Jutice and the Form of the Statute aforessid : We will and atedfatly command that our Juatice of Ireland for the Time being, in every Country and Place through which he shall pass, asociating with him a Prelate of the Place, and some Earl or other Nobleman or Knight of that Neighbourhood, eoncerning the aloresaid Deccits, Extortions, Oppressions, Grierances, and Exceses, and all the Matters abovesaid by those Farmers howsoever committcd, and of all their ${ }_{3} A_{5}$ and doings in this Dehalf, as well at the Suit of $U$, as of any others whomsoever who shall complain thereof, as well for the Time past as for the Time to come, shall make Enquiry, and against them shall proceed, and the Contempts, Deceits, Extortions, Oppressions, Grievances, and Exectses. and other the Matters aforesaid shall hear and delermine, and the Delinquents and Offenders when they thall be found such, ahall punith and chastise, according to the Law and Custom of cur Land of Ireland before mentioned; and nevertheless to Us and our Council in England, the Names of those so offending, and the Deceits, Extortions, Oppressions, and Grievances and other Matters aforesaid, under the Seals of him the said Justice and of the others associated with him, distinelly and openly, from 'Time to Time, for good Cause shall cerrify.
In Witness whereof, sec. Witness the King at Westminater, the Twenty-fifith Day of Oatober.

By the King Himself and Council.

Pjudiciū, \& ị̂ius populi destruč̃em \& injuriam manifestas, ac contr justiciam \& formà statuti poťi : Volum ${ }^{9} \&$ firmu? Pcipim ${ }^{9} q \notin$ Justic nî Hibī qui $p$ tempe fưit, in singulis Coiñ \& priby D quos t'nsierit, associatis sibi Prelato loci, \& aliquo Comite seu alio nobili vel Milite caspdem pciô vicinap̧, de Pdris falsitatiby, extorsioniby, oppasioniby, g'vaminib, \& excessiby, \& oniibs suptdeis $p$ ij̀s firmarios quomodolibet ppettis, \& de ijpos fits \& gestibs in hac pte, tam ad sec-
 tam de tempe prito $q^{*} \mathrm{~m}$ futuro inquirat ; \& Dsus cos pcedat, \&e contemptus, falsitates, extorsiones, oppsssiones, g'vamina \& excessus, ac alia $\bar{p} d \Sigma_{a}$ audiat \& Pminet, necnon delinquentes \& culpabiles cum tales inventi fưint eastiget \& puniat, sĩdm legem \& consuetudinem Pre nĩe Hitiñ antedias; \& nos \& consiliû nìm in Angt de nübs sic culpabiliú, ac de falsitatiby, extorsioniby, opp)ssionibs \& g'vaminibs \& aliis pdČis sub sigillis ipius Justic \& sibi associatop, distinnte \& apte de tempore in tempus nichilomin9 ${ }^{9}$ trificet ex eta causa. [In cujus, \&cc. 'T. ß阝. apud Westiñ xxv. die OCtobr̃.
p ip̆m Regem \& Cons.']

- In cujus rei tetimoniâ lias tras nīas fieri fecims patentes. Teste ne ijo apud Westīn vicetimo quinto die OAobř, anno regni sîi Angt tecsimo p'mo, regni io nĭ Franc̃ decimo oftavo.


 not \& herediby nĭis quantum in not ct, acetptam approba-
mus, raificam" \& confirmam', put lie pleee rationablif tetant:mus, raificam" \& confirmam', put lie pate rationablit
In cuj, \&ce. T. R. apd Weriil sxvj die Junii.

Rat. Pat. 17 Ric. 11.

Anno $34^{\circ}$ EDWARDI, III. A.D. 1360-1.

## Statutū fe'm in pliamēto tento apud đatestm; anno rrxiiijio.

## A Statute made in the Parliament holden at Westminster; In the Thirty-fourth Year.



THESE be the Things which our Lord the King, the Prelates, Lords, and the Commons have or-
then dained in this present Parliament, holden at Westminster, the Sunday next before the Feast of the Conversion of St. Paul, to be holden and published openly through the Realm (')

FIRST, That in every County of England shall be with him three or four of the most worthy in the County, with some learned in the Law, and they shall have Power to testrain the Ofenders, Rioters, and all other Barators, and to pursue, arrest, take, and chastise them according their Trespass or Offence; and to cause them to be iniprisoned and duly punished according to the 1 ain and Customs of the Reaim, and according to that which to them shail scem best to do by their Discretions and good Advisement; and also to inform them, and to inquire of all those that lave been Pillors and Robbers in the Parts beyond the Sea, and be now come again, and go wandering, and will root labour as they were wont in Times past; and to take and arrest all those that they may find by Indietment, or by Surpicion, and to put them in Prison; and to take of all them that be [not'] of good Fame, where they shall be found, sufficient Surety and Mainprise of their goud

$$
\text { 'f thet is } 10 \text { s.y: } \quad \text { All Tranalations read thus. }
$$

Ex magno Rot. Stat. in Turr. Lo:zd. m. 10.
CES sont les choses queles nit Seign ie Rui Prelata Sceign's \& la cïmune ont ordinez en cest ipsent plement, tenuz a Westmusticr le Dymenge ibschein devant la feste de la Convosion de Scint Poul, a tenir \& publier ovtement pmy le Roialme; Cestassavoir :
Priniement if en chescun Countee Dengletire ssient assignez, p' la garde de la pees, un Seign', \& ovesif. lui trois ou quatre des meultz vauez du Countee, ensemblement ove ascuns sages de la ley, \& cient poer de restreindre les mesfesours, riutio, \& touz auts barcto's, \& de les p'suir, arester, phndre, chastier, selone leur ispas ou mesprision ; \& de faire emprisnner, \& duement punir selonc la ley \& custumes du Ruialine, \& sdonc ce qils Vront mieltz affaire p lo discrescions \& bon aviscment ; \& auximt de cux enformer \& denquete de touz ceux qi out este piluurs $\&$ robeours es ptics de dela, \& somt ore revenuz \& vont vagantz, \& ne ruillent t'vailler come ils solecient avant ces hours; \& de iphife \& arester touz ceux qils piront troivp ondicenent, on p suspecion \& les mettre en prisone \& dv ithadre de touz ceux [qi sont '] de bone fame, ou ils sront trovez, souflisant seurete \& ineinprise de
'ifine sout Libl. Serc. Wrim, IX; MAS. Cirt. Nere C: 1; and the thld Printed Copies.
lo' bon port, deva le Roi \&s son poeple, \& les auti duement punir; au fin $̃$ le poeple ne soit $p$ tieux rioto's troble nendamage ne la pees enblemy, ne marchantz naups passantz ples hautes cheinyns du Roialme destourbez ne abaiez du pil õ p'ra avenir de tieux meffesours: \& auxint doier \& Pminer a la suite le Roi, tote manle de felonies \& tspas faites en meisme le Countee, selone les leys \& custumes avantdites; \& ¢ briefs doier \& Pminer soient $\mathrm{g}^{2}$ ntes selone les estatuz ent faites, mes $\mathfrak{q}$ les Justices $\tilde{q}$ enserront assignez soient nomez p la Court, \& nemie p la ptie. Et le Roi voet $ั$ ï totes gehales enquerres avant ces heures $g^{\prime}$ ntez deinz seign'ies queconqes $\mathrm{p}^{\prime}$ les meschiefs \& oppssions $\tilde{y}$ ont este faites au poeple $p$ tieles enquer. res, cessent outriement \& soient repellez: Et ÿ fins q̃ sont affaire devant Justices, $\mathrm{p}^{\prime}$ tspas fait D ascune psone, soient resonables $\&$ justes, eant regard au $q^{\prime} n$ tite du tapas \& les causes $p^{\prime}$ queles eles sont faites. Item acorde est $\ddagger$ prises desore ne soient faites $\bar{p}$ auts वั p les p'veours le Roi, ma Dame la Roine \& le Prince lour eisne filtz; \& q̃ si Purveours des aut's facent tieu prises soit fait de cux come des gentz qi fount $\operatorname{sanz}$ garaunt, \& lour fait jugge come chose faite contre la pees \& la ley de la tre; \& soient tieux qii se fount p'veours en la mare duement puniz.
Item des p'veances faites al oeps la Royne \& du Prince, du polaitt $\&$ dautres menuz choses, soit paiement fait en poigne $\mathbf{s}^{\prime}$ la prise; \& des auts grosses p'reances deinz le Mois ou sis simaignes es Countees ou ils Sront prises ; \& q̃ le nombre de tieux p'veours soit abregge, en tant come bonement $\mathrm{p}^{\prime} \mathrm{ra} \mathrm{p}^{\prime}$ eide \& quiete du coumune poeple.
Item porce 4 yiscontes $\&$ auts ministres sovent arraient lour panels en tote mañe denquestes des gentz pcurez \& pluis lointifs du Countee, qi nont conissance du fet dount lenqueste şra prise; Acorde est, ỹ ticu paneles soient faites des plus pscheins gentz, qi ne sont pas suspeटles, ne pcurez; \& थ̈ les viscontes, Coroners \& auts ministres qi font alencontre soient puniz devant les Justices gi la dite enqueste phdra, selone la q'ntite de leur Pspas, sibien devs le Roi $^{\text {n }}$ come deVs la ptie, $\mathrm{p}^{\prime}$ la $\mathrm{q}^{\prime}$ ntite du damage qiil ad suffert en ticu mane.
Item est accorde, प̀ ceux qi Ŝront assignez de garder la pees eient poair denquere des mesures \& auxint des pois, selone lestatut ent fait lan du regne nïe Seign'. le Roi vint \& quint, en quel est contenu la forme ỹ sensuit. Porce ì Psg'nt danage \& desceit est fait au poeple p tant ì pluseurs Marchantz usent dachater \& poiser leincs $\&$ auts marchandises $p$ une pois qest appelle Aunselt; Acorde est \& establi, đ̀ celle pois appelle AunseH entre achatour \& vendour soit de tout ouste, \& ỳ chescun vende \& achate p balanees; issint ¢̈ les balances soient owels \& les leins \& aut's marchandises owelement poisez $D$ droit pois, et ỳ le sac de leine ne poise q vint $\&$ sis peres, \& chescun pere poise quaturze livres, \& ï lestater de la balance ne encline ne a lune ptic ne al autre, \& q̈ le pois soit acordant al estandard del Escheqer ; et si nul Achatour face al encontre, soit grevousement puny sibien a la suite de ptie come a la suite nüe Scign' le Roi.

Item come contenu soit en la g'th (hic, iั une mesure soit use pmy tut Engletrc, la quele Chre nad mie este tenue bien en ce point avant ces heures; si est acorde \& assentu, ì totes les mesures, cest assavoir bussel demy bussel \&e Pcek, galon putel \& quart, p tout Englet're deinz franchise \& dohors

Behaviour towards the King and his People, and the
other duly to punish; to the Intent that the P'eople be not by such Rioters or Rebels troubled nor endanaged, nor the Peace blemished, nor Merchants nor other passing by the liighways of the Realm disturbed, nor [put in the Peril which may happen '] of such Offenders: And also to hear and determine at the King's Suit all Marner of Felonies and Trespasses done in the same County according to the Laws and Customs aforesaid and that Writs of Oyer and Determincr be granted according to the Statutes thereof made, and that the Justices which shall be thereto assigned be named by the Court, and not by the Party. And the King will, that all general Inquiries before this Time granted within any Scigniories, for the Mischiefs and Oppressions which have been done to the People by such Inquiries, shall cease utterly and be repealed: and that Fincs, which are to be made before Justices for a Tres. pass done by any Person, be reasonable and just, having Regard to the Quantity of the Trespass, and the Causes for which they may be made.

ITEM, It is accordeل. That [Taking '] shall not be from henceforth made by other than the Purveyors of he King, of the Queen, and of the Prince their ellest Son; and that if any other Man's Purveyors make such Takings, it shall be done of them as of People which do without Warrant, and their Deed judged as a Thing done against the Peace and the Law of the Land; and such as do make themselves Purveyors in such Manner shall be duly punished.

ITEM, Of Purveyances made to the Use of the Queen, and of the Prince, of Pouliry and of other small Things, Payment shall be made in Hand upon the Taking; and of other great Purveyances within the Month or Six Weeks, in the Counties where they shall Month or Six Weeks, in the Countics where they shall
be taken; and that the Number of such Purveyors be be taken; and that the Number of such Purveyors be
abridged in as much as conveniently may, for the Aid abridged in as much as conveniently m
and Quietness of the Common Penple.

ITEM, Because that the Sheriffs and other Ministers often do array their Panels in all Manner of Inquests, of People procured, and most far off [from'] the Counties, which have no Knowledge of the Deed whereof the Inquest shall be taken; It is accorded, 'That such l'anels shall be made of the next People, which shall not be suspect nor procured; and that the Sheriffs, Coroners, and other Ministers which do against the same shall be punished before the Justices that take the said Inquest according to the Quantity of their Trespass, as well against the King as against the Party, for the Ouantity of the Damage which he hath suffered in such Manner.

ITEM, It is accorded, That they which shall be assigned to keep the Peace shall have Power in inquire of Measures, and also of Weights, according to the Statute thereof made the fixe-and-twentieth $Y_{\text {car }}$ of the Reign of our Lord the King-and-twentieth $Y$ ear of the Reign of our Lord the King, wherein is contained the Form that followeth; "Whereas great Damage and Deceit is done to the People, for that divers Merchants use to buy and weigh Wouls and other Merchandises, by a Weight which is called Auncel; It is accorJed and established, That this Weight called Auncel betwixt Buyers and Sellers, shall be wholly put out ; and that every Person slo sell and buy by the Balance, so that the Balance be even, and the Wools and other Merchandizes evenly weighed by right Weight, so that the Sack of Wiool weigh no more but xxvi. Stoncs, and every Stone to wrigh .iy. 1. and that the Beam of the Balance do to wrigh ewr. I. and that the Beam of the Balance do
not bow more to the one Part than to the other; and not bow mnre to the one Part than to the other ; and
that the V tight be accorling to the Standard of the that the $W_{\text {tight be according to the Standard of the }}^{\text {Fixchequer; and if any J Suyer do the enntrary, he shall }}$ be grievously punished, as well at the Suit of the Party, as at the Suit of our Lord the King.'
ITEM. Whereas it is contained in the Great Charter, that one Mcasure be uscd through the Realun, which Charter hath not been holden: well in this Point before his Time; It is accorded and assented, That all the Measures, that is to say, Bushel, Half Bushel, Perk, Gallon, Potnk, and Quart, through (') England, within
'put in fear by peril which might hipen of ofll blished, That this Weight called duncel betwixt Buyers ' put in fear by peril which misht toppen
and may hear and determine Felonies and 'Trespuses.

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thall he thall $\begin{aligned} & \text { according to }\end{aligned}$ the King's
Standat Standatd, sxe.

be present, or of the Lords of the Fairs and Markets, and other Places where such Cloths shall be found defetive, or of their Stewards or Bailiffs, or of the Constables of the Touns and Places aforesid, by Indenture betwixt them duly to be made; which Indentures shall be every Year at the Feast of St. Michael delivered into the Ex. chequer, by them which so shall make the sid Delivery, to the Intent there to charge the Aulnegers and Collectors aforessid, by whom such Defaults ought to have been searched, correated, and mended, and be not, but commonly maintained and concealed in all Parts; for which Third Part that pertaineth to the King as his Forfeiture by force of the Statutes made in Times past, the Aulnegers and Colledors aforesaid, in every County and Place where such Cloths defective shall be found, for the Pain againft the said Offences and Concealment, shall make Gree of their own Money to our Lord the King in his Exchequer, of the Value of the same Third Part; so that as well of the same Third Part as of the Remnant of the said Cloth, the King shall be wholly answered at his said Exchequer.
ITEM, It is ordained and assented, That an Assise of Novel Disseisin shall be from henceforth granted and made of Rent behind, due of Tenements being in divers Counties, to be holden in the Confine of the Counties, within which the Tenements be; and thereupon the Assise taken and tried by People of the said Counties in the same Manner as is done of a Common of Pasture being in one County, and appendant to Tenements in another County; and that as well of Disseisins done in Time past, as of Disseisins yet to be done; and that Writs thereupon at the Suit of the Plaintiffs be made from henceforth in the Chancery without any Manner of Contradiction, in a due Form.
ITEM, Whereas in divers Parliaments holden at Westminster, the Fifth and Sixth Years of our said Lord the King, divers Ordinances and Statutes of Fishers of London and other ViQuallers were made, and also of Vintners, and of the Sale of Wines, and thereupon the same Ordinances and Statutes, with the Pains in them contained, were published and proclaimed throughout the Realm, as in the said Statutes and Ordinances more plainly may appear : Nevertheless for certain Causes, at the Requeft of the Commons of England thereupon specially made, It is assented and agreed, That the same Ordinances and Statutes of Fishers, Vintners, and Victuallers, made in the Years aforessid, shall he wholly annulled and repealed, and shall lose their Effet and Strength: Nevertheless saving to the King all the Forfeitures of Wines for the Time past that to him pertaineth by virtue of the same Ordinances and Statutes : Provided always, that all the [Vinchers and '] Vituuallers, as well Fishers as other coming with their Victuals to the City of London, shall be from henceforth under the Governance and Rule of the Mayor and Aldermen of the said City for the Time being, as in Time past it hath been used.
XII.

Sut. 3 Ricin.
c. j recied,

ITEM, Whereas late in the Parliament holden at Westminster, the Third Year of the Reign of our said
Lord the King, at the Request of the Commons, and by the Assent of the Lords Temporal, it was ordained and assented, and upon a grievous Pain prohibited, that no Subjeat of the King nor other Person, of what Estate or Condition he were, should take, neither receive from thenceforth, within the Realm of England, Procuracy, Letter of Attorney, ne Ferm, nor any other Administration by Indenture, or in any other Manner, of any Person concerning any Benefice of Holy Church within the Realm, but only of the King's Subjects of the same Realm, without the especial Grace and express Lisence of our aaid Lord the King, upon a certain Pain contained in the said Statute; It is assented and agreed by the same Lords, That the same Statute shall keep his
soient phentz ou des f's des feires \& marchees, \& aufs lieux ou tielx draps defetives Pront trovez, ou de lo's Seneschalx \& Baillify ou des Conestablea des villes \& lieux avantditz $p$ endentures ent eatre eux duement af. faire; les queles endentures wient chescun an a le feste de Seint Michel livez en leacheqir $p$ ceux qensi ferront is dite liVee, al effê de charger illoeq̃s les Alneours \& coillours avantditz $D$ queux tielx defautes deusent eaure fichez chastiez \& amendez \& ne sont my einz cJ̌ement maintenuz ou concelez toutz ptz; pur quele tierce ptie qapptient au Roi come sa forfaiture $p$ force de lestatutz devant ore faitz let alneo' \& coillo' avantditz, en chescun Countee \& lieu ou tielz draps defectives 8ront trovez $\mathrm{p}^{\prime}$ peine encontre lo's ditz mal fait \& concelement, facent gree de lo's ppres deniers a nire dit f' le Roi en son Escheqir de la value de celle tierce ptie, issint $\AA$ a sibn de mesme la tierce ptie come del remenant du dit drap nĩe $f^{\prime}$ le Roi soit entierement responduz a son Escheqir avantdit.

Item ett ordeignez \& assentuz qassise de Novele Disseinine soit desore grnte \& faite de rent aderiere, due des teñz eateantz es divies Countees a tenir en la con. fyne des Countees deinz queux les teñz sont, \& sur ce lassise prise \& triee D gentz des ditz Countees en mesme la mahe come eat fait du cöe de pasture esteantz en un Countee \& appendante as teĭz en autre Countee, \& ce auxi avant des disseinines faites devant cente heure, come de dissedaines unqore affaire, \& q̣ briefs sur ceo a la p'suyte des pleinuifa woient detore faitz en la Chauncellerie sanz nulle make de cont'diccion en due forme.
Item combn ${ }^{\text {q }}$ nadgairs en divses plementz tenuz a Westūn les ans du regne nĩe dit f' le Roi quint \& siame, furent faitz divses ordinances, $\&$ estatutz des pessoners de Londret \& daups vitaillers \& auxint des vineters \& la vente des vins, \& sur ce mesmes les ordinances \& estatutz ovesq, les peynes en ycelles contenuz furent publiez \& pelamez pmy le Roialme sicome en les ditz ordinances \& estatutz pluis pleinement purra apparoir; Nientmeyns $p^{\prime}$ 'teins enchesons a la requeste des Cöes Denglefre sur ceo especialment faite, est assentuz \& accordez $\overline{4}$ mesmes les ordinances \& estatutz des Pessoners Vineters \& Vitaillers, faitz en let ans desuisditz, soient de tout anientiz \& repellez \& pdent lour force \& Vrue; Sauvez nientmeins a nïe f'le Roi toutz les forfaitures des vins a lui apptenantes p Vitue de mesmes les ordinances \& estatuiz qantal temps passez. Purveuz toutz foitz ${ }^{\AA}$ toutz les [vins '] \& vitaillers sitn Pessoners come auts ove leur vitailles venantz a la die Citee de Londres, soient desore desouz le govnaile [ \& reulle '] des Meir \& Aldermannes de la Citee avandそ̌e $\mathrm{p}^{\prime}$ le temps esteantz come auncienement y soleient estre.
Item come nadgairs en plement tenuz a Westī lan du regne nĩe f' le Roi tierce, a la requeste des Cëes \& $p$ assent des fs temporels, estoit ordeignez \& assentuz \& sur grevouse peyne defunduz थั nult liege le Roi nautre psone quelcon $\check{~ d e}$ quel estat ou condicion qil fuist, phdroit ne resceiVoit delors enavant deinz le Roiaime DenglePre pcuracie, tre datto'ne, ne ferme, nautre administracioñ $p$ endenture nen autre make quelconq de nulle prone dascun benefice de Seinte Eiglise deinz le dit Roialme fors tantooulement des lieges nie f' le Roi de mesme le Roialme sanz especiale g'ce \& expase congie de nïe f' le Roi sur cteine peine comprise en lestatut avantdit, assentuz est ore \& accordez $p$ mesmes les f's $\AA$ quesme lestatut tiegne ses

[^8]' Interlined on the Roll.
force \& Dtue en toutz pointz ; et outre ceo est auxint assentuz $ั$ q̈ ai ascun alien eit purchacez ou desore purchace ascun benefice de Seinte Esglise Dignite ou autre \& en ppre peone pigne possession dicelle ou loccupie de fait, deinz mesme le Roialme, wit il a won oeps opre, ou al oeps dautri sanz especiale congie du Roi, soit il compris en mesme lestatut, \& outre ceo encourge en toutz pointz tielx peines \& forfaiture come sont ordeignez $p$ un autre estatut fait en lan $\mathbf{x x} \mathbf{v}^{*}$ del regne luy noble Roi E. aiel nrée f' le Roi qore est, contre ceux qi purchacent pvisions dabbeies ou Priories; et enoutre au fyn $\tilde{q}$ tielx licences ne se facent desore enavant, le Roi yoet \& comande a toutz ses lieges \& autres qils lour abstiegnent de cy enavant de luy prier dascuns tiels licences doner; et si voet auxi le Roi luy mesmes abstiegner de doner ascune tiele licence, durantes les guerres horipris au Cardinal de Naples ou a autre especiale peone a qi le Roi soit pespeciale cause tenuz.
Item est ordeignez \& assentuz \& le Roi defende $\tilde{q}$ desoremes nutt hōme chivache deinz le Roialme armez, encontre la forme de lestatut de Norhamptoñ sur ce fait, ne ovesq, lancegay deinz mesme le Roialme, les queux lancegayes soient de tout oustez deinz le dit Roialme come chose defendue $p$ nre f'le Roi, sur peine de forfaiture dicelx lancegaies armures \& auts herneys quelconqes es mayns \& possession de celluy qi les porta detore deinz mesme le Roialme contre cestz estatut \& ordinances sanz eapeciale congie de Roi nr̈e $\mathbf{f}^{\prime}$.
Item es briefs de Pmunire fact est assentuz \& accordez $̃$ q ceux $D_{s}$ queux tielx briefs sont portez, \& qi sont de psent hors de Roialme \& sont de bone fame $\& \varepsilon$ aient faitz $10^{\prime}$ gefalx atto'nes devant lo' deptir, ã le Chaunceller [DenglePre'] pur le temps esteant, p ladvis des Justices purra g'tier $\mathfrak{q}$ mesmes les psones purront apparoir \& respondre \& faire \& resceivre ce $\tilde{q}$ la ley demande, olo' gefalx atto'nes avantdiz siavant come es autres cas \& quereles; et ceux psones qi decy enavant passeront $p$ licence nr̃e $f^{\prime}$ le Roi \& soient auxint de bone fame, $\tilde{q}^{2}$ lo' requeste le dit Chaunceller $p$ ladvis des Justices lour purra g'ntier defaire lo' genalx atto'nes en la Chancellerie ppatent du Roi devant lo' passer, [a reapondre'] sitn es ditz briefs de $\beta$ munire fac, come en auts quereles en quel cas toutes voies soit expsse mencion [faite'] des briefs \& quereles de pmunire fač; et celle patente ensi faite, purront des lora les ditz atto'nes en abrence de $10^{\prime}$ Meistres, respondre $p$ eux \& aups atto'nes desouz eux, devant quelcong, juge du Roialme \& faire \& resceivre el dit cas, siavant come en nutt autre cas nientcontresteant ascun estatut fait a contrie avant ces heures.
Item sur la grevouse pleinte qest faite dea meyn. teno's des quereles \& chaumpto's; est ordeignez \& assentuz $\tilde{q}$ lestatutz ent faitz en les ans du regne le Roi Edward aiel nree dit f' le Roi primer \& quart, et auxint en lan de nre f" le Roi qore est primer, woient tenuz \& gardez \& duement executz en toutz pointz.
Item est assentuz \& le Roi defende estroitement $\tilde{q}$ decy enavant nulle prone aliene ou denszein de quelconq, estat ou condicion qil soit amesne ou envoie ou face amesner ou envoier p Pre ou p meer hors du Roialme Denglefre as ascunes pties Descoce en prive ne en appt ascune mabe darmure de blee de brees ne dautre vitaille ou dautre refresthchement queconq, sur peine de forfaiture de meames les vitailles armures \& des autres choser avantdites ensemble avee lea niefs vesseulx charettes \& chivalx qi les portent ou amement, ou de la Droie value dicelles, si ensi ne soit ã le

[^9]Force and Effect in all Points; and moreover it is asented, That if any Alien have purchased, or from be tiable tho henceforth shall purchase any Benefice of Holy Church, the Penalties henceforth shall purchase any Benefice of Holy Church, of as Ed.IIt.
Dignity, or other Thing, and in his proper Person take at. $5 . \mathrm{c} .32$. Dignity, or other Thing, and in his proper Person take
Possession of the same, or occupy it himself within the Possession of the same, or occupy it himself within the Realm, whether it be to his own proper Use, or to the Use of another, without especial Licence of the King, he shall be comprised within the same Statute; and moreover shall incur all Pains and Forfeitures in all Points as is before ordained by another Statute made the Five and twentiech Year of the noble Xing Edward the Third, Grandfather to our Lord the King that now is, againft them that purchase Provisions of Abbeys or Priories; and to the Intent that such Licences shall not be from henceforth made, the King willeth and commandeth to all his Subjects and other, that they shall abstain them from henceforth to pray him for any such Licence to be given; and also the King himself will refrain to give any such Licence during the Wars, except to the Cardinal of Naples, or to some other special Person to whom the King is beholden for a special Cause.

ITEM, It is ordained and assented, and also the King doth prohibit, That from henceforth no Man shall ride in Harness within the Realm, contrary to the Form of the Statute of Northampton thereupon made, neither with Launcegay within the Realm, the which Launcegays be clearly put out within the said Realm, as a Thing prohibited by our Lord the King, upon Pain of Forfeiture of the said Launcegays, Armours, and other Harness, in whose Hands or Possession they be found that bear them within the Realm, contrary to the Statutes and Ordinances aforesaid, without the King's special Licence.

ITEM, In Writs of Pramunire facias, It is assented and agreed, That they against whom such Writs be sued, and who at this Time be out of the Realm, and be of good Fame, and have made their general Atturnies before their departing, that the Chancellor of England for the Time being, by the Advice of the Justices, may grant, that the same Persons may appear to answer, to do, and to receive that Thing which the Law demandeth, by their general Atturnies aforesaid, as well as in other Causes and Quarrels ; and those Persons which from henseforth shall pass by the King's Licence, and be of good Fame, that at their Request the Chancellor, by the Advice of the Justices, may grant to them to make their general Atturnies in the Chancery by the King's Patent, before their Passage, to answer as well in the said Writs of Pramunire facias, as in other Writs and Plaints ; in which Case express Mention shall be made at all Times of the Writs and Plaints of Pramunire at all Times of the Writs and Plaints of Pramunire facias; and this Patent so made, the said Atturnies from henceforth, in Absence of their Masters, may an-
swer [for them, and make '] other Atturnies under swer [for them, and make'] other Atturnies under them, before any Judge of the Realm, $\left[10^{\circ}\right]$ do and receive in the said Case as much as in any other Case or Matter, notwithstanding any Statute made to the contrary heretofore.

ITEM, For the grievous Complaint that is made of Maintainera of Quarrels, and Champertors ; It is ordained and assented, That the Statutes thereof made in the First and Fourth Years of King Edward, Grandfather to our Lord the King that now is, and also in the First Year of our Lord the King that now is, shall be holden and kept, and duly executed in all Points.
ITEM, It is assented, and the King straitly defendeth, That from henceforth no Person, Alien nor Denizen, of whatsoever Estate or Condition that he be, shall carry nor send, nor do to be carried nor sent, by Land nor by Sea, out of the Realm of England, to any Parts of Scotland, privily nor apertly, any Manner of Armour, Corn, Malt, or other ViQuals, or any other refreshing, upon Pain of Forfeiture of the same Victuals, Armours, on Pain of and other Things aforessid, together with the Ships, thereof Vessels, Carts, and Horses which shall bring or carry the same, or of the very Value of the same, except so it be
'hibraunuciand
' and
that the King do give his special Licence to the contrary. And to the Intent that these Ordinances be duly kept and put in due Execution, It is also assented, that he which after Proclamation thereof made, expy and prove that any hath offended or forfeit in any Point agunst the Form of this Ordinance, shall have the Third Part of the said Forfeitures wholly to his own Use (').

ITEM, It is assented and accorded, That in Writs of Debt, Treeppass, and Account, and in all other Cases where Mainprise and Writs of Supersedeas be grantable, that if the Persons [comprised'] come not before the Judgea at a Day comprised in the same Mainprise, and by so much the Plaintiff is put to Delay and Loss, the sidd Mainpernors shall be answerable to the Plaintiffs of a certain Sum of Silver, to be limited by the Ditcretion and Advice of the said Judges, having Consideration to the Quality and Quantity of the Damager of the to the Quality and Quantity of the Damages of the
Parties, and of the Things in Demand. And this Or. Paries, and of the Things in Demand. And this Or-
dinance of Mainpernors shall endure in Assay till the dinance of Mainperno
next Parliament only.
(' And therefore We command you that as well the asid Statute of Winchester, four times in each Year from henceforth, in Manner as abore is ordzined, as the other Sututes and Ordinances above written, in all the Cities, Borought, Market Townt, and otber notable laces within your Bailiwick, where it dhall seem to you most expedient, within Franchise and witbout, you do cause to be proclaimed on our behalf, and to be publiahed and duly kept and observed according to the Form and Efed of the same. Giren under the Witness of our Great Seal at our Pahce of Westuninter the Twentysixth Day of Norember, in the Serenth Year of our Reign.')

Like Commandt of the King are directed to the keveral Sheriffs throughout England, under the same Date.


- Former Trailations read ooly thum :

And herefore We command you, \&cc. Dated, \&ce.

Roi nire $f$ nent donne a licence especiale a contrie. Et au fyn q̃ ceste ordinance soit duement gardez \& mys en boae execucioñ est auxint asuentuz $\tilde{q}$ celluy qi ap: § proclamacion ent woit faite purra espier \& pver qascuas eit mespris, ou forfait en ascun point contre la forme de cente ordinance, eit la tierce ppie des dites forfuiures entement a son ppre oeps $\mathrm{p}^{\prime}$ son traille. Item ent assentuz \& accordex gen briefs de dette trespas \& de accompte, \& en toutz autres cas ou maynprise \& brief de Supeedeas mont g'nables, ai les prones maunprisez ne viegnent mye devant les Juges au jo compris en mesme la meynprise, \& $p$ tant le pleinuif soit mys en delay \& pde, soient les ditz meinpnours respoignables as pleintifs dune cteine tome, (') a limiter pla discrecion \& advis des ditz Juges, eiantz consider2 cion a la qualitee \& quantitee des damages du prie \& de la chose en demande. Et si durera ceste ordinance des mainpno's en asaie, tang, al pehein plement tantsoulement.

Et purce vous mandons $đ$ ą sibn le dit Etatut de Wyncestre quatre foitz chescun an decy enavant $p$
 ordinances desusescritz en toutz les Citees Burghs villes marchees \& autres lieux notables deinz vre baillie ou vous verrez $\AA$ q mieutz soit affaire deinz franchise \& dehors, facez pelamer dep nous \& publier \& duement garder \& tenir selone la forme \& effed dicellet. Doñ p tesmoignance de nře g'nt Seal a nire Paleys de Weum avantdit le xxvj-- jour de Novembre lan de nfe regne septisme.

Consimilia mandata \& dirigunt' tingulis Vicecomitibs D Angt sub eadem dat.
' dargent OId Printed Copict.

## Anno $8^{\circ}$ RICARDI, II. A.D. 1384.

## Statutū apuo durestm anno octabo editū.

STATUTE made at WESTMINSTER in the Eighth Year.

TO the Honour of God, and at the Request of the Commonalty of the Realm of England made to our Lord the King in his Parliament holden at Westminster in the Morrow of St. Martin, the Eighth Year of his Reign; the same our Lord the King of the Assent of the Prelates, Great Men, and Commons aforesaid, hath caused to be made in the same Parliament, a certain Statute for the common Proft of the said Realm, and especially for the good and just Governance, and due Execution of the Common Law, in the Form following.
FIRST, It is [ordained and enacted,'] that Holy Church have all her Liberties; and that the Great Charter, and the Charter of the Forest, the Statutes of Purveyors and Labourers, and all other Statutes and Purveyors and Labourers, and an other Statutes and
Ordinances heretofore made and not repealed, shall be Ordinances heretofore made and not repeaied, shall be
holden and observed, and put in due Execution accordholden and observed, and put in due Exe
ing to the Form and Efeat of the same.

ITEM, It is [ordained and assented,'] That no Man of Law shall be from henceforth Justice of Assises, or of the common Deliverance of Gaols in his own Country; and that the Chief Justice of the Common Bench be assigned amongst other to take such Assises, and deliver Gaols; but as to the Chief Justice of the King's Bench, it shall be as for the most part of an hundred Years last past was wont to be done.
' 1 accorded and satuted MSS. Tr. 2.

## Ex Ret. Stat. in Turr. Lond. II. m. 18.

$A^{\text {D }}$D honorem dei \& requisictem caitatis regni Angt flam dño Regi in pliamento suo tento apud Westū in Crastino Ši Martini anno regni sui oCtavo, idem
 quoddam statutû in eodem pliamento $p$ còi utilitate đ̌̌i regni \& psertim obona \& justa gubnaçbe ac debita execuře cơis legis fieri fecit in forma subsequenti:
In primis concordatû est \& statutũ qđe sča ecctia hea: onies libtates suas, \& qđ Magna Carta \& Carta de Foresta, Statuta de pvisoriby \& laboratoriby \& ounia alia statuta \& ordinaĘGes ante hee têpora edita \& mirime revocaza teneant' observent' \& execuCбi debite demandent' juxta formam \& efǐm copdem.
hem concordatū est \& statutū qqđ nullus homo de lege sit deceio Justiex ascisay vel cüis delibactis gaolap in ppria prìia sua et qđ capialis Justic de cõi Banco assignet' in? alion ad $\mathrm{n}^{9} \mathrm{i}$ assisas capiend \& ad gaolas deliband set quoad capitalem Justic de Banco Regis fat


Ward of Farringdon.Within may eleAt an Alderman, wise, sufficient, and able to gorem the asid Wand Withis, and to be named the Aldermen of the Ward of YarringdonWithing and that between this and the said Feast of Saint Gregory the People of the Ward of Farringdon-Without may eicot anocber Alderman, wise, aufficient, and able to govern the asid Ward Without, and to be named the Alderman of the Ward of Furringdon-Without: And that the said Two Addermen so eleqed may be ettabliahed and not removed, except for Cause reasonable, as it ordalned and granted by our aid Lord the King in this Parliaments, of the other Aldermen of the suid City.

THE King to the Sheriff of Kent, Greeting. A certain Satute, in our hat Parliament holden at Wetminater, by U. with the Awent of the Great Men and Commons of our Realm of England there ausiating Ut, made, We do rend to you in Form Patent; Commanding that the ame Statute and all and singular the Articles in the ame contained, in the Cities, Boroughe, Market Towns, and other Places within your Bailiwick, where you shall wee it to be moat expedient, you do cause to be publicly proclaimed, and as far as in you lieth, to be firmly and inviolably obverved. Witness the King at Weatminater, the firt Day of June.

By the King Himeelf and Council.
Like Write are direded to the everal Sherifft throughout England; and to John Duke of Aquition and Lancater, or to his Chancellor in the ame Duchy of Lancater, under the ame Date.
garde de Farndoñ dedeins puisent ealire un Alderman sage sufficeant \& able $\mathrm{P}^{\prime}$ gofner mesme la garde deieins, \& eatre nome laldermaĩ de la garde de Farn. doñ dedeina; et $\tilde{q}$ pentre cy \& le dit fear de Seint Gregoire lea gentz de la garde de Farndoñ dehors puisent ealire un autre Aldirman mge sufficeant \& able $\mathrm{p}^{\prime}$ gotner mesme la garde dehors, \& eutre nomex talderman de la garde de Farndoã dehora. Et $\ddagger$ les ditz deux Aldermans iseint ealuz puisent eatre estahlix \& nemye remoex ai noun o cause resonable, come ordeinez est \& gintex $D$ nire dit f' le Roi en ceat plement des aups Aldermans du dite Citee.
B. Vic Kañ, satm. Quoddam statutum in ultimo pliamento nĩo apud Westmin tento p noe de assensu Magnatum \& CVitatis regni nĩi Angt nobiscum ibidem tunc assistenciü editul tibi mittim ${ }^{9}$ in forma patenti; Mandantes qd Statutum illud $\&$ omies $\&$ singulos arti. culos in eodem contentos, in Civitaibus Burgis Villis icatoriis \& aliis locis infra ballivì tuam ubi melius expediri videris, publice pelamari \& quantum ad te pinet firmil \& inviolabilit observari fac. T. B. apud Westä primo die Junii.
pippm Regem \& consilium.
Cossimilia bria dirigunt' singulis Vicecomitibs D Angt; ac Johi Duci Aquit \& Lancastü vel ejua Cancellario in eodem Ducatu Lancastr̈ sub eadem data.

$$
\text { Anno } 20^{\circ} \text { RICARDI, II. A.D. 1396-7. }
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Statutū de Anno ditestimo.
STATUTE of the Twentieth Year.

T CHE XING at his Parliament holden at Westminater in the Feast of Saint Vincent, the Twentieth Year of his Reign, by the Assent of the Prelates, Lords, and Commons of his Realm [of England,] assembled in the same present Parliament, for the Quietness and Tranquillity of his People, hath made certain Statutes and Ordinances in the Form which followeth:
Reciul of S. FIRST, Whereas in 2 Statute made the Seventh Year 7 R.II. c.is3 of the Reign of the King that now is, it is ordained and assented, That no Man shall ride armed within the Realm, against the Form of the Statute of Northampton thereupon made, nor with Launcegays within the same Realm; and that the said Launcegays shall be utterly put out within the said Realm, as a Thing prohibited by the King, upon Pain of Forfeiture of the same Launcegays, Armours, or any other Harness, in the Hands and Possession of them that bear them, from henceforth within the same Realm against the same Sta. tutes and Ordinances, without the King's special Licence:

Ex Rot. Stat. in Turr. Lond. II. m. 4
TE ROY en con parlement tenuz a Westīn en la $\triangle$ feste de Seint Vincent lan de son roialme vintiame, del assent des Prelatz fis \& Cömunes de son roialme en mesme le parlement, pur quiete \& t'nquillite de son poeple ad fait cteins estaturz \& ordenances qensuient.
Primement, come en un estatut fait lan septisme du regne nire Seignur le Roy soit ordeignez \& assentux〒ั nult höme chivache deins le Roialme ammez contre la fourme de lestatut de Norhamptoñ sur ce fait, ne ovesq lancegaye deins meame le roialme, of $\mathfrak{q}$ les ditz lancerayes soient de tout oustez deins le dit Roialme, come chose defendue par le Roy sur peyne de forfaiture dieclice lancegayes armures \& auts hernoys quelconques, es mayns \& possessioñ dycelx qui les porfa delors deinz mesme le Roialme encontre ycelles ectatutz \& ordenances anaz espale congie du Roy:

Nre Seignur le Roy considerant le g'nt clamour a luy fít en cest prent plement de ce à le dit estatut nest mye tenur, Si ad ordeignez \& establiz en mesme le plement $\tilde{q}$ les ditz estatutz soient pleinement tenuz \& gardez \& duement executz; et $\tilde{q}$ les ditz lancegayes soient tout outment oustez sur la peine contenve en le dit estatut de Northamptoĩ \& outre de fair fyn \& ranceon au Roy. Et outre ce $q$ nult $\boldsymbol{R}^{\prime}$, Chivaler nautre petit ne $g^{\text {nt }}$ aile ne chivache $p$ noet ne jour armes ne porte Palet ne chapett de ferre nautre armure sur la peine susdre; Sauvez \& exceptz les offics \& Ministres du Roy enfuisantz leur offices. Et outre ce le Roy voet \& ad ordeignez ö lestatut fait lan de son regne prime de livee des Chaperons soit tenuz \& gardez sur la peine contenue en mesme lestatut \& sur peine destre emprisonez \& de fair fyn \& ranceon au Roy.
Item $\tilde{q}$ Vadletz appellez Yomen ne nutt aup de meindre estat qesquier ne use ne porte nult signe ne livee appelle livee de compaignie dascun f' deins le roialme, sil ne soit menial \& fanilier ou officer continuel de son dit $f^{\prime}$ et $\tilde{q}$ les Justices de la paix' aient poair denquer de ceux qi font a lencontre $\&$ de les punir selonc leur discrecion.
Item le Roy voet $\&$ defende $\bar{q}$ nult $f^{\prime}$ nautre du pais petit ne g'nt ne soit seant en Bank ovesp, les Justices as assises phdre en leur sessions es Countees DenglePre sur grief forfaiture Vs le Roy; Et ad chargez ses ditz Justices qils ne soeffrent le contraire estre fait.

Item $\bar{q}$ come il soit contenuz en un estatut de $f^{\prime}$ Edward nadgairs Roy Dengle?re Aiel a nĩe f' le Roy qorest lan de son regne vynt \& oetirme, $̃$ qulle mahte de nief $\AA$ soir frette deVs Engle?re ou aillours soit artez de venir a nul port Dengle?re ne y dem'er contre le gree des Mestres \& Marihs dicelle, ou des Marchantz as queux les biens sont, et si tielx niefs veignent de gree ou soient chacez $p$ tempeste ou aup infortune ou meschief a ascun port Dengle?re \& les Meistres \& marifis ou Marchantz de mesmes les niefs voillent vendre \& deliver ptie de leur michandises $p$ loure bone voluntee, bien lise a chescuny tieles michandises achatre franchement $\operatorname{sanz}$ empeschement en le port ou tieles niefs viendront, tout ne soient les michandises mises a la Tre pur vendre; Et $\ddagger$ I les Meistres Marihs \& Marchantz, ap̧ ce qils avont issint venduz ce ã lour plerra de leur ditz biens \& paie ent la custume, puissent funchement deptier \& aler ove lour niefs \& tout le remenant de lour bĩs pla ou lour plerra sanz custume ent paier: Nĩe Seignur le Roy $\mathrm{p}^{\prime}$ la quiete \& ease de son poeple voet $\check{4}$ le dit estatut soit tenuz \& gardez en toutz pointz \& duement executez nient contreesteant ascune ordeignance ou usage a contrie.
hem pur ce đั les Cömunes cunt fuit compleint đ̀ plusours $g^{\prime}$ ntz meschiefs extorsions \& disease sont faitz pdives gentz de mauveis condicion đ̀ de leure autloritee demesne phignont \& font phdre roialment chivalx $\&$ auts choses $\&$ bestes hors de leur charues charettes \& mesons, disantz \& imaginantz qils sont a chivaucher en hastifs messages ou bosoignes, la ou en Vite ils ne sont aucunement privez de nulle bosoigne ou message, mes soulement en deceite \& subalite $p^{\prime}$ phdre chivalx

Our Lord the King, considering the great Clamour made to him in this present Parliament, because that the said Statute is not holden, hath ordained and esta. blished in the said Parliament, That the said Statutes shall be fully holden and kept, and duly executed; and that the said Launcegayes shall be clear put out upon the Pain contained in the said Statute of Northampton, and also to make Fine and Ransom to the King. And moreover, that no Lord, Knight, nor other, little nor great, ahall go nor ride by Night nor by Day armed, nor bear [Sallet '] nor Skull of Iron, nor [of '] other Armour, upon the Pain aforesaid; save and except the King's Officers and Ministers in doing their Office. And Moreover, the King will and hath ordained, that the Statute made the First Year of his Reign, of Liveries of Hats, shall be holden and kept upon the Pain contained in the same Statute, and upon Pain to be imprioned, and make Fine and Ransom to the King.
ITEM, That no Varlets called Yeomen, nor none other of less Estate than Esquire, shall use nor bear no [Sign of Livery '] called Livery of Company of any Lord within the Realm, unless he be menial and familiat or continual Officer of his said Lord. And that the Justices of the Peace shall have Power to enquire of them, which do to the contrary, and them to punish according to their Discretion.
ITEM, The King doth will and forbid, That no Lord, nor other of the Country, little nor great, shall sit upon the Bench with the Justices to take Assiser, in their Sessions in the Counties of England, upon great Forfeiture to the King ; and hath charged his said Jus. tices, that they shall not suffer the contrary to be done.
ITEM, Whereas it is contained in a Statute of the late King Edward, Grandfather to the King that now is, the xxviij Year of his Reign, That no Manner of Ship, which is freighted toward England, or elsewhere, thall be compelled to come to any Port of England, nor there to tarry against the [Agreement '] of the Masters and Mariners of the same, or of the Merchants to whom the Goods be; and if such Ships come of their own Good-will, or be driven by Tempest, [Casualty, or other Misfortune, ${ }^{\text {' }}$ to any Port of England, and the Masters or Mariners, or Merchants of the same Ships, will sell or deliver Part of their Merchandizes with their Good-will, it thall be lawful to every Person to buy such Mer. chandizes freely without Impeachment in the Port where such Ships shall come, albeit the Merchandizes be not [put to Sale to the Land ;"] And the Masters, Mariners, and Merchants, after that they have so sold so much as plesseth them of their said Goods, and the Custom thereof paid, may freely depart and go with their Ships, and all the Remnant of their Goods, where it shall plesse them, without paying thereof Custom: Our said 1.ord the King, for the Quietness and Ease of his People, willeth, That the said Statute shall be holden and kept in all Points, and duly executed, notwithstanding any Ordinance or Usage to the contraty.
ITEM, Forasmuch as the Commons have made Complaint, that many great Mischiefs, Extortions, and Oppressions be done by divers People of evil Condition, which of their own Authority take and cause to be taken royally Horses and other Things, and Beasts out of their Wains, Carts, and Houses, syying and devising that they be to ride on hasty Messages and Business, where of Irruth they be in no wise privy of any Business or Mesage, but only in Deceit and Subtilty by such Colour

[^10] 'or other Misfortune ut Mischief, 'put to Land, to sell.

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Jan. 20. To the sherifis of London. Writ of supersedeas, and urder by Wemtminater, mainprise of William Carneby, John Laweson, William Clifforde and Henry Cotes, each of London 'wever,' to set free Adam 'Jonesservant Boston cooke, ${ }^{\text {' }}$ if taken at the several suits of Richard Meryot of London 'goldsmyth' and Thomiss Totenham averring threats.

Jan. 26. John Bolyngbroke esquire to Master John Kyngton clerk, Weatminstor. William Wilyngham parson of Ketilthorp and Simon Fouler. Recognisance for $40 l$., to be levied etc. in Notynghamshire.

Feb. 7. To the sheriff of York. Order upon sight etc. to cause proclaWestminetor, mation to be made, that no man of whatsoever estate or condition shall under pain of forfeiture take over wool, corn or other merchandise in any places by the sea called 'crykes' or any other places, known ports excepted, without special licence of the king.

Like writs to the sheriffs of the following counties etc. :
Kent.
Suthampton.
Essex.
Norffolk and Suffolk. Bristol.
Surrey and Sussex. Also to the chancellor of the county palatine of Lancastre.

## MEMBRANE $23 d$.

Jan. 25. To the sheriffs of Norwich. Writ of supersedeas, and order by Wistmiuters mainprise of John Alderforde, William Champeneye, Thomas Dounham and William Folkys of Norffolk to set free Alan Buntrell of Norwich 'corsour,' if taken at suit of the king and Nicholas Castel esquire for leaving the service of Nicholas Castel before the term agreed.

Fob. 4. To the sheriffs of London. Writ of supersedeas, by mainprise of Wostminster. John Jay, Robert Aby, William Skendelby and Thomas Leefe of Suthwerke co. Surrey, in favour of John Welles of Suthwerke 'whittawer" at suit of John Fuller of London 'glover' ${ }^{\text {' averring }}$ threats.

Jan. 30. To the mayor and sheriffes of London. Order upon sight ete. to Westminater. cause proclamation to be made, on the king's behalf forbidding any man of whatsoever estate or condition to go armed within the city and suburbs, or any except lords, knighta and esquires with a sword, and the $\mathrm{king}^{\prime} \mathrm{s}$ will is that one sword and no more be borne after each of these, under pain of forfeiting armour and swords, or there to make unlawful assemblies, disputes, affrays or riots, and order to arrest all whom they may find so doing after the proclamstion, with their armour and swords, and commit them to the nearest prison, there to abide until the king shall take order for their deliverance ; as the king has information that great number of disputes etc, are made within the city by certain lieges gathering

## Membrane 23d-cont.

in such aksemblies with hauberks, swords and other arms aud armour contrary to divers statutes and other ordinances, and in these days more than were used to be in times past, in contempt of the king, to the terror and disturbance of the people and contrary to the peace, and his will is that peace be cherished there and elsewhere within the realm. By K. and C.

Edmund Hamden, John Buktoft clerk, Walter Gayton, John Skrevan and John Kenwoldmerssh to Elizabeth la Vache late the wife of Philip la Vache knight. Grant that she shall not be tronbled by them, their heirs or assigus for any waste now or hereafter made in the manor of Hognorton co. Oxford, whereof she is tenant for life with reversion to them, but shall be discharged of all action for waste therein. Dated 1 January 10 Henry IV.

Memorandum of acknowledgment, 6 February.
Henry ate Grene, otherwise 'Leycestre heraude,' to Thomas Fereby clerk and John de Pokelvniton, their heirs and assigns, Charter indented with warranty of the three messuages, lands, woor ete. in the town and county of Hertforde which he had by feoffment of Maud Blakwelle his mother, sometime wife of Robert Blakewelle, and the reversion thereof after the death of William Blakewelle and Joun his wife, reserving to the grantor and his assigus duting his life, with rensainder to the grantees, the chamber on the right hand side just within the gate of one of those messuages wherein his mother lately ciwelt, and a stable to that chamber aljacent, also the chamber there between the kitchen and the garden, with free ingress and egress, under a condition for defeazance of this grant if John de Pokelynton, his heirs and asoigns, pay not 301 . to the grantor or his attorney, namely 101. at Easter next, 10l. at Michaelmas following and 10 l at the Purification following, any clause in this charter and any money paid notwithstanding. Witnesses: Nichola, Schosse bailiff of Hertforde. Master Thomas Ferrour, John Carpenter, Henry Fuller, John Fleecher, William Lythyng. Dated Hertforde, ? February 140s, 10 Henry IV.

Afemorandum of ncknowledgment, 7 February,
Fel. 9. T'o the treasurer and the barons of the exchequer. Writ of Thestunastir. supersedeas omnino in respect of any process against William Banastre, appointed with others, upon an information that John Kyghlay and John Kent banished Englishmen, Wybert Freton a banished Frenchman, the captain of Boulogne, John Burnet, Willinm Ryncelyn and the captain of Normandy of France, and Uter Jonessone banished from Flantlers committed and attempted at sen great numbur of roblecries and misdeeds, contrary to the truce between England and France and to the appointment made ut Lenlyngham by the ambssedors of England and Franoe, whereby war might be like to arise, to arrest those robbers and evildoers, their accompliees and partisans and others of Seint

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A :s in further it is Enaced by the Authority aforelaid, That all Fines, Penalties, and lorfeitures arifing by force and virtue of this Act, thall be, the one Half to Their Majecties, towards the Support of the Government of this Province, and the other Half to him or them that fhall iuform and lue for the fame in any of Their Majefties Courts of Record within this Province.

Be it further Enacted by the Authority aforefaid, That there be a Meafurer of Salt, and Culler of Fith in every Sex-port Town within this Province, to be appointed, as aforefaid, who being likewife fivorn for the faithful Difcharge of that Office, Shall cull all merchantable Fifh, and meafure all Salt that fhall be impoted and fold out of any Ship or other Veffel, and fall have Threeh.lff Pence for every Hoghead of Salt by him fo meafured to be paid, the one Half by the Buyer, the other Half by the Seller ; and One Peny per Quintal for every Unintal of merchantable Fiih by him culledi to be paid, one Half by the Buyer, and the other Half by the Seller.


## An ACt for the Punifbing of Criminal Offenders.

BE it Enacted and Ordained by the Governor, Council, and Reprefenta: tives, in General Court Affembled, and by the Authoriry of the fame, That if any Perfon or Perfons thall prophanely Swear or Curfe in the hearing of any Juftice of the Peace, or fhall be thereof convicted by the Oaths of Two Wienelfes, or Confeflion of the Party, before any Juftice or Juftices of the Peace, every fuch Offender fhall forteit and pay unto the Ufe of the Poor of the Town where the Offence thall be committed, the Sum of Five Shillings; and if the Offender be not able to pay the faid Sum, then to be fet in the Stocks, not exceeding Two Hours : And if any Perfon thall utter more prophane Oaths or Curfes at the fame time, and in hearing of the fame Perfon or P'erfons, he fhall forfeit and pay to the Ufe aforefaid, the Sum of Twelve Pence for every Oath or Curfe after the firit, or be fet in the Stocks Three Hours.

Provided, That every Offence againft this Law fhall be complained of, and proved, as aforefaid, within Thirty Days next after the Offence committed.
Furtaer it is Enacted by the Aurhority aforefaid, That every Perfon convicted of Drunkennefs by View of any Juftice of Peace, Confeffion of the Party, or Oaths of Two Witneffes, fuch Perfon fo convicted, fhall forfeit and pay unto the Ufe of the Poor of the Town where fuch Offence is committed, the Sum of Five Shillings for every fuch Offence; and if the Offender be unable to pay the faid Sum, to be fet in the Stocks, not exceeding Three.Hours, at the Differetion of the Juftice or Juftices before win:n the Conviation fhall be: And upon a fecond Conviction of Drunkennefs, every fuch Offender, over and above the Penalty aforefaid, fhall be bound with Two Surecies in the Sum of Ten Pounds, with Condition for the good Behaviour; and for want of fuch Surctics, thall be fent to the Common Goal until he find the fame.

Provided, That no Perfon fhall be impenched or molefted for any Offence againt this Aat, unlefs he thall be theteof Prefented, Indicted, or Convicted, within Six Mohths after the Offence cormmitted; and the luftice or Juftices before whom Cohviction of any of the aforefiid Offences fhall be, are hereby inipowered and authorized to reftram or commit the Offentex, until the Fine impofed for fach Offence be fatisfied; or to caufe the fame to ie ievied by Diftrefs and Sale of the Offender's Goods, by Warrant directed to the Conftable, returning

## Anno Regns Quarto Gulielmi $\mathcal{E}$ Marix.

returning the Overplus (if any be.) All fuch Fines to be levied within One Week next after fuch Conviction, and delivered to the Select-men, or Overfeers of the Poor, for the Ule of the Poor, as aforefaid.

It is further Enacied and Ordained by the Aushority aforefaid, That who- Thert. foever fhall fteal or purloin any Money, Goods, or Chattels, being thereof convitted by Confellion, or fufficient Witnefs upon Oath, every fuch Offender fhall forfeit treble the Value of the Money, Goods, or Chattels fo ftoln or purloined, unto the Owner or Owners thereof; and be further punifhed, by Fine or Whipping, at the Difcretion of the Court or Juftices that have Cognizance of fuch Offence, not exceeding the Sum of live Pounds, or Twenty Stripes: And if any fuch Offender be unable to make Reftitution, or pay fuch Threefold Damages, fuch Offender fhall be enjoyned to make Satistaction by Service; and the Profecutor fhall be, and hereby is impowered to difipofe of the faid Offender in Service to any of Their Majefties Subjects, for fuch Term as thall be affigned by the Court or Juftices before whom the Profecution was. And every Juftice of the Peace in the County where fuch Offence is committed, or where the Thief fhall be apprehended, is hereby authorized to hear and determine all Offences againft this Law: Provided, that the D.mage excoed not the Sum of Forty Shillings. And if any Perfon thall commit Burglary Rartarz ins by breaking up any Divelling-houle, Ware-houfe, Shop, Mill, Malt-houfe, Rubb.ry. Barn, Out-houle, or any Ship or other Veffel lying within the Body of the County, or fhall rob any Perfon in the Field or High-ways, every Perfon fo offending fhall, upon Conviction, be branded on the Foreliead with the Letter $B$; and upon a fecond Convittion, fhall be fet upon the Gallows for the fance of One Hour, with a Rope ahout his Neck, and one End thereof caft over the Gallows, and be fevercly Whipt, not exceeding Thirty rune Seripes; and upon 2 third Convittion of the like Offence, fhall futter the Pains of Death, as being Incorrigibles and thall likewife, upon the firt and fecond Convitaions, pay treble Damages to the Party injured, as is provided in cafe of Theft.
A s d it is further Enacted by the Authority aforefaid, That if any Man Furmias:on. commit Fornication with any fingle Woman, upon due Conviction thereot, they fhall be fined unto Their Majelties, not exceeding the Sum of Five Pounds; or be corporally punithed by Whipping, not exceeding Ten Stripes apiece, at the Difcretion of the Selfions of the Peace, who fhall have Cognizance of the Offence. And he that is accufed by any Woman to be the Father of a Baftard ReperafaChild, begotten of her Body, fhe continuing conftant in fuch Accufation, being tititith i is examined upon O2th, and put upon the Dilcovery of the Truth in the time of her Trivail, fhall be adjudged the Reputed Father of fuch Child, notwithItanding his Denial, and ftand charged with the Maintenance thereof, with the Alliftance of the Mother, as the Juftices in the Quarter-Seffions fhall order; and give Security to perform the faid Order, and to fave the Town or Place where fuch Child is born, froc from Charge for its Maintenauce; and may be committed to Prilon until he find Sureties for the fame, unlefs the Pleas and Proofs made and produced on the behalf of the Man accufed, and orber Circumftances, be fush as the Juftices fhall foc reafon to judge him innocent, and acquit him thereof, and otherwife difpefe of the Child: Aod every Juftice of the Peace, upon his Difretion, may bind to the next Quarter-Seftions him tbat is charged or fufpected to have begotten a Baftard Child; and if the Woman be oot then delivered, the Seffions may order the Continuance or Renewal of his Bood, that be may be forth-coming when the Child is born.

Further it is Enacted by the Authority aforefaid, That every Juftice of power vi:so the Peace in the County where the Offence is committed, may caufe to be fesce. ftaid and arrefted all Affrayers, Rioters, Difturbers, or Breakers of the Peace, and fuch as thall ride or go armed Offenfively before any of Their Majeftics Juftices, or other Their Officers or Minitters doing their Office, or elfewhere,
by Night or by Day, in Fear or Affray of Their Majeftes Liege People; and fuch others as thall utter any Menaces or Threatning Speeches; and upon View of fuch Juftice or Juftices, Confeffion of the Party, or other legal Conviction of any fuch Offence, thall commit the Offender to Prifon, until he find Sureties for the Peace and good Behaviour, and feize and take away his Armour or Weapons, and thall caufe them to be apprized and anfwered to the

Preathof lise. King as forleited: And may further punith the Breach of the Peace, in any Perion that fhall fmite or ftrike another, by Fine to the King, not exceeding Twenty Shillings, and require Bond with Sureties for the Pcace, or bind the Offender over to anliver it at the next Seffions of the Peace, as the Nature or
Fonibl Fintry Circumltance of the Offence may be; and may make Enquiry of forcible Entry and Detainer, and caule the fame to be removed, and make out Hue and Cries after Runaway Servants, Thieves, and other Criminals.
 1xlinn: or Perfons of the Age of Difcretion (which is accounted Fourteen Years, or upwads) fhall wittingly and willingly make or publith any Lye or Libel, tending to the Detamation or Damage of any particular Perfon, make or fpread any falle News or Reports, with Intent to abufe and deceive others, every fuch Perfon or Perfons offending in any of the Particulars before mentioned, and being duly convicted thereof before One or more Juftices of the Peace, fitill be fined according to the Degree of fuch Uftence, not exceeding the Sum of Twenty Shillings tor the firft Conviction, and find Sureties for the good Prehaviour: And if the Party be umable to pay the faid Fine, then to be let in the Stocks, not exceeding Three Hours, or be corporally punifhed by Whipping, at the Diferetion of the Juftice or Juftices before whom the Conviction thaill be, according as the Circumftances or Nature of the Offence thall be ; and the faid Juftice or Juftices may reftrain and commit the Offender until he pay the laid line, and find Sureties for the good Behaviour, or may caufe the lime to be levied by Diftrefs and Sale of the Offender's Goods; and the Party or Parties grieved or injured by resfon of any of the Offences aforefaid, thall or maly t.ke his or their Suit aguinft any fuch Offender or Offenders in any Court of Record.
Fweet; It is further Enacted by the Authority aforefaid, That if any Perfon or Perfons, upon his or their own Head or Imagination, or by falle Confpiracy and Fratd with others, fhall wittingly, fubtilly, and talfely forge or make, or fubtilly caule, or wittingly affent to be forged or nade, any falfe Deed, Conveyance, or Writing fealed, or the Will of any Perfon or Perfons in Writing, to the Intent that the Eftate of Free-hold or Inheritance, Right, Title, or Intereft of any Perfon or l'erfons, of, in, or to any Lands, Tenements, or Hereditaments, fhall or may be molefted, troubled, defeated, recovered, or charged, or thall, as is aforefaid, forge, make, or caufe or affent to be made or forged, any Obligation, or Bill Obligatory, Letter of Attorney, or any Acquittance, Releafe, or other Difcharge of any Debr, Account, Action, Suir, Demand, or other Thing Perfonal ; or if any Perfon or Perions fhall pronounce, publifh, or thew forth in Evidence, any fuch falfe and forged Deed, Conveyance, Writing, Obligation, Bill Obligatory, Letter of Attorney, Acquittance, Rele.afe, or Difcharge, as true, koowing the fame to be falfe and forged, as is aforefaid, to the Intent above remembred, and fhall be thereof convicted, either upon Action or Actions of Forger of talle Deeds to be founded upon this Act at the Suit of the Party grieved, or otherwife according to the Order and due Courfe of Law, or upon Bill or Intormation, that then every fuch Offender fhall pay unto the Party grieved his double Cofts and Damages, to be found and affeffed in fuch Court where the faid Conviction fhall be; and alfo thall be fer upon the Pillory in fome Market-Town, or other open Place, and there to have One of his Ears cut off, and alfo fhall have and fuffer Imprifonment by the Space of One whole Year withour Bail or Mainprize ; and the Party or Parties grieved by
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terpofition difarmed of her natural weapons, free argument and debate, errors ceafing to
II. BE it enticed by the General Afimbly, That no man fall be compelled to frequent or fupport any religious worthip, place, or Miniftry whatfoever, nor shall ie enforced, refrained, molested, or burthened in his body o: goods, nor fall otherwife fuffer on account of his religious opinions or belief; but that all men Shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the fame hall in no wite diminish, enlarge, or affect their civil capacities.
III. AND though we well know that this Afiembly elected by the people for the ordinay purpofes of legiflation only, have no power to retrain the Acts of fucceeding Affembliss, constituted with powers equal to our own, and that therefore to declare this Act to be irrevocable, would be of no effect in law"; yet we are free to declare, and do declare, that the rights hereby afferted, are of the natural rights of mankind, and that if any Act fall be hereafter paled to repeal the prefent, or to narrow its operation, fuch Act will be an infringement of natural right.

# General Afembly, begun and held at the Public Buildings, in the City of Richmond, on Monday, the 16th Day of October, in the Year of our Lord, 1786. 

C II A P. XXI. An Ait forbidding and punifling Affrays.

[Faffed the 27 th of November, ${ }^{1786 .]}$

$B^{B}$E it inactid bye the General Afimbly, That no man, great nor fall, of what condition fever he be, except the Minifters of Juftice in executing the precepts of the Courts of Juffice, or in executing of their office, and fuch as be in their company affifting them, be to hardy to come before the Juntices of any Court, or other of their Ministers of Juftie, doing their office, with force and arms, on pain, to forfeit their armour to the Commonwealth, and their bodies to prifon, at the pleafure of a Court; nor go nor ride armed by night nor by day, in fairs or markets, or in other places, in terror of the Country, upon pain of being arrefted and committed to prifon by any Juftice on his own view, or proof by others, there to abide for fo long a time as a Jury, to be fivorn for that purpofe by the aid Juftice, Shall direct, and in like manner to forfeit his armour to the Commonwealth; but no perfon final be imprifoned for foch offence by a longer fane of time than one month.

> C H A P. XXII. An AEt againft Conspirators.
[Puffed the $2 \eta$ tin of November, $\left.i_{7} 86.\right]$

BE it declared and coacted by the General Alfenbly, That Confipirators be they that do confederate and bind themfelves by oath, covenant, or other alliance, that every of them hall aid and bear the other falsely and malicioufly, to move or caufe to be moved any indictmont or information againft another on the part of the Commonwealth, and those who are convicted thereof at the fit of the Commonwealth, fhali be pun;ficd by imprifonment and amercement, at the diferction of a Jury.

24627
North Carolina. Laws, Statutes, etc., 1792.
A Collection of the Statutes of the Parliament of England in Force in ... North Carolina.
Newbern, 1792. xxvi, 424, [3] pp.
AAS copy.

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(60) \\
\text { C H A P. VIII. } \\
\text { Nothing Suaii be taken for Beauploader. }
\end{gathered}
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TEM, Whereas fome of the realm hava grievounly complained, that they be gricved by Sherifis, naning themfelves the King'a approvers, whicin take noney by extortion for Beaupleader, the King will, that the itatuste of Mariebridge than be obferved and kept in this point.

## C H A P. Xlv.

## None Juall iommit Maintonance.

ITEM, Becaufe the King defireth that common right be adminiftered to all perfons, as wel! poor as rich, he commandeth and defendeth, that none of bis Countel:ors, nor of his houfe; nor none other of his Minifters; nor no great man of the icalni by himfelf, nor by other, by fending of letters, nor otherwile, nor nene other in this land, great nor fmall, fhall take upon them to maintain quarrels nor parties in the coun:ry, to the let and difurbance of the common law.

Statutes made at Northampton, tribus Septimanis Pa 'chae, in the Second Year of the Reign of Edward the Third, and in the Year of our Lord 1328 .

C $\quad \mathbf{H} \quad \mathbf{A} \quad \mathbf{P} . \quad \mathbf{I}$.
A Corgirmation of the Great Ciarter and the Chartir of the Forefl.

## [Unnecefory to be inferted.]

## C H A P. III.

No Man Ball come before the Fuflices, or go or ride armed.
TEM, It is enacted, that nes man great nor fmall, of what condition focver he be, except the King's fervants in his prefence, and his Minillers in executing of the King's precepos, or of their oflice, and fuch as be in their compaly allititing them, and alfo upon a cry made for arms to keep the peace, and the fame: in fuch places where fuct acts happen, be fohardy to come betore the King'b Juftiecs, or other of the King's

## (61)

Minifters doing their office with force ard arms, wor bring no force in an affray of peace, nor to gn nor ride armed by night nor by day, ian fairs, markets, nor in the prefence of the King's Juftices, or other minifers, nor in no part elfewhere, upon pain to forfeit their ar $\cdots r$ to the Kiag, and their bodies to prifun at the King's pleafure. And that the Kings Juatiess in their prefence, Sheriffs and other minifters, in their bailiwicks, Jords of Pranchifies, sand their bailiffs in the fame, and Mayors and Bailiffs of cities and boroughs, within the lane emies and boroughs, and borough-holders, conftables and wardens of the peace within thbir wards fhall have power to erectute this act. And that the Juftices alfigned, at their coming down into the cotrntry, fhall have power to enquire how fuch officets and lords have exercifed their offices in this cafe, and to punifh them whom they find that have not done that which pertain to their office.

## C H. P. V.

## The Alanner kow IWrits gall be delivered to the Sheriff to be onecuted.

ITEM where it was ordained by the ftatute of Weftminfter the fecond, that they which will deliver their writs to the Sheriff fhall deliver them in the full county, or in the rere cranty, and that the Sheriff or Under-Sheriff frall thereupon make a bill : it is acecorded and eftallifhed, that at what time or place in the county a man doth deliver any writ to the Sheriff or to the Under. Sheriff, that they thull receive the fame writs, and make a bill after the form contained in the fame ftatute, without taking any thing therefore. And if they refnfe to make a bill, others that be prefent hall fet to their feals, and if the Sheriff or Under-Sheriff do not return the faid writs, they fhall be punified after the form contained in the faid ftatute. And alfo the Juftices of Affize fhall have power to enquire thereof at every man's complaint, and to award damages, as having refo pect to the delay, and to the lofs and peril that might happen.

$$
\begin{array}{lllll}
\mathbf{C} & \mathbf{H} & \mathbf{A} & \mathrm{P} . & \text { VI. }
\end{array}
$$

## Tulfices fhall bave Power to punifb Breakers of the Peace.

ITFM, as to the keeping of the peace in time to come, it is ordained and enacted that the flatutes made in time paft, with the ftatute of Winchefter, fhall be obferved and kept in every point : and where it is contained in the end of faid ftatute of Winchefter, that the Juficices afligned thall have power to enquire of defaults, and to report to the King in his next parliament, and the King to remedy it, which no man hath yet feen, the fannejuftices fhall have power to punifh the offenders and difobeycrs.

$$
\text { In the } Y_{\text {ear of our } L O R D, 1795 .}
$$

$43^{6} \quad$ Criminal Offenders.
on faid fence, till it comes to the land improved by Gcorge Sumner ; then through faid land nearly the faine courle, till it coines to the fouth-weft corner of faid Giorge Sumner's home mcadow, fo called; then turning and running eafterly in faid meadow, as the ditch which forms the fence is made, till it comes to the fouth end of Bcnjamin Hasves's meadow ; then in the line between faid Hawes's meadow, and the land of William Richards; then in the line between faid Ricburds's home lot, and the meadow lots, till it comes to Cumbming's brook, fo called ; thence on faid brook, till it comes to the line between Stoughton and Sharen; thence on faid line till it comes to Neponfet-river; thence wefterly on faid river, till it comes to Trapbole brook; thence on faid brook, till it comes to the bounds firft mentioned-fhall be confidered as one Common and Gencral Field; and that the proprictors of faid lands, their heirs and fucceflors be, and they hereby are incorporated and invefted with all the powers and privileges which the proprietors of Common and General Fields by Law are invefted with.
[This Act paffed fanuary 22,1795 .]

## C II A P. II.

An Act for repealing an Act, made and pafled in the year of our Lord, one Thoufand fix Hundred and Ninety-two, entitled, "An Act for punifhing Criminal Offenders," and for ree-enacting certain Provifions therein.

BE it enacted by the Scnatc and Houfo of Reprefcntatives, in General 18 Court afjembled, and by the autbority of the fame', That the faid Aat be, and hereby is repealed, and made wholly null and void. An:d be it further cnacícl by the authority aforefaid, That every Juftice of the Peace, within the county for which he may be commiffioned, may caufe to be ftaid and arrefted, all affrayers, rioters, difturbers, or breakers of the peace, and fuch as fhall ride or go armed offenfively, to the fear or terror of the good citizens of this Commonwealth, or fuch others as may utter any menaces or threatening fpeeches, and upon view of fuch Juftice, confeflion of the delinquent, or other legal conviction of any fuch offence, fhall require of the offender to find furetics for his keeping the Peace, and being of the good behaviour; and in want thercof, to commit him to prifon until he flall comply with fuch requifition : And may further punifh the breach of the Peace in any perfon that fhall aflault or ftrike another, by fine to the Commonwealth, not exceeding tzucnty fisllings, and require fureties, as aforefaid, or bind the offender, to appear and anfwer for his offence, at the next Court of Geucral Scffions of the Peace, as the nature or circumftances of the cafe may requirc.
[This Act paffed Fanuary 29, 1795.]
1804. co unty, shall proceed against such offender, in the same manner as is heretofore prescribed for vagrants.
3. Be it enacted, That all and every keeper or keepers, ex-

Keepers of certain gaming tables deemed vagrants. 1811, c. 112 , 5.1 , 2 .
b called A. B. C. or E. O. tables, or faro bank, or of any other gaming cloth table, or bank of the same, or like kind, under any denomination whatever, shall be deemed and treated as a vagrant, and moreover it shall be the duty of any judge or justice of the peace, by warrant under his hand, to order such gaming table or cloth to be seized and publicly burned or destroyed; said warrant shall be directed to some one constable within the county, whose duty it shall be, forthwith to execute the same : Provided, That nothing herein contained, shall be so construed as to extend to billiard tables.

## Penalty for

 harboring vagrants. April 1784, c. 34 , s. 4.Duty of the justices herein. Apl. 1784, c. 34 . 1811 , c. 112, s. 1, 2 .

## Penalty for failing.

Proceedings against persons going armed contrary to this act.
4. Be it enacted, That it shall not be lawful for any house keeper to harbor any idle person of the character aforesaid, for any longer time than is heretofore specified, under the penalty of tiventy dollars for every such offence, to be recovered by warrant before any justice of the peace of the county where the offence is committed.
5. Be it enacted, That it shall be the duty of each justice of the peace, on information being made on oath to him or them, that there is a person or persons of the aforesaid description, loitering in his or their county, then and in that case he or they shall issue his or their warrant against such person or persons agreenble to this act: And provided, be or they shall neglect or refuse so to do, it shall be deemed a misdemeanor in office, for which he or they shall be impeachable, and on conviction be removed from office.
6. Be it en acted, That if any person or persons shall publicly ride or go armed to the terror of the people, or privately carry any dirk, large knife, pistol or any other dangerous weapon, to the fear or terror of any person, it shall be the duty of any judge or justice, on his own view, or upon the information of any other person on oath, to bind such person or persons to their good behaviour, and if ho or they fail to find securities, commit him or them to jail, and if such person or persons shall continue so to offend, he or they shall not only forfeit their recognizance, but be liable to an indictment, and be punished as for a breach of the peace, or riot at common law.

Felony to maim or disfigure any person, \&c. Dec. 1754, ch. 15. 1807, ch. 73, s. 13 .
7. Be it enacted, That if any person or persons shall unlawfully cut out or disable the tongue, put out an eye, slit a nose, bite or cut off a nose, ear or lip, or cut off or disable any limb or member, or stab any person whatsoever, in doing so, to maim, wound or disfigure in any of the manners before mentioned, such person or persons so offending, their counsellors, aiders and abettors, knowing of, and privy to the offence, shall be and are bereby declared to be felons, and shall sufier as in case of felony: Provided nevertheless, he or they shall be entitled to benefit of clergy, and be further liable to an aetion of damages to the party injured.

## CHAPTER LXXVI.

An Act describing the power of Justices of the Peace in Civil and Criminal Cases.

Sec. 1. BE it enacted by the Senate, and House of Repro- General juris. sentatives, in Legislature assembled, That it shall be within diationn fus dus the power, and be the duty of every Justice of the Peace peaee, and thesir within his county, to punish by fine not exceeding five dol- it cane, in orlars, all assaults and batteries that are not of a high and ag-rercoghizizs, nid gravated nature, and to examine into all homicides, mur- fenaltrit ders, treasons, and felonies done and committed in his county, and commit to prison all persons guilty, or suspected to be guilty of manslaughter, murder, treason or other capital offence; and to cause to be staid and arrested, all affrayers, rioters, disturbers or breakers of the peace, and such as shall. ride or go armed offensively, to the fear or terror of the good citizens of this State, or such others as may utter any menaces or threatening speeches; and upon view of such Justice, confession of the delinquent, or other legal conviction of any such offence, shall require of the offender to find sureties to appear and answer for his offence, at the Supreme Judicial Court, or Circuit Court of Common Pleas, next to be held within or for the same county, at the discretion of the Justice, and as the nature or circumstances of the case may require ; and for his keeping the peace, and being of the good behaviour, until the sitting of the Court he is to appear before; and to hold to bail all persons guilty or suspected to be guilty of lesser offerces which are not cognizable by a Justice of the Peace; and require sureties for the good behaviour of dangerous and disorderly persons; and commit all such persons as shall refuse so to recognize, and find such surety or sureties as aforesaid; and take cognizance of, or examine into all other crimes, matters and offences, which by particular laws are put within his jurisdiction.

SEc. 2. Be it further enacted, That ail fincs and forfeitures $\begin{aligned} & \text { Breeaches of the } \\ & \text { trell } \\ & \text { the }\end{aligned}$ accruing for the breach of any bye-law, in any town within townsmay be this State, may be prosecuted for, and recovered before any pore vustices of Justice of the Peace in the town or county where the offence tie Peace. shall be committed, by complaint or information, in the same way and manner other criminal offences are prosecuted before the Justices of the Peace within this State.

Sec. 3. Be it further enacted, That any person aggrieved perion gig: at the sentence given against him, by any justice of the Peace, anpened Io the may appeal therefrom to the next Circuit Court of Common con. Pleas. Pleas to be held within the same county, and shall, before his appeal is granted, recognize to the State in such reasonable Mint reognize sum, not less than twenty dollars, as the Justice shall order, with sufficient surcty or sureties for his prosecuting his appeal; and shall be held to produce the cupy of the whole process, and produce copies of case and all writings filed before the Justice, at the Court appeal- $\begin{gathered}\text { ant. } \\ \text { nou pilis. }\end{gathered}$

Failing to pros- ed to. And if he shall not there prosecute his appeal, and
peal, his de.
faule to be en. tered.

Court may order such case to be tainllue. fore Grani Ju ry, or arrest appellant, and afirmsentence, \&c.

Justices may command atxistance of sheriff, deputies and con. stables at riuts,
sifrays, 8 ec. produce'the copies as aforesaid, the Court shall order his default to be noted upon their record. And the said Court may order the same case to be laid before the Grand Jury, or may issue an attachment against the body of such appellant, and cause him thereby to be brought before them, and when he is so in Court, shall affirm the sentence of the Justice against him, with all additional costs.

Scc. 4. Be it further enacted, That each Justice shall have authority to command the assistance of every Sheriff, Deputy Sheriff, Constable, and all other persons present at any affray, riot, assault or battery, and may fine any person refusing such assistance, in a sum not exceeding six dollars; to be disposed of for the use of the town where the offence shall be committed; and levied by warrant of distress on the offender's goods and chattels, and for want thereof on his body.

Sec. 5. Be it further enacted, That any Justice of the Peace

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view, (in alsence of sheriff, sence of sherif:
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for the preservation thereof, or upon view of the breach thereof, or upon view of any other transgression of law, proper to his cognizance, done or committed by any person or persons whatever, shall have authority, (in the absence of the Sheriff, Deputy Sheriff or Constable, ) to require any person or persons to apprehend and bring before him such offender or of-
Penaty for re fenders. And every person so required, who shall refuse or fusing to obey such Jutice.

If the Juatice be knciun or declared-plea of ignorance of udmistible.

## Justices may

 grant subpecnas for wenes-ses in criminal cases :

But not on behalf of the State without consent of Attorney General, or County Aitorncy, except before himself.
neglect to obey the said Justice, shall be punished in the same manner as for refusing or neglecting to assist any Sheriff, Deputy Sheriff or Constable in the execution of his office as aforesaid. And no person who shall refuse or neglect to obey such Justice, to whom he shall be known, or declare himself to be a Justice of the Peace, shall be admitted to plead excuse on any pretence of ignorance of his office.
SEc. 6. Be it further enacted, That Justices of the Peace within their respective counties, be, and they are hereby aur thorized and empowered to grant subpeenas for witnesses in all criminal causes pending before the Supreme Judicial Court and Circuit Court of Common Pleas, and before themselves or any other Justice: Provided, That no Justice of the Peace shall grant subpœenas for witnesses to appear in any Court, except before himself, to testify on behalf of the State, unless by the request of the Attorney General or County Attorney. And all Sheriffs, Constables and other officers are directed and empowered to serve any warrant issuing from a Justice of the Peace.
Sxc. 7. Be it further enucted, That the Justices of the Peace shall account annually with the Treasurer of the State, the Treasurer of their respective counties, and the town Treasurer, as the case may be, for all fines by them received or imposed, upon pain of forfeiting the sum of thirty dollars, to be sued for and recovered by the Treasurer of the State, the county or town Treasurer for the time being, to which the said fines may respectively belong:

Sec. 8. Be it further enacted, That all civil actions, where- Jatiee', juris in the debt or damage does not exceed twenty dollars, (and dietion in civit wherein the title of real estate is not in question, and special- tate ion rat in ly pleaded by the defendant,) shall, and may be heard, tried, question.) to adjudged and determined by any Justice of the Peace within dollars. his county ; and the Justices are severally empowered to grant Justices mor issummons, capias and attachment, at the request of any per- cuepianimoins. atucbson applying for the same, directed to some proper officer ${ }^{\mathrm{mem}}$, \&c. within the same county, empowered by law to execute the same. And such summons or capias and attachment shall be -to be served duly served by such officer, seven days at the least before the fore trial. day therein set for trial, otherwise the party sued shall not be held to answer thereon; and if after such process shall be Proceedingsbeduly served, the party sued, after being duly called, shall not ${ }^{\text {fore Justice. }}$ appear to answer to the same suit, the charge against him in the declaration shall be taken to be true, and the Justice shall Judement. \&e. give judgment against him for such damages as he shall find $\begin{gathered}\text { if phaintiff pre- }\end{gathered}$ the plaintiff to have sustained, with costs; and if the person sued shall appear to defend the suit or oppose the same, the Justice shall award such damages as he shall find the plaintiff to have sustained: Provided, That rio more damages than the exered 20 not to sum of twenty dollars shall be awarded in any action origin- lart. ally brought or tried before a Justice of the Peace; but if the case defendant plaintiff shall not support his action, shall fail to prosecute, or prevail. become nonsuit, the Justice shall award to the party sued, his reasonable costs, taxed as the law directs. And upon all Execution judgments given by a Justice of the Peace in civil actions, he shall award execution thereon in form by law prescribed.

Sec. 9. Be it further enacted, That the amount of the sum Juntice to have or several sums, specified, expressed or supposed to be de- juristietion where the od manded by the plaintiff in his declaration, shall not be con-dammum doed sidered as any objection against the Justice's jurisdiction, pro-dollars. vided the ad damnum, or damage is not laid or stated to exceed twenty dollars.

Sec. 10. Be it further enacted, That any party aggrieved party oggriev.
 where both parties have appeared and plead, may appeal Pleas. therefrom to the next Circuit Court of Common Pleas to be held within the same county; and shall before his appeal is - -Hunt recog. allowed, recognize with a surety or sureties, in such reasona-cute. proreble sum as the Justice shall order, not exceeding thirty dollars, to pay all intervening damages and costs, and to prosecute his appeal with effect; and shall be held to produce a copy of the whole case, at the Court appealed to, and both pies protuce c.c. parties shall be allowed to offer any evidence upon the trial proceedings in at the Circuit Court of Common Pleas, in the same manner as thatcourt. if the cause had been originally commenced there. $A_{i i d}$ no Nofurther apother appeal shall be had on such action after one trial at the peal.
Circuit Court of Common Pleas. And the Circuit Court of defendane in Common Pleas, when any person recognized as before men- to bring for failing
ward the action aecorling to his reeng. nimance...P Plain.
tiff to have his damages.
tioned to bring forward an action of trespass, doth neglect to do it, upon complaint thereof made in writing by the plaintiff, shall give judgment for such sum in damages, as the plaintiff hath declared for, together with all reasonable costs which accrued both in the same Court and before the Justice. And Appellant fail the Circuit Court of Common Pleas shall, when any appellant ing to prose. pulaint iugs. nient may be uflirmed. thereto shall fail to prosecute his appeal, or if he shall neglect to produce a copy of the case, affirm the former judgment upon the appellee's compiaint, and award such additional damages as shall have arisen in consequence of the said appeal, and cost.

Sec. 11. Be it further enacted, That when an action of trespaes snall be brought before any Justice of the Peace, and the defendant shall plead the general issue, he shall not be allowed to offer any evidence that may bring the title of real estate in question. And when the defendant in any such action shall plead the title of himself or any other person in justification, the Justice upon having such plea plead, shall order the defendant to recognize to the adverse party in a reasonable sum, with sufficient surety or sureties to enter the said action at the next Circuit Court of Common Pleas to be holden within the same county, and to prosecute the same in the same manner as upon an appeal from a Justice's judgment ; and if such pleader shall refuse so to recognize, the Justice shall render judgment against him, in the same manner as if he had refused to make answer to the same suit. And either party in such cause, shall be allowed to appeal from the judg* ment of the Circuit Court of Common Pleas, in the same manner as if the suit had been originally commenced there.
Sec. 12. Be it further enucted, That in all civil actions triable before a Justice of the Peace, except such actions of trespass wherein the defendant means to avail himself, by pleading the title of himself or any other person under whom he claims in justification of the trespass or trespasses alleged to be committed on real estate; the defendant shall be entitled to all evidence, under the general issue, which by law he might avail himself of under any special plea in excuse or justification, any law, usage or custom to the contrary notwithstanding.

Sec. 13. Be it further enacted, That each Justice of the Peace may grant subpenas for witnesses in all civil actions and causes pending before the Supreme Judicial Court, Circuit Court of Common Pleas, Court of Sessions, and before him or any other Justices, and in all civil actions and causes pending before arbitrators or referees. And every Justice of the Peace shall have power by public proclamation to adjourn the trial of any action brought before him, from time to time, when equity may require it; but he shall not be of counsel to either party, or undertake to advise or assist any party in suit before him.

Ssc. 14. Be it firther enacted, That when an executor or In eare of administrator shall be guilty of committing waste, whereby wane by exte he is readred unable in intatr, Jmiricel he is any Justice of the.Peace, against the goods and estate of the may in wech deceased in his hands, out of the same, the Justice may pro- cate. ceed against the proper goods and estate of such executor or administrator, in the same manner as the Circuit Court of Common Pleas are empowered to do.

Sec. 15. Be it further enacted, That each Justice of the Jastiee to keep Peace shall keep a fair record of. all his proccedings; and record of hir when any Justice of the Peace shall die before a judgment given by him is paid and satisfied, it shall be in the power of shanl dien before any Justice of the Peace in the same county to grant a scire giver aby him is facias upon the same judgment, to the party against whom satiffer what such judgment was rendered up, for him to show cause if any be had. he hath, why execution should not be issued against him. And although the costs and debt awarded by the deceased Justice when added together, shall amount to more than twenty dollars, it shall be no bar upon such scire facias, but judgment shall be given thereon for the whole debt and cost, together with the cost arising upon the scire facias. Provided alvays, That either party may appeal from the judgment as appeal allowed in other personal actions, where judgment is given by a Jus- to either party. tice of the Peace. And every Justice of the Peace who shall have complaint made to him, that a judgment given by a Jus- eomplaint iom tice of the same county then deceased, remains unsatisfied, mases. may sum shall issue his summons to the person in whose possession the possenink the record of the same judgment is, directing him to bring and to $\begin{gathered}\text { recerd to pro- } \\ \text { duce it. }\end{gathered}$ produce to him the same record; and if such person shall contemptuously refuse to produce the same record, or shall refuse Punithment for to be examined respecting the same, upon oath, the Justice may punish the contempt by imprisonment, until he shall produce the same, or until he submits to be examined as afore- Duty of the said; and when the Justice is possessed of such record, he Juntioe when shall transcribe the same upon his own book of records, be- prodnerd, to transeribe it fore he shall issue his scire facias; and shall deliver the orig. into hie own inal back again to the person who shall have produced it, and a copy of such transcription, attested by the transcribing Jus- trunseripe to be tice, shall be allowed in evidence in all cases, where an authenticated copy of the orignal might be received.

Sec. 16. Be it further enacted, That all Justices of the Justice, whore Peace before whom actions may be commenced under for- expire before mer commissions, and such commissions shall expire before $\begin{gathered}\text { jutgmemt or } \\ \text { natinnetinn, }\end{gathered}$ judgment shall be rendered thereon, or judgment being ren- mny proeeed, dered, the same remains in whole or in part unsatisfied, such commission,
 commissions seasonably renewed, and being duly qualified $\underset{\&<c}{\mathrm{der} \text { juigmeut, }}$ agreeably to the Constitution of this State, to act under such commissions, be and they hereby are authorized and empowered to render judgment, and issue execution on all such ac-
tions, commenced as aforesaid, in the same manner as if the commissions under which such actions may be commenced, were in full force.
[Approved March 15, 1821.]


## CHAPTER LXXVII.

An Act providing a speedy Method of recovering Debts, and for pre-. venting unnecessary costs attending the same.
Sec. 1. BE it enacted by the Senate and House of RepresentaJusties may.
take recorniz. ances fordebis. in this State shall have power within his county to take recognizances for the payment of debts of any person who shall come before him for that purpose:, which recognizance may be in substance as follows:-
Know all men, that I, A. B. of , in the County of, Fornn of recog- do owe unto C. D. of , the sum of , to be paid to the
niznee, said C. D. on the day of ; and if I shall fail of the payment of the debt aforesaid, by the time aforesaid, I will and grant that the said debt shall be levied of my goods and chattels, lands and tenements, and in want thereof of my body. Dated at , this day of ,in the year of our Lord . Witness, my hand and seal A. B.
ss. Acknowledged the day and year last abovesaid. Before E. F. Justice of the Peace.
$\underset{\substack{\text { To be recorted } \\ \text { by the } \\ \text { dutice. }}}{ }$ Sec. 2. Be it further enacted, That every Justice of the Pcace taking any such recognizance, shall immediately record the same at large in a book to be kept by him for that purpose; and after the same is recorded, may deliver it to Execution many the Conusec ; and upon the Conusee's lodging the same with isut thereon
within 3 carr. the se said Justice, at any time within three years from the time when the same is payable, and requesting a writ of execution, it shall be the duty of such Justice to issue a writ of execution thereon for such sum as shall appear to be due on the same; which writ of execution shall be in substance as follows:

State of Maine.
(seal.) To the Sheriff of the County of , or his deputy, or either of the Constables of the town of , in said County, one of the Justices of the Peace for the said County of

- acknowledged that he was indebted to C. D. of , in the county of in the sum of which he ought to have paid on the day of , and remains unpaid as it is said : We command you therefore, that of the goods, chattels or real estate of the said A. B. within your precinct, you cause to be paid and satisfied unto the said C. D. at the yalue


## TITLE FIFTEENTH.

## Of Justices of the Peace.

## Chapter 97. General powers, duties and jurisdiction of justices in criminal cases.

98. Jurisdiction in bastardy cases.
99. Justices' jurisdiction in civil cases of debt.
100. Justices' jurisdiction in trespass cases.
101. Justices' jurisdiction in cases of forcible entry and detainer; and of holding over.

## CHAPTER 97.

## GENERAL POWERS, DUTIES AND JURISDICT1ON OF JUSTICES IN CRIMINAL CASES,

Sec. 1. Number in the several counties.
2. Power to issue process.
3. To keep records. Adjournments.
4. To issue subpoenas.
5. To administer oaths.
6. To punish contempts.
7. To arrest without warrant.

To commit or bind to appear.
Form of commitment.
Form of binding to feep the peace.
8. Power to punish assaults and batteries, Form of binding to answer charge. Binding witnesses to appear.
9. To permit parties to settle cases of as sault and battery.
10. Not to receive fine or costs.

To put it in charge of a constable.
11. To certify fines to the auditor. Penalty.
12. Power to bind over for threats.
13. To cause arrests of peace breakers, \&c., \&c.
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17. After arrest.
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20. To deliver recognizances to clerk of the peace. Fee.

Sec. 21. To indorse the names of witnesses.
22. To arrest persons complained against.
23. Warrant may be executed in any county.
24. Bail for appearance; how taken; by whom.
Commitment in default of bail.
25. How discharged from prison on bail.
26. Capital cases ; when bail may be taken
27. Bail in other cases ; how determined.
28. How taken by sheriff. \&c.
29. Search warrants, when and how to be issued.
Complaint must be in writing.
Warrant; how directed.
When it may be executed at night.
30. Power of justice to try certain offences by slaves.
31. Power of two justices to try slaves.

Order on master to pay restitution, \&ec.
Service of notice on master; verification.
32. Power to punish Sabbath breaking.
33. Duty of representatives of a deceased justice to deliver records ; penalty.
34. Duty of justice to give transcripts, copies, \&c. ; penalty.
Originals may be required by the court.
35. Duty to attend elections; penalty.

## Number.

2003 Number.

New Cas.
tle.
Kent.
Sussex.

2004
May issue process.

Forms.

Sec. 1. The number of justices of the peace now allowed by the constitution and laws, shall, two-thirds of each house of the legislature concurring, continue to be in the several counties, as follows: in New Castle county twenty, of whom one shall reside in Red Lion hundred, within one mile of Delaware City, one in the town of St. Georges, and one in Christiana hundred; in Kent county eighteen; and in Sussex county twenty, one of whom shall reside within two miles of Cannon's Ferry.

## General powers and duties.

Sec. 2. Justices of the peace may issue all writs; warrants and process proper to carry into effect the powers granted to them; and when no form is prescribed by statute, they shall frame one in con-
formity with the law, in substance; and, when substantially right, such process shall not be invalid for any defect in form. All sheriffs, deputy-sheriffs, coroners and constables are required duly to serve all legal writs, warrants and process to them directed by any justice of the peace.

SEc. 3. Each justice of the peace shall keep a record of all his ${ }_{\text {Records. }}^{\text {2005 }}$ judicial proceedings in criminal as well as civil cases.

He shall have power to adjourn cases on trial before him, taking adjournsecurity for the appearance of the party complained against.

Sec. 4. He may issue summonses for witnesses in all cases pending 2007 before himself, and in all civil cases pending before any magistrates, referees, arbitrators, or other persons authorized to examine witnesses.

Scc. 5. He may administer oaths in all cases where an oath is oaths. ${ }^{2008}$ required by law.

Sec. 6. Every justice of the peace may punish such disorderly ${ }_{\text {Power to }}^{2009}$ conduct as shall interrupt any judicial proceedings before him, or powish to to before referees appointed by him, or which shall be a contempt of his authority, by fine not exceeding ten dollars, or by imprisonment in the jail of the county not exceeding ten days.

Sec. 7. Every justice of the peace may, as a conservator of the Powertoar peace, upon view of any affray, riot, assault, or battery, within his rest withou county, without any warrant in writing command the assistance of any sheriff, deputy-sheriff, coroner, or constable, and of all other persons present, for suppressing the same, and arresting all who are concerned therein, and may commit or bind them to surety of the peace and for their appearance at the proper court.

A commitment may be in this form:-

$$
\begin{aligned}
& 2011 \\
& \text { Commit- } \\
& \text { ment. }
\end{aligned}
$$

County, ss. The State of Delaware: To A. B., constable, and to the keeper of the jail of said county: this is to command you the said constable forthwith to convey and deliver inlo the custody of the keeper of said jail the body of C. D. charged, before E.F. a justice of the peace for said county, on oath by G. H. with (here state the offence), and you the said keeper of the jail are hereby required to receive the said C. D. into your custody in said jail, and him theresafely keep until he be thence delinered by due course of law.

Binding to keep the peace and for appearance at court may be in this form:

2012
BeEP THE
KE KEEP THE peace.

County, ss. State of Delaware. Be it remembered, that C. D., of hundred, and R.S. and T. W., of - hundred, in said county, personally appeared before E. F., a justice of the peace for said county, and acknowledged to owe the State of Delaware the sum of - dollars, to be levied on their goods and chattels, lands and tenements respectively, for the use of the said State: Upon conDition, that if the above bound C. D. be and appear before the next Court of General Sessions of the Peariand and Jail Delivery, to be held
at ——, for the county aforesaid, there to answer such matters as shall be objected against him by G. H., and shall in the mean time keep the peace and be of good behavior towards all the people of this State, and especially towards the said G. H., and shall not depart the court without leave thereof, then this recognizance to be void, otherwise to be in full force and virtue.

Taken, signed and acknowledged before E. F., a justice of the peace for said county, the —— day of ——, A. D., 18-. punish as. saults and batteries.

2014 Binding to answer charge.

Sec. 8. Every justice of the peace may punish by fine, not exceeding ten dollars, all assaults and batteries, and other breaches of the peace punishable by any law of the State, when the offence is not of a high or aggravated nature : provided, that the defendant shall, in writing, submit to his decision: and provided also, that after hearing, he shall consider that the case ought not to be submitted to a higher jurisdiction; otherwise he shall commit, or bind, the defendant for his appearance at the proper court to answer the charge, and shall also bind the witnesses for their appearance and may require surety of them, if necessary. He may also punish, by such fine, any offence against an authorized ordinance of a city, or town.
Binding for appearance to answer may be thus:-
county, ss. The State of Delaware. Be it remembered, that C. D., of — hundred, and R. S. and T. W., of 一一 hundred, in said county, personally appeared before E. F., a justice of the peace for said county, and acknowledged to owe the State of Delaware the sum of —— dollars, to be levied on their goods and chattels, lands and tenements respectively for the use of the said State: Upon condition, that if the above bound C. D., be and appear before the next Court of General Sessions of the Peace and Jail Delivery, to be held at ——, for the connty aforesaid, there to answer such matters and things as shall be objected ugainst him, and particularly touching a charge (here state the offence charged) said to have been committed by the said C. D., at - hundred, in said county, on the ——_day of , and shall not depart the court without leave thereof; then this recognizance to be void, otherwise to be in full force and virtue.

Taken, signed and acknowledged before E. F., a justice of the peace for said county, the ——day of ——, A. D., 18-.

2015
Binding a witness to appear.

Binding a witness for appearance may be in the same form, substituting for the words "there to answer such matters," \&c., down to "and shall not depart the court," the words "as a witness for the State." A recognizance, when taken by a justice of the peace, or a judge out of court, shall be signed by the parties bound.

2016 Parties may settle assaults and batteries.

2017 Not to receive fines.

Sec. 9. In every case of assault and battery the justice may permit the parties to settle the matter; and either discontinue the proceedings or annul any recognizance, on payment of costs.

Sec. 10. He shall, in no case, receive a fine, or costs, imposed by him; but upon imposing any fine, he shall charge a constable present with the defendant, and $\mathbf{S A}^{n+} \mathbf{7 0}^{\text {and }}$ the constable's name on his docket,
and if the fine and costs be not paid, the constable shall convey said defendant to jail, for which a copy of the judgment shall be a sufficient warrant.

Sec. 11. Every justice of the peace shall transmit to the auditor ${ }_{\text {To cerrify }}^{2018}$ of accounts, by mail, on the first Tuesday of April and October in fines to aueach year, a duly certified list of the cases in which any fine, or forfeiture, has been imposed by him before that time; stating the party, the fine, and the name and place of residence of the constable chargeable. Any neglect of this duty shall be deemed a misdemeanor, and shall be punished by fine not exceeding one hundred dollars ; Penalty. and the court shall, on conviction of such justice, transmit a copy of the record to the general assembly.

SEc. 12. Whoever shall threaten to kill, or wound, another, or to 2019 injure him in person, or estate, shall, on proof of such threats, be- Power to fore a justice of the peace, either by the oath of the party threat- for THREATs ened, or otherwise, and on affidavit, by the sard party, that he believes, from such threatening, he is in danger to be hurt in body, or estate, be bound to surety of the peace, and for his appearance at the next Court of General Sessions for the county.
Scc. 13. Any justice of the peace may also cause to be arrested ${ }_{\text {To }}{ }^{2020}{ }^{2020}$ arse ar and bind to surety of the peace all affrayers, rioters, breakers and $\begin{gathered}\text { rects. } \\ \text { To }\end{gathered}$ disturbers of the peace, and all who go armed offensively to the terror of the people, or are otherwise disorderly and dangerous.

Scc. 14. He may also cause to be arrested any drunken person, ${ }_{\text {Drunkards }}^{2021}$ or any person who, in his hearing, shall profanely swear by the name Drunkards of God, Christ Jesus, or the Holy Spirit; and such person, being thereof convicted by view of the justice, or other proof, shall be fined by him fifty cents for every such profane oath, and fifty cents for every such offence of being drunk.

Sec. 15. If any person, arrested by warrant, or order, of any ${ }_{\text {To punish }}^{2029}$ court of justice, magistrate, or justice of the peace, shall use abusive, thosinish railing, or threatening speeches against such court, magistrate, or thority. justice, or shall resist, or assault, any person executing, or aiding in the execution of any such warrant, or order, he shall be fined by such court, magistrate, or justice, any sum not exceeding fifteen dollars.

Sec. 16. When complaint is made in due form to a justice, alleging that an offence has been committed, the justice shall carefully examine the complainant on oath, or affirmation, and if he considers minal cases; there is probable ground for the accusation, he shall issue his warrant.

A warrant of arrest may be in this form:

## ——County, ss. The State of Delaware,

 To any constable of said county, greeting :Whereas G. H. of hath upon oath (or affirmation) before me, a justice of the peace of said county declared that on the day of -at - (state the offence charged) and that he hath just cause to suspect and doth suspect C. D. of hundred, of committing the said offence: You are therefore heroh"rmmanded to take the said
C. D. and bring him before me, or some other justice of the peace of the county, forthwith, to answer said charge.

$$
\left\{\begin{array}{l}
\widetilde{\mathrm{L} . \hat{s}}\} \begin{array}{l}
\text { Witness the hand and seal of the said justice, the } \\
\text { day of } \text { A. D. 18-. }
\end{array}
\end{array}\right.
$$

2025 How directed.

2026 Proceeding on arrest.

In case of emergency, the warrant may be directed to the sheriff, or coroner, or to any person the justice may name.

Sec. 17. Upon the arrest of any person so charged, the justice, before whom he is brought in the county where the offence was committed, shall try the case so far as to determine whether the defendant ought to be discharged, or bound for his appearance at court, or held to answer finally before the justice; in which last case, the justice shall proceed to hear fully and to determine the case. But if the matter be not properly cognizable before the justice for final decision, he shall commit, or bind the party for his appearance at the court having cognizance of the case.

Siec. 18. He shall examine the party accused, taking his voluntary declarations, without threats, or promises, and shall also examine the witnesses in the presence of the accused.

If the offence is a felony, he shall reduce the examination of the accused to writing, and read it to him, and offer it for his signature. The justice shall sign it.

He shall also reduce to writing the testimony of each witness, if material, read it to him in the presence of the accused, sign it, and require the witness to sign it. In case of the death of the witness, it shall be evidence on the trial.
2030 Commitment; or binding to appear.

Sec. 19. If he considers there is probable ground for the accusation, he shall, in case of a capital crime, commit the accused for trial, and in any other case bind him, with sufficient surety, for his appearance at the next Court of General Sessions of the Peace and Jail Delivery for the county where the offence is alleged to have been committed; and, if he do not give such surety, shall commit him for trial. But when the accused is carried before a justice in another county than that wherein the warrant was issued, he shall be held to surety for his appearance, of course.
${ }^{2031}$ the shall also bind material witnesses for their appearance, with-
 the loss of his testimony ought not to be risked; in which case, he may require surety and may commit the witness if it be not given.

Such binding of the accused, and of the witnesses, shall be by recognizance, as provided in section 8.

2033 To deliver recognizances, \&c.

Sec. 20. Each justice of the peace shall deliver every recognizance, examination and deposition, by him taken, touching any offence, to the clerk of the peace of his county ten days before the next Court of General Sessions, if the court do not sit sooner; and if so, then at the session of the court. For this service, he shall Fee. receive one dollar from the county if the service be rendered ten days before the court.

Sec. 21. He shall indorse on the recognizance the names of the Names of
witnesses to be indorsed. material witnesses, an
pearance on the first day of the court, or otherwise as the attorney general may direct.

Sec. 22. Every justice shall cause to be arrested, on proper com- Duty to ${ }^{2035}$ plaint, all persons found within his county charged with any offence; rest persons and all persons who, after committing any offence in such county, agannst. shall escape out of the same.

Sec. 23. A warrant of arrest, issued by a justice in one county, warrant, may be executed in any county of the State; and the constable, or whirane excofficer, having it in hand, may command aid as in his own county; ${ }^{\text {cuted. }}$ but he shall, upon request, carry the defendant before some justice of the county, where he is arrested, to be bailed, if he offer sufficient bail and the offence is bailable; otherwise he shall convey him from the county in execution of his warrant.

Sec. 24. In criminal cases, bail for the appearance of the accused, except when taken by the sheriff, or officer to whom process is directed, and security for the appearance of a witness, shall be given by recognizance. Each judge of the Superior Court, and every justice of the peace shall have authority to take such recognizance; and when so taken out of court, the recognizance shall be signed by the recognizors. When a person is committed for want of bail, or commitsecurity, the sum required shall be set down on the commitment.

Sec. 25. A person, so committed, shall be discharged upon giving sufficient bail, or security; and any judge, or justice, may require chavrged. such person to be brought before him for that purpose.

Sec. 26. A capital offence shall not be bailable; but the Court ${ }^{2039}$ of General Sessions of the Peace and Jail Delivery, when in session, canses. or any judge thereof in vacation, may admit to bail a person accused of such offence before indictment found, if, upon full inquiry, it when bail appears that there is good ground to doubt the truth of the accusa- may he
tion. On such inquiry, the justice, or officer who committed the aceused, shall be summoned, and care shall be taken to hear the propér witnesses.
Sec. 27. When a person arrested by virtue of process issued upon an indictment, or presentment, except for a capital crime, and ex- Baiin cept process returnable forthwith, offers sufficient bail, it shall be taken, and the person discharged. The court awarding the process, or any judge thereof, or the attorney general, may determine the sum in which bail shall be taken, and set it down on the process; or if no sum be so determined, the officer issuing the process shall set down what sum he deems reasonable for bail.

Sec. 28. Bail shall be taken by the sheriff, or officer to whom the process is directed, by a joint and several bond executed, by the ac- Hy wherit. cused and his bail, to the State, in the sum set down for bail upon the process, with condition, in substance, that if the accused shall appear in the court, mentioned in the process, at the place and time of the return thereof, to answer as expressed therein, and shall not depart the court without leave, the said bond shall be void. Bond so taken, shall be returned with the process, and, if default be made, it shall be recorded thereon in the same manner as in the case of a recognizance.

2043 Complaint in writing.

Sec. 29. Any justice of the peace, or other magistrate authorized to issue warrants in criminal cases, may, within the limits of his jurisdiction, issue his warrant to search any house, or place, for property stolen, or concealed, or for forged, or counterfeited coins, bank bills, or other writings, or for any instrument, or materials, for making the same, and in other cases and for persons when such search is authorized by law, in the manner prescribed by this section and not otherwise, namely:

The application, or complaint, shall be in writing, signed by the complainant and verified by his oath, or affirmation. It shall designate the house, or place, to be searched, and the owner, or occupant thereof (if any), and shall describe the things, or persons sought, as particularly as may be, and shall substantially allege the offence committed by, or in relation to such person, or thing, or the cause for which said search is made, and that the complainant has probable cause to suspect, and does suspect that the same is concealed in the house, or place, designated.
The warrant may be directed to any proper officer, or to any other person by name, for service; it shall recite the essential facts alleged in the complaint, and may be made returnable before the magistrate, or justice, issuing it, or before any other magistrate, or justice, before whom it shall also direct to be brought the person, or thing, searched for, if found, and the person in whose custody, or possession, the same may be found, to be dealt with according to law.
2045 A search warrant shall not authorize the person executing it to

When it may be executed at inight.

2046 Power to try offences by slaves. search any dwelling-house in the night time, unless the magistrate,
or justice, shall be satisfied that it is necessary in order to prevent the escape, or removal, of the person, or things, to be searched for; and then the authority shall be expressly given in the warrant.
Sec. 30. Justices of the peace shall severally have jurisdiction to try and punish any slave who shall join, or be wilfully present at any riot, rout, or unlawful assembly, or who shall commit an assault and battery on any person, or who shall, without the special permission of his master, go armed with any dangerous weapon. In every case of conviction under this section, the justice shall give judgment against the master for the costs of the prosecution, and may issue execution thereon as upon a judgment for debt.

Judgment for costs.

2047
Power of two justices to try offences by slaves.

2048 Order on master to pay costs, \&c.

Sec. 31. Any two justices of the peace for the county shall have jurisdiction to try and punish any slave for the offence of stealing, taking and carrying away any goods, chattels effects, bank note, money, bill, promissory note, check, order, bond, or written contract for the payment of money, or delivery of goods, or of receiving, or concealing, any such stolen property knowing it to be stolen, or taken by robbery.
The justices, on conviction of such slave, shall assess the value of the property, so stolen or concealed, unless it shall have been restored, and tax the costs; and shall make an order that the master pay the same, and shall commit the slave until payment, or sale, as
[1577.] provided in chapter 80 .

They shall indorse on any process for the arrest of a slave under $\underset{\text { Service on }}{9049}$ this section, an order that the constable shall serve a copy of such master. process on the master as provided in respect to an original sum- [2066] mons.

The trial shall not proceed, without the appearance of the master, ${ }_{\text {To be veri- }}^{2050}$ until the return of the service of such copy is duly verified.

Sec. 32. Justices of the peace shall severally have jurisdiction of 2051 the several offences mentioned in section 4, of chapter 131, being [2902, \&c.] violations of the Sabbath day; and may proceed therein upon their own view, or on other competent evidence.
Sec. 33. Upon the death of a justice, or expiration of his term of ${ }^{2059}$ office, and the appointment of another, it shall be the duty of such eutyors of a justice, or his executors, or administrators, to deliver all his dockets $\begin{gathered}\text { justice in } \\ \text { respect to }\end{gathered}$ and records, within three months, to his successor in office, if ap- his records. pointed within that time; and if not, then with one of the nearest justices of the same county. The neglect of this duty shall be a misdemeanor punishable by fine of fifty dollars; and the Superior Penalty. Court may name the justice to whom the delivery shall be made, and enforce an order for such delivery by fine and imprisonment.

Sec. 34. It is the duty of a justice of the peace, upon request ${ }^{2053}$ and payment, or tender, of the legal fee, to make and certify, un- itice to give der his hand and seal, a true transcript of all the docket entries ${ }^{\text {TRAsscripr. }}$ in any cause before him, or upon any record in his possession, or if specially required, a full and true copy of all the records, entries, or full process and papers in or touching such cause; and such transcript, or copy, shall be received in evidence in any court.

Upon an appeal, a transcript shall be sufficient, unless a full copy ${ }_{\text {on }}^{2054}{ }^{205 p e a l s .}$ be specially requested. Upon a certiorari, the justice shall make $\mathbf{a}$ an and $\begin{gathered}\text { On apeals. } \\ \text { ri. }\end{gathered}$ full copy of the entire record and proceedings.

If any justice of the peace shall, upon such request and payment, ${ }_{\text {Penalties. }}^{2055}$ or tender, of the lawful fees, refuse or neglect to perform the duty above required, or shall falsely certify any such transcript, or full copy, or shall use any fraud, falsehood, or deceit, in making the same, he shall be deemed guilty of a misdemeanor, and shall be fined not exceeding one hundred dollars, and shall be liable to the party aggrieved in double damages.
The Superior Court may, in a proper case, supported by affidavit, ${ }_{\text {Originals }}^{2056}$ require the production of the original record.

Sec. 35. Every justice of the peace shall attend, at the place of ${ }^{\text {quired }}$ 2057 election in his hundred, on the day of every general election, or Duty to atspecial election, from the opening to the closing of the poll, and tions. shall take care that the peace shall be kept, and that the election shall not be interrupted, or disturbed.
If any justice shall refuse, or wilfully neglect, to perform this ${ }^{2058}$ duty, or to obey the lawful commands of the inspector of such elec- ${ }^{\text {Penalty. }}$ tion, he shall be deemed guilty of a misdemeanor and shall be fined one hundred dollars.

## Challenges.

Panel how completed.

Sco. 9. That in the trial of all causes under the provisions of this act, each party shall have the right to challenge peremptorily three jurors and no more.

Sed. 10. When, from any cause whatever, the panel shall not be completed, or the jurors are not present, it shall be the duty of the sheriff, by order of the court, to complete said panel by summoning such members.

Sic. 11. That all laws or parts of laws in conflict herewith are hereby repealed, and this act shall be in force from and after its passage.
[Translation.]

## An Act prohibiting the carrying of Weapons, concealed or otherwisc.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Section 1. That, from and after the passage of this act, it shall be unlawful for any person to carry concealed weapons on their persons, of any class of pistols whatever, bowie knife (cuchillo de cinto), Arkansas toothpick, Spanish dagger, slung-shot, or any other deadly weapon, of whatever class or description they may be, no matter by what name they may be known or called, under the penalties and punishment which shall hereinafter be described.

Sec. 2. Be it further enacted: That if any person shall carry about his person, either concealed or otherwise, any deadly weapon of the class and description mentioned in the preceding section, the person or persons who shall so offend, on conviction, which shall be by indictment in the district court, slall be fined in any sum not less than fifty dollars, nor more than one hundred dollars, at the discretion of the court trying the cause, on the first conviction under this act; and for the second con-
Second convicifon. imprisonment.

Carrying weapons prohibited.
son dispuestos éntes. En los coñdados de San Miguel, Rio Arriba, y Bernalillo, el primer lónes de Marzo y Setiembre, y continuará una semana si los negocios no están dispuestos ántes. En los condados de Santa Ana, Socorro, y Doña Ana, el primer lúnes de Mayo, Setiembre $y$ Noviembre, y continuará una semana si los-negocios no están dispuestos antes.

Sec. 9. Que en el juicio de todas las causas bajo las pro- Recusss. visiones de este acto, cada una de las pártes tendrán derecho de desechar perentoriamente tres jurados y no mas.

Sec. 10. Cuando, por cualquiera causa que sea, un jurado no está completo, ó no est́́n presentes, será el deber del alguacil mayor, por orden de la corte, de llenar dicho jurado citando tales miembros.

Sss. 11. Que todas las leyes, 6 partes de leyes, en conflicto [con esto,] son por este abrogadas, y este acto tendrá efecto desde y despues de su pasaje.

Aprobado Febrero 2 de 1860.

## Un Acto prohibiendo el porte de Armas ocultas 6 de otra manera.

Decretese por la Asamblea Legislativa del Territorio de Nuevo Méjico:

Seccion 14. Que desde y despues del pasaje de este acto no será legal para que ninguna persona porte armas sobre sus personas, ninguna pistola de cualesquiera clase que sea, ni bowie knife (cuchillo de cinto) Arkansas toothpick, daga española, huracana, ́ cualesquiera otra arma mortifera de cualesquiera clase 6 descripcion que sea, no importa el nombre que tuviere con que fuere conocida ó llamada, bajo las penas y castigos que sean en este acto despues descritas.

Sec. 2. Decrétese ademas: Que si cualesquiera persona portare sobre su persona, ya sea oculta o de otra manera, cualesquiera armá mortifera de la clase y descripcion mencionada en la seccion anterior, la persona ó personas que asi ofendan, sobre conviccion, la cual será por querella legal en la corte de distrito, será multada en cualesquiera suma que no baje de cincuenta pesos, ni pase de cien pesos, á la discrecion de le corte

Penalty for discharging or drawing wea. pons.

Penalty for cutting or wounding in assemblies.

In case of death, to be decmed murder

Sec. 3. Be it further enacted: That if any person shall discharge or draw any deadly weapon, of the class or description set forth in the first section of this act, in any baile or fandango, or in any other public assembly whatever, the person who shall so offend, on conviction thereof, which shall be by indictment in the district court, shall be fined in any sum not less than one hundred dollars, nor more than three hundred, at the discretion of the court trying the cause, or imprisoned in the county jail for a term not less than three months nor more than one year.

Sec. 4. Be it further enacted: That if any person in any baile or fandango, or in any public assembly of whatever class or description it may be, shall fire off or discharge any firearm of the class mentioned in the first section of this act, or shall cut or wound any person with any description of deadly weapon mentioned in the first section of this act, in any baile or fandango, or in any other public assembly, and any death shall result from said cut or wound so given, the person who shall so wound or cut, on conviction, shall be considered guilty of murder in the first degree, and shall suffer the penalty of death in the said first degrec.

Sec. 5. Be it further enacted: That it shall be the duty of the shoriffs, thicir deputies, or constables, to arrest and take all persons who shall be found with deadly weapons of the class and description mentioned in the first section of this act, and present them to some justice of the peace, or other authority, to be cxamined ; and it shall also be the duty of the judges of the district courts to cause, at the first term to be held in each cominty, the sheriffs and their deputics to take an oath that they will truly and faithfully comply with the provisions of this act, and that they will arrest at all times every person who shall violate any of the provisions of this act.

Sec. 6. Be it further enacted : That none of the provisions of this act shall be applied to the sheriffs, their deputies, or constables, in the cxecution of any process of the courts, or to conductors of the mail, or to persons when actually on trips from one town to another in this Territory; provided, that nothing in this act shall be so construed as to permit the conductors of mails, or travcllers, to carry any deadly weapons, as mentioned
que conozca la causa en la primera conviccion bajo esta ley; y por la segunda conviccion, la parte convicta será encarcelada en la cáreel del condado por un termino que no baje de tres meses ni pase de un aino, tambien á la discrecion de la corte que conozea en la causa.
Sec. 3. Decrétese ademas : Que si cualesquiera persona disparare ó sacare cualquier arma mortifera, de la clase o descripcion citada en la primera seccion de este acto, en cualesquiera baile 6 fandango, 6 en cualesquiera otra reunion pública, de la clase que sea, la persona que asi ofenda, sobre conviccion de lo mismo, la causa será por querella legal en la corte de distrito, será multada en una suma que no baje de cien pesos, ni pase de trescientos, á la discrecion de la corte que conozca en la causa, ó será encarcelada en la cárcel del condado por un término que no baje de tres meses, ni pase de un año.
Sec. 4. Decretese ademas: Que si cualesquiera persona en algun baile $\begin{gathered} \\ \text { fandango, } \\ \text { ó en otra concurrencia pública de la }\end{gathered}$ clase y descripcion que sea, disparare 6 descargare alguna arma de fuego de la clase mencionada en la seccion primera de este acto, o que cortare 6 hiriere a alguna persona con cualesquiera descripcion de armas mortiferas mencionadas en la primera seccion de este acto, en algun baile $b$ fandango, ú otra concurrencia pública, y resultare alguna muerte de la tal herida 6 cortada asi dada, la persona que así hiriere ó cortare, sobre conviecion, será considerada culpada de muerte en el primer grado, y sufrirá la pena de muerte en dicho primer grado.
Sec. 5. Decrétese ademas: Que será el deber de los alguaciles mayores, sus diputados, o condestables, de arrestar y tomar toda persona que sea hallada con armas mortiferas, de la clase y descripcion mencionadas en la primera seccion de este acto, y presentar lasá algun juez de paz, ù otra autoridad, para su examinacion ; y tambien será el deber de los jueces de distrito de causar, en la primera corte que sea tenida en cada condado, que los alguaciles mayor'cs y sus diputados presten juramento que ellos bien y fielmente cumplirán con las provisiunes de este acto, y arrestarán en todu tiempo à todas las personas que violaren cualesquiera de las provisiones de este acto.
Sec. 6. Decrétese ademas: Que ninguno de los provisos de Viajeros, esa, este acto serán aplicables al alguacil mayor, sus diputados, $\dot{\circ}$ 7

## Segunds conviccion, encar-

 celarmiento.Disparando armas, pena de.

Hiriendo en reuniones públiuniones publi-
casena de.

Muerte en pri-
mer grado. mer grado.

Deberes de los alguacilee, y ofensores de dar fianzas.
in the first section of this act, on their persons, after they shall have arrived at the town or settlement.

Judges to give
thise act in this act in charge.

Repealing clause.

To be published.

Skc. 7. Be it further enacted: That it shall be the duty of the several judges of the district court to give this act specially in their charges to the grand juries at each term of the court; and further, it shall be the duty of the grand juries, at each term of the court, to make a special report whether there has been any violation of the provisions of this act in their counties since the last term of the court.

Sec. 8. That all laws or parts of laws in conflict with this act are hereby repealed, and this act shall be in force and take effect from and after its passage.

Sec. 9. That the Secretary of the Territory of New Mexico be required to have this law published in the Santa Fé Gazette, as soon as possible, for six successive weeks, for the information of the poople.
[Translation.]

## An Act regulating Mercantile Copartnerships.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Who may eniter into.

Good faith to be observed.
-Articles what to contain and before whom made.

Skection 1. That any two or more persons in this Territory may, and when they shall think proper, bind themselves mutually, for a certain time and under certain conditions, to do and follow at the same time various negotiations on their own common account and risk, or at that of each one of the partners respectively, as well in the losses as in the profits that may arise from said copartnership.

Sec. 2. The copartners or associates shall act in good faith, placing punctually in the concern the capital or services as stipulated, under the penalty of indemnifying the others for the damages which may arise.

Sec. 3. The contract of copartnership should be made before any court of record, or the clerk thereof, of the several counties by means of an indenture, authorized by any court of record or the clerk thereof, which shall contain the chris-
ny persons as they shall think fit, not exceeding seven, to make orders from time to time, such as may be suitable and beneficial for erery town, villare, hamlet, or neighbourhood, for prerenting all harms by swine in town, meadows, pastures and gadens, in any respert, and to impose penalties according to their best discretions.
('hitp. VIII.
An Act appointing some new Commissioners of the Highways.

WHERELS there was an art made in the year lose. for the comnty of Mommouth, to emable ('ol. Lewis Merris, John Bound, and Joseph Parker, to lay out highways, passages, ferry's, and making bridges and such like: there being three of those prasons disenabled for the true performance of the said selvicess be it therefore enurfolloy the Governor. Council and Deputiss now mot and assembled, and by the authority of the same, that John Frogmerton, John Slocame, and Nirholas Brown, in the stead and room of Col. Lewis Morris, John Bound, and Joseph Parker, be made capable and herehy invested with the same power to all intents and purposes in the said premises, as the aforesaid Col. Lewis Morris John Bound, and Joseph Parker, were by the sadidacts.

## Chap. IX.

## An Act against wearing Swords, \&c.

WLFRRE.Ls there hath been great complaint by the inhabitants of this Province, that several persons wearing swords, daggers, pistols, dirks, stilladoes, skeines, or any other umusual or unlawful weapons, by reason of which several persons in this Province, receise great abuses, and put in great fear and quarrels, and chatlenges made. to the great abuse of the inhalitants of this Province. Be it therefore enacted by the Governor, and Council, and I)eputies now met in (ieneral Assembly, and ly anthority of the same, that no person or persons within this Province, presume to send any challenge in writing, by word of mouth,
of mexsage to athy furson to fight, "pon pain of being imprivoned durine the space of six months, without bail or
 cept of such challomer and not discover the same to the


 pable "Ne of the Prowince, :aml the wher molety to such

 fovered hy the ushal action of deht, in any of the satid counts. A And ln it farther chereted by the anthority afore said. that me prosen of persons after pabliration hereof. shall proume prately to wear any pueket pistol, skeinus. stilladors, dasersor dirks or other unusual or unlawful wapuons within this Province. upon prably for the first whence live prombs, and to be committerl by any justiee of the f"ace his wamtant hefore whom peof thereof shall be mathe. whe is heroby authorized to enguire of and prowend in
 promis, one half to the public treasury for the use of this Provines atul the other half to the informer: And if such ferwen shall again offerd against this law. he shall he in like mather vommiten ("un proof theroof before alo justice of the ferare to the common smol, there to remain till the next sassions, and men conviction thereof hy verdict of twelve meth. shall poceive jutement to lee in prison six month. and faly toll purnds for the use aforesaid. Antlo it finf-
 ride of en armed with swomd. pistol. or dagger. "pon the pwalty of five ;"mals, to lue heviel as aforesalid. exerpting all oflieros. civil and military, and soldiers while in artual strier, asalso all stmasers, trawelline upon their lawfol or-(asion- thro this Prow ince, hehaving themselves peaceably.
or when the amount or value thereof does not exceed twenty dollars, the same may be prosecuted for by complaint before a police court or a justice of the peace, who shall have jurisdiction thereof, concurrently with the court of common pleas and the municipal court.

Benefit of clergy and petit treason aboltshed. $1784,56 \& 69$.

## TITLE II.

## Of proceedings in criminal cases.

Chapter 134. Of proceedings to prevent the commission of crimes.
Chapter 135. Of the arrest and examination of offenders, commitment for trial, and taking bail.
Chapter 136. Of indictments and proceedings before trial.
Chapter 137. Of trials in criminal cases.
Chapter 138. Of appeals, new trials, and exceptions, in criminal cases.
Chapter 139. Of judgments in criminal cases, and the execution thereof.
Chapter 140. Of coroners inquests.
Chapter 141. Of the taxation, allowance and payment of costs in criminal prosecutions.
Chapter 142. General provisions concerning proceedings in criminal cases.

## CHAPTER 134.

## OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIMES.

| Section | Section |
| :---: | :---: |
| 1. Officers, authorized to keep the peace. | 13. Persons committed for not recognizing, |
| 2. Complaint, how made. | how discharged. |
| 3. Arrest. | 14. Recognizances to be transmitted to the |
| 4. Trial-Recognizance to keep the peace. | rt. |
| 5. Party, when to be discharged. | 15. " when to be required, on |
| 6. Refusing to recognize, to be committed. | view of the court or magistrate. |
| 7. Complainant, when to pay costs. | 16. Persons who go armed, may be required |
| 9. Appeal allowed. | 17. Court may remit part of penalty for- |
| 10. On appeal, witnesses to recognize. | feited. |
| 11. Proceedings upon an appeal. | 18. Surety may surrender his principal, |
| 12. Recognizance, when to remain in force. | who may recognize anew. |

Section 1. The justices of the supreme judicial court, the jusOfficers' 'author- tices of the court of common pleas, justices of police courts, in vaca-
ized to keep the peace.
tion as well as in open court, and also all justices of the peace, shall have power to cause all laws, made for the preservation of the public peace, to be kept, and in the execution of that power, may require persons to give security to keep the peace, or for their good behavior, or both, in the manner provided in this chapter.

Sect. 2. Whenever complaint shall be made to any such magis- Complaint, how trate, that any person has threatened to commit an offence against the made. person or property of another, the magistrate shall examine the complainant, and any witnesses who may be produced, on oath, and reduce such complaint to writing, and cause the same to be subscribed by the complainant.

Sect. 3. If, upon examination, it shall appear that there is just Arrest. cause to fear that any such offence may be committed, the magistrate ${ }^{1794,26, ~ § 2 .}$ shall issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer, to whom it may be directed, forthwith to apprehend the person complained of, and bring him before such magistrate, or some other magistrate or court having jurisdiction of the cause.

Sect. 4. When the party complained of is brought before the Trial. magistrate, he shall be heard in his defence, and he may be required Recognizance to enter into a recognizance, with sufficient sureties, in such sum as the magistrate shall direct, to keep the peace towards all the people of this Commonwealth, and especially towards the person requiring such security, for such term as the magistrate may order, not exceeding six months, but shall not be bound over to the next court, unless he is also charged with some other offence, for which he ought to be held to answer at such court.

Sect. 5. Upon complying with the order of the magistrate, the Party, when to party complained of shall be discharged.

Sect. 6. If the person, so ordered to recognize, shall refuse or neglect to comply with such order, the magistrate shall commit him to the county jail, house of correction, or house of industry, during the period for wbich he was required to give security, or until he shall so recognize ; stating, in the warrant, the cause of commitment, with the sum and the time for which security was required.

Sect. 7. If, upon examination, it shall not appear that there is just cause to fear that any such offence will be committed by the party complained of, he shall be forthwith discharged; and if the magistrate shall deem the complaint unfounded, frivolous or malicious, he may order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and the officer for their fees, as for his own debt.

Sect. 8. When no order respecting the costs is made by the Payment of magistrate, they shall be allowed and paid, in the same manner as costs costs in other before justices in criminal prosecutions ; but in all cases, where a per- 1824, 128, 82. son is required to give security for the peace, or for bis good be- ${ }^{1334,151, \oint 4 .}$ havior, the court or magistrate may further order that the costs of prosecution, or any part thereof, shall be paid by such person, who shall stand committed, until such costs are paid, or he is otherwise legally discharged.

Sect. 9. Any person aggrieved by the order of any justice of Appeal allowthe peace, or of a police court, requiring him to recognize as afore- ${ }^{\mathrm{ed} .} \mathbf{1 8 3 3 , 6 3 ,}$, 1.

On appeal, witnesses to recognize.

Proceedings on appeal.

Recoguizance, when to remain in force.

Persons committed for not recognizing, how discharged.

Recognizances to be transmitted to the court.

- when to be required on view of the court or magistrate.

Persons who go armed may be required to find sureties for the peace, \&c. $1794,26, \S 2$.
said, may, on giving the security required, appeal to the court of common pleas, next to be beld in the same county, or, in the city of Boston, to the municipal court.

Sect. 10. The magistrate, from whose order an appeal is so taken, shall require such witnesses, as he may think necessary to support the complaint, to recognize for their appearance at the court to which the appeal is made.

Sect. 11. The court, before which such appeal is prosecuted, may affirm the order of the justice, or discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum, and for such time, as the court shall think proper, and may also make such order, in relation to the costs of prosecution, as may be deemed just and reasonable.

Sect. 12. If any party appealing shall fail to prosecute his appeal, his recognizance shall remain in full force and effect, as to any breach of the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as a security for any costs, which shall be ordered, by the court appealed to, to be paid by the appellant.

Sect. 13. Any person, committed for not finding sureties, or refusing to recognize, as required by the court or magistrate, may be discharged by any judge or justice of the peace, on giving such security as was required.

Sect. 14. Every recognizance, taken pursuant to the foregoing provisions, shall be transmitted by the magistrate to the court of common pleas for the county, or, in the city of Boston, to the municipal court, on or before the first day of the next term, and shall be there filed of record by the clerk.

Sect. 15. Every person who shall, in the presence of any magistrate mentioned in the first section of this chapter, or before any court of record, make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, and every person, who in the presence of such court or magistrate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace, or being of good behavior, for a term not exceeding three months, and in case of refusal, may be committed, as before directed.

Sect. 16. If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assualt or other injury, or violence to his person, or to bis family or property, he may, on complaint of any person having reasonable cause to fear an injury, or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.

Sect. 17. Whenever, upon a suit brought on any such recog-

Court may remit part of penalty.
7 Mass. 397.
1810. 80.

Surety may surrender his
nizance, the penalty thereof shall be adjudged forfeited, the court may remit such portion of the penalty, on the petition of any defendant, as the circumstances of the case shall render just and reasonable.

Sect. 18. Any surety in a recognizance to keep the peace, or for good behavior, or both, shall have the same authority and right
to take and surrender his principal, as if he had been bail for him in principal, who a civil cause, and upon such surrender shall be discharged, and exempt from all liability, for any act of the principal subsequent to such surrender, which would be a breach of the condition of the recognizance ; and the person, so surrendered, may recognize anew, with sufficient sureties, before any justice of the peace, for the residue of the term, and thereupon shall be discharged.

## CHAPTER 135.

## OF THE ARREST AND EXAMINATION OF OFFENDERS, COMMITMENT FOR TRIAL, AND TAKING BAIL.

Section

1. Officers, empowered to act under this chapter.
2. Complaints, warrants, and summonses for witnesses.
3. In what counties warrants may be executed.
4. Prisoners, when to be brought before magistrate, on arrest, \&c.
5. Magistrate, if be take bail, to return the recognizance to court, \&c.
6. Officer, how to proceed if prisoner is not bailed
7, 8. Prisoner when to be carried to the county whence the warrant issued.
7. Magistrate may adjourn the examination, \&c.
8. In case of default, magistrate to certify recognizance to C. C. Pleas.
1 Proceedings, when the party fails to recognize.
12, 13, 14. Manner of conducting the examination.

Section
15. Testimony may be reduced to writing.
16. Prisoner, when to be discharged.
17. " when to be bailed, or committed.
18. Witnesses to recognize.
19. Witnesses, when to recognize with sureties.
20. Recognizances of married women and minors.
21. Witnesses, refusing to recognize, to be committed.
22. Prisoners, by whom let to bail.
23. Examining magistrate may have associates.
24. Examinations and recognizances to be returned.
25. Commitments, when to be superseded, and recognizances discharged.
26. Orders therefor, how to be filed, and effect thereof.
27, 28, 29, 30. Proceedings on forfeited recognizances.

Section 1. For the apprehension of persons charged with offences, the justices of the supreme judicial court, justices of the court of common pleas, justices of any police court, in vacation as well as ter. in term time, and all justices of the peace, are authorized to issue process, to carry into effect the provisions of this chapter.

Sect. 2. Upon complaint, made to any such magistrate, that a Complaints, criminal offence has been committed, he shall examine on oath the warrants, and $\begin{gathered}\text { summonses for }\end{gathered}$ complainant, and any witnesses produced by him, and sball reduce wituesses. the complaint to writing, and shall cause the same to be subscribed by the complainant; and if it shall appear that any such offence has been committed, the court or justice shall issue a warrant, reciting the substance of the accusation, and requiring the officer, to whom it sball be directed, forthwith to take the person accused, and to bring him before the said court or justice, or before some other court or magis-
the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.
$\oint$ 13. Any person committed for not finding sureties, or refusing Not recog. to recognize as required by the court or magistrate, may be discharg- diseharghow. ed by any judge or justice of the peace on giving such security as was required.
§14. Every recognizance taken in pursuance of the foregoing recogniprovisions shall be transmitted by the magistrate to the district court ${ }_{\text {tinces trans }}^{\text {zancted }}$ to for the county on or before the first day of the next term, and shall mourt. be there filed of record by the clerk.
$\$ 15$. Any person who shall, in the presence of any magistrate when rementioned in the first section of this statute, or before any court of ${ }^{\text {of }}$ view of record, make an affray, or threaten to kill or beat another, or to com- courh \&c. mit any violence or outrage against his person or property, and every person who, in the presence of such court or magistrate, shall contend, with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace and being of good behavior, for a term not exceeding six months, and in case of refusal may be committed as before directed.
§16. If any person shall go armed with a dirk, dagger, sword, pis- Persons goo tol or pistols, or other offensive and dangerous weapon, without rea- ivive esecurisonable cause to fear an assault or other injury, or violence to his person, or to his family, or property, he may, on complaint of any other person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace for a term not exceeding six months, with the right of appealing as before provided.
$\$ 17$. Whenever, upon a suit brought on any such recognizance, Part of pe. the penalty thereof shall be adjudged forfeited, the court may remit ned. remit such portion of the penalty on the petition of any defendant, as the circumstances of the case shall render just and reasonable.
$\oint 18$. Any surety in a recognizance to keep the peace or for good surety may behavior or both, shall have the same authority and right to take and principal. surrender his principal as if he had been bail for him in a civil cause; and upon such surrender shall be discharged and exempt from all liability for any act of the principal subsequent to such surrender, which would be a breach of the condition of the recognizance; and the person so surrendered may recognize anew, with sufficient sureties, before any justice of the peace for the residue of the term, and thereupon shall be discharged.

## AN ACT making general provisions concerning crimes and punishments.

§ 1. That every person who shall be aiding in the commission of Accessfory any offence, which shall be a felony either at common law or by any to folony bestatute now made, or which shall be hereafter made, or who shall be how puishaccessory thereto before the fact, by counselling, hiring or otherwise procuring such felony to be committed, shall be punished in the same manner as is or shall be prescribed for the nunishment of the principal felon.
refusing to recognize, as required by the court or magistrate, may Chap. 169. be discharged by any judge or justice of the peace, on giving such security, as was required.
may be taken after commit-
Sect. 14. Every recognizance, taken pursuant to the foregoing ${ }^{\text {ment. }}$ provisions, shall be transmitted to the district court, on or before Return of such the first day of the next ensuing term, and shall there be filed by the clerk, as of record.

Sect. 15. Whoever, in the presence of any magistrate, men- When magistioned in the second section of this chapter, or before any court of record, shall make any affray or threaten to kill or beat another, or commit any violence against his person or property, or shall con- ${ }_{\&}$ tend, with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace, or being of the good behavior for a term, not exceeding three months, and, in case of refusal, may be committed to prison as before directed.

Sect. 16. Any person, going armed with any dirk, dagger, Persons going sword, pistol, or other offensive and dangerous weapon, without a reasod, without reasonable cause to fear an assault on himself, or any of his family cause. or property, may, on the complaint of any person having cause to ${ }^{1821,76, \wp 1 .}$ fear an injury or breach of the peace, be required to find sureties for keeping the peace for a term, not exceeding one year, with the right of appeal as before provided.

Sect. 17. In a suit, on such recognizance taken in a criminal case, if a forfeiture is found or confessed, the court, on petition, may remit the penalty, or such part of it as they may think proper, on such terms as they may think right.

Sect. 18. Any surety in a recognizance may surrender the principal in the same manner, as if he had been his bail in a civil cause, and, on such surrender, shall be discharged from all liability their principals for any act of the principal after such surrender, which would be a bail in civil acbreach of the recognizance ; and, upon such surrender, the principal may recognize anew with sufficient surety or sureties for the residue of the term, before any justice of the peace, and shall thereupon be discharged.

## CHAPTER 170.

OF THE POWER AND PROCEEDINGS OF JUSTICES OF THE PEACE IN CRIMINAL CASES.

Sect. 1. Justices may require aid, on view, Sect. 6. Duty of justices, as to arrests, and
without a warrant.
2. Their jurisdiction.
3. When a justice shall issue his warrant.
4. Examination, on trial, of the party accused.
5. Of commitment or binding over to a higher court,
examinations into treasons, felonies, \&c.
7. Trial and sentence within their jurisdiction.
8. Respondent may appeal; but required to recognize.
9. To carry up copies of the case.

Officers authorized to keep, the pence.

Complaint, how made.

Arrest.

## Trial, recogni-

 zance.4 Mass., 497.
8 do., 73 .
$2 \mathrm{~B}, \& \mathrm{~A}, 278$.

Of Proceedings in Criminal Cases.

Chapter 162. Of Proceedings to prevent the Commission of Crime.
Chapter 163. Of the Arrest and Examination of Offenders, commitment for Trial and taking Bail.
Chapter 164. Of Indictments and Proceedings before Trial.
Chapter 165. Of Trials in Criminal Cases.
Chapter 166. Of new Trials and Exceptions in Criminal Cases.
Chapter 167. Of Coroners' Inquests.
Chapter 168. Of Judgments in Criminal Cases and the Execution thereof.
Chapter 169. Of Fees of Officers and Ministers of Justice in Criminal Cases.
Chapter 170. Miscellaneous Provisions concerning Proceedings in Criminal Cases.

## CHAPTER 162. <br> of proceedings to prevent the commission of crime.

## TITLE XXXI.

Section 1. The justices of the supreme court, judges of county courts, circuit court commissioners, all mayors and recorders of cities, and all justices of the peace, shall have power to cause all laws made for the preservation of the public peace, to be kept, and in the execution of that power, may require persons to give security to keep the peace, in the manner provided in this chapter.

Sec. 2. Whenever complaint shall be made in writing and on oath, to any such magistrate, that any person has threatened to commit any offence against the person or property of another, it shall be the duty of such magistrate to examine such complainant, and any witnesses who may be produced, on oath, to reduce such examination to writing, and to cause the same to be subscribed by the parties so examined.

Sec. 3. If it shall appear from such examination, that there is just reason to fear the commission of any such offence, such magistrate shall issue a warrant under his hand, directed to the sheriff or any constable of the county, reciting the substance of the complaint, and commanding him forthwith to apprehend the person so complained of, and bring him before such magistrate.

Sec. 4. When the party complained of is brought before the magistrate, he shall be heard in his defence, and he may be required to enter into a recognizance with sufficient sureties, in such sum as the magistrate shall direct, to keep the peace towards all the people of
this state, and especially towards the person requiring such security, for such term as the magistrate may order, not exceeding one year, but shall not be bound over to the next court, unless he is also charged with some other offence, for which he ought by law to be held to answer at such court.

Sec. 5. Upon complying with the order of the magistrate, the par- Party, when disty complained of shall be discharged.

Sec. 6. If the person so ordered to recognize, shall refuse or neglect to comply with such order, the magistrate shall commit him to the county jail, during the period for which he was required to give security, or until he shall so recognize; stating in the warrant the cause of commitment, with the sum and the time for which such security was required.

Sec. 7. If, upon examination, it shall not appear that there is just cause to fear that any such offence will be committed by the party complained of, he shall be forthwith discharged ; and if the magistrate shall deem the complaint unfounded, fivolous or malicious, he shall order the complainant to pay the costs of the prosecution, who shall thereupon be answerable to the magistrate and the officer (officers) for their fees, as for his own debt.

Sec. 8. When no order respecting the costs is made by the magis- payment of cost trate, they shall be allowed and paid in the same manner as costs be- in other cases. fore justices in criminal prosecutions ; but in all cases where a person is required to give security to keep the peace, the court or magistrate may further order that the costs of prosecution, or any part thereof, shall be paid by such person, who shall stand committed, until such costs are paid, or he is otherwise legally discharged.

Sec. 9. Any person aggrieved by the order of any justice of the peace, requiring him to recognize as aforesaid, may, on giving the recognizance to keep the peace required by such order, appeal to the circuit court for the same county.

Sec. 10. The justice from whose order an appeal is taken, shall witnesses torerequire such witnesses as he may think necessary to support the com- coguize. plaint, to recognize for their appearance at the court to which the appeal is made.

Sec. 11. The court before which such appeal is prosecuted, may Court may afirm affirm the order of the justice, or discharge the appellant, or may re- order of justice, quire the appellant to enter into a new recognizance, with sufficient pellant, \&c. sureties, in such sum, and for such time, not exceeding one year, as the court shall think proper, and may also make such order in relation to the costs of prosecution, as may be deemed just.

Sec. 12. If any party appealing shall fail to prosecute his appeal, recogniznee, his recognizance shall remain in full force and effect, as to any breach when to remain of the condition, without an affirmation of the judgment or order of the justice, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.

Sec. 13. Any person committed for not finding sureties, or refusing Person committo recognize, as required by the court or magistrate, may be discharged by any judge, circuit court commissioner or justice of the peace, on giving such security as was required.

Sex. 14. Every recognizance, taken pursuant to the foregoing pro- Recognizance to visions, shall be transmitted by the magistrate to the clerk of the cir- clerk of court. cuit court for the county, within twenty days after the taking thereof, and on or before the next term of such court, and shall be filed by such clerk.

CHILE XXXI. SEC. 15. Every person who shall, in the presence of any magis-

Breach of peace in presence of magistrate, \&c.

Person going armed to find sureties for the pence. trate mentioned in the first section of this chapter, or before any court of record, make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, and every person who, in the presence of such court or magistrate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace, for a term not exceeding six months, and in case of refusal, may be committed as before directed.

Sec. 16. If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury, or violence to his person, or to his family or property, he may, on complaint of any person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.

Sec. 17. Whenever upon a suit brought on any recognizance enCourt mny remit tered into in pursuance of this chapter, the penalty thereof shall be adjudged forfeited, the court may remit such portion of the penalty, on the petition of any defendant, as the circumstances of the case shall render just and reasonable.
Surety may sur- Sec. 18. Any surety in a recognizance to keep the peace, shall render his principal, effect of surrender. have the same authority and right to take and surrender his principal as in other criminal cases, and upon such surrender shall be discharged and exempt from all liability for any act of the principal subsequent to such surrender, which would be a breach of the condition of the recognizance; and the person so surrendered may recognize anew, with sufficient sureties, before any justice of the peace or circuit court commissioner for the residue of the term, and shall thereupon be discharged.

## CHAPTER 1.63.

## OF THE ARREST AND EXAMINATION OF OFFENDERS, COMMITMENT FOR trial and taking bail.

Section 1. For the apprehension of persons charged with offences,
What officera may issue process for the arrest of offenders, \&ec.
excepting such offences as are cognizable by justices of the peace, the justices of the supreme court, judges of the county courts, circiuit court commissioners, mayors and recorders of cities, and all justices of the peace, shall have power to issue process and to carry into effect the provisions of this chapter.

Sec. 2. Whenever complaint shall be made to any such magistrate, Complainant, \&c. to be examined. that a criminal offence, not cognizable by a justice of the peace, has been committed, he shall examine on oath the complainant, and any witnesses who may be produced by him.

Sec. 3. If it shall appear from such examination, that any criminal Proceedings if it uppear that an offence has been committed. offence, not cognizable by a justice of the peace, has been committed, the magistrate shall issue a warrant, directed to the sheriff or any constable of the county, reciting the substance of the accusation, and

## TITLE III.

of proceedings in criminat cases.
Caar. 14. Of proceedings to prevent the commission of crimes.
15. Of arrest and commitment.
16. Of coroners' inquests.
17. Of bail in criminal cases.
18. Of examining courts.
19. Of grand jurics.
20. Of indictments, presentments and informations, and process thereon.
2I. Of trial and its incidents.
22. Of exceptions, writs of error and exccution of judgment.
23. Of taxation and allowance of costs.
24. Of contempts of court.
\$5. Of general provisions concerning proceedings in criminal cases.
26. Of criminal proceedings ngainst slaves, free negroes and mulattoes.

CIIAP. XIV.
of proceedings to prevent the commission of crimes.

Section

1. Officers authorized to keep the peace.
2. Complaint, how made.
3. Arrest.
4. Trial. Recognizance to lseep the peace.
5. Party, when discharged.
G. Refusing to recognize, to be committed.
6. Complainant when to pay costs.
7. Payment of costs in other cases.
8. $\Lambda$ ppeal allowed.
9. On appeal, witnesses to recognize.
10. Proceedings on appeal.

Section
12. Recognizance, when to remain in force.
13. Persons cominitted for nol recognizing, how discharged.
14. Recognizances to be transmitted to court.
15. Recognizances, when to be required on view of the court or magistrate.
16. Persons who go arined may bo required to find suretics of the peace, \&c.
17. Persons not of good fame to give surety for good behaviour.

1. The judges of the supreme court of appeals, the judges of the onicers authogeneral court throughout the commonwealth, all justices of the peace prized to keep the and commissioners in chancery within their respective jurisdictions, shall have power to cause all laws made for the preservation of the public peace, to be kept, and in the execution of that power, may re- Power to requirn quire persons to give security to keep the peace, or for their good be-viourty for terinhaviour, or both, in the manner hereinafter provided.
2. Whenever complaint shall be made to nay such magistrate that Complaint how there is good cause for fear that any person intends to commit an of made. fence against the person or property of another, the magistrate shall examine the complainant and any wituesses who may be produced on oath, and reduce such complaint to writing, and cause the same to be subscribed by the complainant.
3. If upon examination, it shall appear that there is just cause to Arrest. fear that any such offence may be committed, the magistrate shall issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer to whom it may be directed, forthwith to apprehend the person complained of, and bring him before such magistrate, or some other magistrate having jurisdiction of the cause.

Trial.

## Recognizance to

 keep peace.4. When the party complained of is brought before the magistrate, he shall be heard in his defence, and he may bo required to enter into a recognizance, with sufficient surcties, in such sum as the magistrate shall direct, to keep the peace towards all the people of this commonwealth, and especially towards the person making the complaint, for such term as the magistrate may order, not exceeding twelve months, but shall not be bound over to the next court, unless he is also charged with some other offence, for which he ought to be held to answer at such court.
rarty whon dis- 5. Upon complying with the order of the magistrate, the party chargod.

Rofusing to rocognizo, to be committed. complained of shall be discharged.
6. If the person so ordered to recognize shall refuse or neglect to comply with such order, the magistrate shall commit him to the jail during the period for which he was required to give security, or until he shall so recognize, stating in the warrant the cause of commitment, with the sum and the time for which security was required.
7. If upon examination it shall not appear that there is just cause

Dofendant when discharged.
Complainant when to pay costs.

Payment of costs in other cases. to fear that any such offence will be committed by the party complained of, he shall be forthwith discharged; and if the magistrate shall deem the complaint unfounded, frivolous or malicious, he may order the compininant to pay the costs of the prosecution, and thereupon award execution against him for the same.
8. When no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecutions; but in all cases where a person is required to give security for the peace, or for his good behaviour, the court or magistrate may further order that the costs of prosecution, or any part thereof, shall be paid by such person, who shall stand committed until such costs are paid, or he is otherwise legally discharged.
9. Any person aggrieved by the order of any justice of the peace requiring him to recognize as aforesaid, may, on giving the security required, appeal to the county or corporation court next to be holden for the said county or corporation.
10. The magistrate from whose order an appeal is taken, shall require such witnesses as he may think necessary to support the complaint, to recognize for their appearance at the court to which the appeal is made.
11. The court before which such appeal is prosecuted, may affirm the order of the justice, or discharge the appellant, or may require him to enter into a new recognizance, with sufficient sureties, in such sum, and for such time, as the court shall think proper; and may also make such order in relation to the costs of prosecution as may be deemed just and reasonable.
12. If any party appealing shall fail to prosecute his appeal, his recognizance shall remain in full forco and offect, as to any breach of the condition, without any affirmation of the order of the magistrate, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.
13. Any person committed for not finding securities, or refusing to

Persons committed for not recog-
nizing, how disnizing, how dis-
charged. recognize as required by the court or magistrate, may be discharged by any judge or justice of the peace on giving such security as was required, or by the county court, on such terms as the court may deem reasonable.
14. Every recognizance taken pursuant to the foregoing provisions, shall be transmitted by the magistrate to the court of the county on or before the first day of the next term thereof, and shall be there filed of record by the clerk.
15. Every person who shall, in the presence of any magistrate, necognizances mentioned in the first section of this act, or before any court of re- requited for ofcord, make an affray, or threnten to kill or beat another, or to com- sence or magiemit any violence or outrage against his person or property, and every trate or court. person who, in the presence of such court or magistrate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered without process or any other proof, to recognize for keeping the peace, or being of good behaviour, for a term not exceeding six months, and in case of refusal may be committed as before directed.
16. If any person shall go armed with any offensive or dangerous Persnna armed, weapon, without reasonable cause to fear an assault or other injury, required to find or violence to his person, or to his family or property, he may be required to find sureties for keeping the pence for a term not exceeding twelve months, with the right of appealing as before provided. Appent alloweal.
17. Such persons as are not of good fame may be required to give Persons not of sufficient surety of their good behaviour for such term, not exceed- knoul fama to give ing twelve months, as the magistrate requiring it may order.

## CHAP. XV.

OF ARREST AND COMMITMENTT.

| Section | Skction |
| :---: | :---: |
| 1. Oflicers empowered to ac | 17. When prisoner to be |
| 2. Complaints, warrants and summonses. | 18. When to be bailed or committed. <br> 19. If party entitled to exnmination, |
| 3. Offence committed in another county. |  |
| In what county warrant m |  |
| cxecuted. | 21. If party charged be free negro, ice. |
| Prisoner, when to be brought be- | 22. Duty of magistrate, dec. 23. Witnesses to recognize. |
| Magistrate, if he take bail, to return recognizance, ise. | 24. Witnesses, when to recognize with sureties. |
| Officer, how to proceed if prisoner not bailed. | 25. Recognizances of minors, sec. 26. Witnesses refusing to recognize. |
| Prisoner, when to be carried to county whence warrant issued. | 27. Nagistrate may associate others. <br> 28. Prisoner by whom let to bnil. |
| 9. Same subject. | 29. Recognizances, 心c. to be returned. |
| 10. Magistrate may ndjourn examination. | 30. Commitments, \&c. when to be discharged. |
| 1. In case of default, recognizance to be certified. | 31. Orders therefor, how to be filed \&ce. 39. |
| . Proceedings when party fails to recognize. | 33. Proceedings on forfeited recogni- <br> 34. znnces. |
|  |  |
| Manner of conducting examination. | 36. Right of surety to surrender principal. |
| . Testimony to be reduced to writing. | 37. To whom to be surrendered. <br> 38. When to the court. |

1. For the apprehension of persons charged with offences, the Process to arrent judges of the general court, and all justices of the peace in vacation for offonces, by as well as in term time, are authorized to issue process to carry into effect the provisions of this act.
2. Upon complaint made to any such magistrate that a criminal Examinntion on offence has been committed, he shall examine on oath the complainant and any witnesses produced by him, and shall reduce the complaint to writing, and cause the same to be subscribed by the complainant; and if it shall appear that any such offence has been com-
as are necessary to bring the case within the provisions of law, issue a warrant to bring the person so charged before the same, or some other court or magistrate within the territory, to answer such complaint as in other cases.

Sec. 4. If, upon examination of the person charged, it shall appear to the court or magistrate, that there is reasonable cause to believe that the complaint is true, and that such person may be lawfully demanded of the governor, he shall, if not charged with a capital crime, be required to recognize with sufficient sureties, in a reasonable sum, to appear before such court or magistrate at a future day, allowing a reasonable time to obtain the warrant of the executive, and to abide the order of the court or magistrate ; and if such person shall not so recognize, he

When to be committed.

Forfelture of recognlzance.

When discharged.

May be delfvered on warrant of executive, \&c.

Complainant liable for costs, \&c. shall be committed to prison, and be there detained until such day, in like manner as if the offence charged had been committed within this territory; and if the person so recognizing shall fail to appear according to the condition of his recognizance, he shall be defaulted, and the like proceedings shall be had as in the case of other recognizances entered into before such court or magistrate; but if such person be charged with a capital crime, he shall be committed to prison, and there detained until the day so appointed for his appearance before the court or magistrate.

Sec. 5. If the person so recognized or committed, shall appear before the court or magistrate upon the day ordered, he shall be discharged unless he be demanded by some person authorized by the warrant of the executive to receive him, or unless the court or magistrate shall see cause to commit him, or to require him to recognize anew, for his appearance at some other day and if, when ordered, he shall not so recognize, he shall be committed and detained as before provided; whether the person so discharged shall be recognized, committed, or discharged, any person authorized by the warrant of the executive, may at all times, take him into custody, and the same shall be a discharge of the recognizance, if any, and shall not be deemed an escape.

Sec. 6. The complainant in such case, shall be answerable for the actual costs and charges, and for the support in prison, of any person so committed, and shall advance to the jailor one week's board, at the time of commitment, and so from week to week, so long as such person shall remain in jail, and if he fail so to do, the jailor may forthwith discharge such person from his custody.

## CHAPTER 112.

## OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIMES.

Section

1. What offfcers to cause public peace to be kept.
2. Proceedings when complaint is made to magistrate.

## SECTION

3. Magistrate when to issue warrant.
4. Proceedings upon examinatlon, before magistrate.
5. Defendant may have counsel.

## Section

6. Defendant when to enter into recognizance.
7. Defendant when to be discharged.
8. Defendant when to be committed.
9. Defendant when to be discharged.
10. Costs by whom pald.
11. Appeal when allowed.
12. When magistrate may require wilnesses to recognize.
13. District court how to proceed upon such appeal.
14. When appellant falls to prosecute appeal, recognizance to be in force.

Section
15. After commitment, how defendant may be discharged.
16. Recognizance to be transmitted to district court.
17. When person may be ordered to recognize without warrant.
18. Persons carrying offensive weapons, how punished.
19. Sult brought on recognlzance.
20. Surels may take and surrender principni in recognizance.

Sec. 1. The judges of the several courts of record, in vacation as well as in open court, and all justices of the peace, shall have power to cause all laws made for the preservation of the public peace, to be kept, and in the execution of that power, may require persons to give security to keep the peace, or for their good behavior, or both, in the manner provided in this chapter.

Sec. 2. Whenever complaint shall be made to any such magistrate, that any person has threatened to commit an offence against the person or property of another, the magistrate shall examine the complainant and any witness who may be produced, on oath, and reduce such complaint to writing and cause the same to be subscribed by the complainant.

Sec. 3. If upon examination, it shall appear that there is just cause to fear that any such offence may be committed, the magistrate shall issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer to whom it may be directed, forthwith to apprehend the person complained of, and bring him before such magistrate or some other magistrate or court, having jurisdiction of the cause.

Sec. 4. The magistrate before whom any person is brought upon charge of having made threats as aforesaid, shall as soon as may be, examine the complainant and the witnesses to support the prosecution, on oath, in the presence of the party charged, in relation to any matters connected with such charge, which may be deemed pertinent.

Sec. 5. After the testimony to support the prosecution, the witnesses for the prisoner, if he have any, shall be sworn and examined, and he may be assisted by counsel in such examination, and also in the cross examination of the witnesses in support of the prosecution.

Sec. 6. If upon examination it shall appear that there is just cause to fear that any such offence will be committed by the party complained of, he shall be required to enter into a recognizance and with sufficient sureties, in such sum as the magistrate shall direct, to keep the peace towards all the people of this territory, and especially towards the persons requiring such security, for such term as the magistrate shall order, not exceeding six months; but he shall not be ordered to recognize for his appearance at the district court, unless he is charged with some offence for which he ought to be held to answer at said court.

Sec. 7. Upon complying with the order of the magistrate, the party complained of shall be discharged.

Sec. 8. If the person so ordered to recognize shall refuse or neglect to comply with such order, the magistrate shall commit him to the county jail during the period for which he was required to give security, or until he shall so recognize, stating in the warrant the cause of commitment, with the sum and time for which security was required.

Sec. 9. If, upon examination, it shall not appear that there is just cause to fear that any such offence will be committed by the party complained of, he shall be forthwith discharged; and if the magistrate shall

What officers to cause public peace to be kept.

Proceedings when complaint is made to magistrate.

Magistrate when to issue warrant.

Proceedings upon examination before magistrate.

Defendant may
have counsel.

Defendant when to enter into recognizance.

Defendant when to be discharged.

Defendant when to be commilted.

Defendant when to be discharged,

Costs by whom paid

Appeal when allowed.

When magistrate may require witness to recognize.

District court how to proceed upon such appeal.

When appellant ralls to prosecute appeal, recogntzance to be in force.

After commitment, how defendant may be discbarged.

Recognizance to be transmitted to district court.

When person may be ordered to recognize without warrant.

Persons carrying offensive weapons how puntshed.
deem the complaint unfounded, frivolous, or malicious, he shall order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and the officer for their fees as for his own debt.

Sec. 10. When no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecutions ; but in all cases where a person is required to give security for the peace or for his good behavior, the magistrate may further order the costs of prosecution or any part thereof to be paid by such person,' who shall stand committed until such costs are paid, or he is otherwise legally discharged.

Sec. 11. Any person aggrieved by the order of any justice of the peace requiring him to recognize as aforesaid, may, on giving the security required, appeal to the district court next to be holden in the same county, or that county to which said county is attached for judicial purposes.

Sec. 12. The magistrate from whose order an appeal is so taken, shall require such witnesses as he may think necessary to support the complaint, to recognize for their appearance at the court to which appeal is made.

Sec. 13. The court before which such appeal is prosequted, may affirm the order of the justice or discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court shall think proper, and may also make such order in relation to the costs of prosecution as he may deem just and reasonable.

Sec. 14. If any party appealing, shall fail to prosecute his appeal, his recognizance shall remain in full force and effect as to any breach of the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.

Sec. 15. Any person committed for not finding sureties, or refusing to recognize as required by the court or magistrate, may be discharged by any judge or justice of the peace on giving such security as was required.

Sec. 16. Every recognizance taken in pursuance of the foregoing provision, shall be transmitted by the magistrate to the district court for the county, on or before the first day of the next term, and shall be there filed of record by the clerk.

Sec. 17. Any person who shall in the presence of any magistrate mentioned in the first section of this chapter, or before any court of record make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, and every person, who, in the presence of such court or magistate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered without process or any other proof, to recognize for keeping the peace, and being of good behavior, for a term not exceeding six months, and in case of a refusal, may be committed as before directed.

Sec. 18. If any person shall go armed with a dirk, dagger, sword, pistol or pistols, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury or violence to his person, or to his family, or property, he may, on complaint of any other person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.

Sec. 19. Whenever upon a suit brought on any such recognizances, the penalty thereof shall be adjudged forfeited, the court may remit such
portion of the penalty, on the petition of any defendant, as the circumstances of the case shall render just and reasonable.

Sec. 20. Any surety in a recognizance to keep the peace, or for good behavior, or both, shall have the same authority and right to take and surrender his principal, as if he had been bail for him in a civil case, and upon such surrender, shall be discharged and exempt from all liability for any act of the principal, subsequent to such surrender, which would be a breach of the condition of the recognizance; and the person so surrendered may recognize anew, with sufficient sureties, before any justice of the peace for the residue of the term, and thereupon shall be discharged.

## CHAPTER 113.

OF ARRESTS.

## SECTION

1. Arrest defined.
2. Arrest how and by whom made.
3. Every person must aid officer in making arrest.
4. Arrest for felony or misdemeanor how made.
5. Arrest for felony or misdemeanor how made.
6. Defendant how to be restrained.
7. Officer must inform dafendant that he acts under authority.
8. Officer may use necessary force.
9. Officer may break onter door to make arrest.
10. Officer may break outer door to make arrest.
11. When officer may arrest person without warrant.

SECTION
12. Officer mas break open door.
13. Arrest thay be made at night.
14. Officer must inform person of the cause of arrest.
15. Person breaking peace to be taken before Justice.
16. Offetices in presence of magistrate.
17. When private person may arrest person.
18. Must inform person the cause of arrest.
19. Person making such arrest may break open door.
20. Person arrested must be taken before maglstrate.
21. Difendant may be retaken if he escape.
22. Person pursuing may break open door, \&c.

Sec. 1. Arrest is the taking of a person into custody, that he may be held to answer for a public offence.
Sec. 2. An arrest may be either,

1. By a peace officer under a warrant:
2. By a peace officer without a warrant:
3. By a private person.

Sec. 3. Every person must aid an officer in the execution of a warrant, if the officer require his aid, and be present and acting in its execution.

Sec. 4. If the offence charged be a felony, the arrest may be made on any day and at any time of the day or night; if it be a misdemeanor, the arrest cannot be made on Sunday, or at night, unless upon the direction of the magistrate indorsed upon the warrant.

Sec. 5. An arrest is made by an actual restraint of the person of the defendant, or by his submission to the custody of the officer.

Sec. 6. The defendant is not to be subjected to any more restraint than is necessary for his arrest and detention.

Arrest defined.

CHAP. 16.

## CHAPTER XVI.

## PROCEEDINGS TO PREVENT COMMISSION OF CRIMES.

Sko. 1. Certain officers conservators of the public peace.
2. Proceedings when complaint is made to magistrate.
3. Magistrate, when to issue warrant.
4. Proceedings on examination before magistrato.
5. Privilege of defendant.
6. Recognizance, whea required.
7. Defendant, when to be committed,
8. Discharge of defendant; complainant, when to pay costs.
9. In other cases, costs, how and when paid.
10. Appeal, when allowed.
11. When magistrate may require witnesses to recognize.
12. Proccedings on appeal by district court.
13. Consequence of appellant failing to prosecute appeal.
14. After commitment, defendant may bo diseharged on giving security:
15. Recognizance to be transmitted to district court.
16. When person may bo ordered to recognize without warrant.
17. Armed persons, when required to find sureties.
18. Suit on recognizance.
19. Surety may surrender principal.

## Keeping the peace.

SEc. 1. The judges of the several courts of record, in vacation as well as in open court, and all justices of the peace, shall have power to cause all laws made for the preservation of the public peace, to be kept, and in the execution of that power, may require persons to give security to keep the peace, or for their good behavior, or both, in the manner provided in this chapter.
When sure-
SEc. 2. Whenever complaint shall be made to any such magis-
 Wen. isi; the person or property of another, the magistrate shall examine the
22 do. cso. complainant, and any witness who may be produced on oath, and reduce such complaint to writing, and cause the same to be subscribed by the complainant.
Warrant to Sec. 3. If, upon examination, it shall appear that there is just cause to fear that such offence may be committed, the magistrate shall issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer to whom it may be directed, forthwith to apprehend the person complained of, and bring him before such magistrate, or some other magistrate or court having jurisdiction of the cause.
SEc. 4. The magistrate before whom any person is brought upon charge of having made threats as aforesaid, shall, as soon as may be, examine the complainant, and the witnesses to support the prosecution, on oath, in the presence of the party charged, in relation to any matters connected with such charge, which may be deemed pertinent.
Privilege of Sec. 5. After the testimony to support the prosecution, the witdefendant. nesses for the prisoner, if he have any, shall be sworn and examined, and he may be assisted by counsel in such examination, and also in the cross-cxamination of the witnesses in support of the prosecution.
Recogniz-
ance when required.

SEC. 6. If, upon examination, it shall appear that there is just cause to fear that any such offence will be committed by the party
complained of, he shall be required to enter into recognizance with sufficient sureties, in such sum as the magistrate shall direct, to keep the peace towards all the people of this territory, and especially towards the person requiring such security, fur such term as the magistrate shall order, not exceeding six months; but he shall not be ordered to recognize for his appearance at the district court, unless he is charged with some offence for which he ought to be held to answer at said court.

Sec. 7. If the person so ordered to recognize, shall refuse or ne- When to be glect to comply with such order, the magistrate shall commit him ${ }_{23}^{\text {commited. }}$. 63. to the county jail during the period for which he was required to give security, or until he shall so recognize, stating in the warrant the cause of commitment, with the sum and time for which security was required.

SEc. 8. If, upon examination, it shall not appear that there is complatnant just cause to fear that any such offence will be committed by the costs. pay party complained of, he shall be forthwith discharged; and if the magistrate shall deem the complaint unfounded, frivolous or malicious, he shall order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and the officer for their fees, as for his own debt.

Sec. 9. When no order respecting the costs is made by the ma- Costs. gistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecutions; but in all cases where a person is required to give security for the peace, or for his good behavior, the magistrate may further order the costs of prosecution, or any part thereof, to be paid by such person, who shall stand committed until such costs are paid, or he is otherwise legally discharged.

Sec. 10. Any person aggrieved by the order of any justice of the appeal. peace, requiring him to recognize as aforesaid, may, within ten days after the decision of the justice, on giving the security required, appeal to the district court, next to be holden in the same county, or that county to which said county is attached for judicial purposes.

SEc. 11. The magistrate, from whose order an appeal is to be witnesses taken, shall require such witnesses as he may deem necessary to $\begin{gathered}\text { when to } \\ \text { cogize. }\end{gathered}$ support the complaint, to recognize for their appearance at the court to which appeal is made.

Sec. 12. The court before which such appeal is prosecuted, may Power of apaffirm the order of the justice, or discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court shall think proper, and may also make such order in relation to the costs of prosecution, as it may deem just and reasonable.

Sec. 13. If any party appealing, shall fail to prosecute his appeal, railing to his recognizance shall remain in full force and effect, as to any ${ }_{\text {appeal. }}^{\text {prosecte }}$ breach of the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as security for any cost which shall be ordered by the court appealed to, to be paid by the appellant.

Sec. 14. Any person committed for not finding sureties, or refus- Discharge of ing to recognise as required by the court or magistrate, may be dis- ${ }^{\text {paitted. }}{ }^{\text {pat }}$
omar. 17. charged by any judge or justice of the peace, on giving such'security as was required.
Recognizances when to ces when transmilted.

Sec. 15. Every recognizance taken in pursuance of the foregoing provisions, shall be transmitted by the magistrate to the district court for the county, on or before the first day of the next term, and shall be there filed of record by the clerk.
Order to re- SEC, 16. Any person, who shall, in the presence of any magiscognize with-
out warrant. trate mentioned in the first section of this chapter, or before any court of record, make an affray, or threaten to kill, or beat another, or to commit any violence or outrage against his person or property, and every person, who, in the presence of such court or magistrate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the pence, and being of good behavior for a term not exceeding six months, and in case of a refusal, may be committed as before directed.
Armed per-
SEc. 17. If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault, injury, or other violence to his person, or to his family or property, he may, on complaint of any other person, having reasonable cause to fear an injury, or breach of the peace, be required to find sureties for keeping the peace for a term not exceeding six months, with the right of appealing as before provided.

Sec. 18. Whenever on a suit brought on any such recognizance, the penalty thereof shall be adjudged forfeited, the court may remit such portion of the penalty on the petition of any defendant, as the circumstancen of the case shall render just and reasonable.

Surcty may surrender
principal.

Sec. 19. Any surety in a recognizance to keep the peace, or for good beliavior, or both, shall have the same authority and right to take and surrender his principal, as if he had been bail for him in a civil case, and upon such surrender, shall be discharged and exempted from all liability for any act of the principal, subsequent to such surrender, which would be a breach of the condition of the recognizance; and the person so surrendered, may recognize anew with sufficient sureties, before any justice of the peace for the residue of the term, and thereupon shall be discharged.

## CHAPTER XVII.

ARRESTS.
Sed. 1. Arrest defined.
2. Arrest, how and by whom made.
3. Every person must aid offeer in making arrest, if required.
4. $\Delta$ rrest for felony and misdomeanor, when may be made. 5. $\Lambda s$ to what constitutes arrest.
6. Officer may pursue fugitive into other counties.
7. When an officor or private person may arrest vithout warrant.
8. Arrest, how made in such caso.
9. Escape and capture of prisoner.

SEc. 1. Arrest is the taking a person into custody, that he may . be held to answer for a public offence.

Acts of assembly to be strictly pursued.

Meaning of general genera
terms.
192. In all cases where a remedy is provided, or duty enjoined, or anything directed to be done by any act or acts of assembly of this commonwealth, the directions of the said acts shall be strictly pursued; and no penalty shall be inflicted, or anything done agreeably to the provisions of the cornmon law in such cases, further than shall be necessary for carrying such act or acts into effect.(a)
193. Wherever anything is forbidden or directed by the provisions of this code, by using the general terms, any one, any person, the person, every person and such person, or the relative pronoun he, referring to such general term, the same prohibition or direction, if the contrary be not expressed, is extended to more persons than one, and to females as well as males doing or omitting the same act.(b)

## Criminal 撞rocedure.

A. PROCERDINGS TO DETECT THE COMMISSION OF CRIMES.

1. Writs of arrest, \&c. Subpoenas. Expenses.
2. Fscapes into another county.
3. Backing warrants. Bail. Removal.
4. Magistrates backiog such warrants to be indemnified.
5. Disposition of property supposed to be stolen, found in the possession of one accused.
6. Surety of the peace.
7. Bail.
8. Surrender of bail.
9. Settlement of criminal cases.

## B. INDIOTMENTS AND PLEADINGS.

10. Grand jurors authorized to administer oaths.
11. Form of indictments. Formal objections to indictment to be made before the jury is sworn. Amendments on demurrer, \&c.
12. Variances between written instruments, as produced and
laid in the indictment, ameudable.
13. Immaterial variances between indictment and proof amenduble.
14. Manner of laying the ownership of property in cases of partners and joint owners.
15. Manner of charging frauds against partuers and joint owners.
16. Manner of laying property of counties, cities, townships, \&c.
17. Forms of indictment in cases of forging, stealing and embezzling, or cheating by false pretences.
18. Forms in other cases.
19. Intent to defraud particular persons need not be alleged or proven in cases of forging, uttering or false pretences.
20. In indictments for murder and manslaughter, means by u bich the injury was inflicted need not be specified.
21. Requisites of an indictment for perjury.
22. Requisites of an indictment for subornation of perjury.
23. Indietment for duelling.
24. Counts for receiving and stenling may be joined.
25. Issue and trial in criminal cases.
26. Prisoners standing mute.
27. Prosecutor's name to be indorsed on the indictment.
28. Distinct acts of embezzlement may be charged in the same indiotment.
29. Nolle prosequi.
30. Pleas of autrefois convict or autrefois acquit.
C. COURTS OF criminal JURISDICIION.
31. Courts of oyer and terminer.
32. Quarter sussions. When causes to be certified to the oyer and terminer. Powers of the courts.
33. Writs of error and certiorari.

## D. OF THE TRIAL.

34. Persons under bail not to be placed in tbe criminal bar. 35. Persons indicted for treason to have a copy of the indictment
35. Peremptory challenges.
36. Challenges by the commontwenlth.
37. How challenges are to be conducted.
38. How challenges are to be determined.
39. Of the trial of persons jointly indicted, and joint cnallenges.
40. How tales may be awarded and juries summoned.
41. Of uries de medietate lingua.
42. Of the place of trial of treason.
43. Of the place of trial of accessories before the fact.
44. Of the place of trial of acceszories after the fact.
45. Of felonious striking or poisoning in one county, and death
in another.
46. Of telonious striking or poisoning in the state, and deatb out of the state.
47. Proof of offences committed near county lines.
48. Proof of offences committed during journeys.
49. Party indicted for felony or misdemeanor may be found guilty of attempt to commit the same.
50. P'ersons tried for misdemeanor not to be acquitted if the offence turn out to be felony,
51. Witaesres entitled to restitution to be competent
52. Curs of defects in jury process by verdict.
53. Of the trial of prisoners committed.
54. Witnesses in forgeries.
55. Wituesses not to be imprisoned except in cerlain cases.
56. Bills of exceptions and writs of error allowed.
57. Written opinions to be filed.
58. Granting of writs of error regulated.
59. From wheuce writ of error shall issue.
60. Proceedings after affirmance or reversal of judgment.

## E. of costs.

62. Power of grand and petit jurors over costs.
63. Of the defendant's costs.
64. Of payment of costs generally.
65. Costs where separate bills are presented against joint offenders.

## F. GENERAL PROVISIONS.

66. Insone prisoners. Jury to find the fact of insanity. Defendrant to be detained in custody.
67. Where defendant is found insane upon arraignment.
68. Where prisoner brought up to be discharged appears to be insane.
69. Insane defendant to be delivered up to his friends or to the overseers, on security being given.
70. How expenses to be paid in such cases.
71. Civi. actions against felons.
72. Exections upon sentences of restitution.
73. Execntion
74. Outlawry.
75. Sentences of separate or solitary confinement.
76. Sentences of separate or solitary confinement of less than one year, and simple imprisomment.
77. Executions in capital cases.
78. Limitation of prosecutions.
79. Fines to be decreed to be paid to the state for the use of the county.

## A. procerdings to detect the coymission of crimes.

warrants of 1. The judges of the supreme court, of the court of oyer and terminer and jail arrest, \&c. delivery, of the courts of quarter sessions, or any of them, shall and may direct their writs and precepts to the sheriffs and coroners of the several counties within this commonwealth, when need shall be, to take persons indicted for felonies, or other offences, Subpeenas. before them, who may dwell, remove or be received into another county ; and it shall and may be lawful to and for the said judges, or any of them, to issue subpoenas into any county of the commonwealth, for summoning and bringing any person to give evilence in any matter or cause before them, or any of them, and to compel obedience to such writs, precepts or subpeenas, by attachment or otherwise, and under such pains and

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\text { 192. Act } 31 \text { March } 1860, \text { § } 189 . \text { P. L. } 426 .
$$

193. Ibid. \& 184.
194. Act 31 March $1860, \S$ 1. P. L. 428.



## Criminal qurocexure.

penalties as other writs or subponas are or ought by law to be granted and awarded; and that it shall be lawful for said judges, or any of them, if they see fit to direct such writ, precept, summons, subpeena or attachments, to be executed by the sheriff of the county in which the same is awarded, which said writ, precept, summons or subpena, shall be the sufficient warrant of such sheriff for executing the same throughout this commonwealth, as fully and effectually as if directed to, and executed by the sheriff of the proper county where issued: Provided, That the reasonable expenses of executing such process, when issued on behalf of the commonwealth, shall be paid out of the funds Expenses. of the county where issued; and the expenses of removing any person charged with having committed an offence in one county into another county, or of transporting any person charged with having committed any offence in this state from another state into this state for trial, or for conveying any person, after conviction, to the penitentiary, shall be paid out of the treasury of the county where the offence is sharged to have been committed.(a)
2. Where any person charged with having committed any felony, (b) in any city or Escapes into county of this commonweath, shall go or escape into any other county thereof, it shall another and may be lawful for the president, or any judge of the court of common pleas in the county. county where the said person may be found, to issue his warrant, authorizing and requiring the sheriff of the said county, to take the said person and conduct him to the proper county, where the said felony is alleged to have been committed, the expenses of which shall be paid to the said sheriff by the county to which the said person is conducted.(c)
3. In case any person against whom a warrant may be issued by any judge or Backing war alderman of any city, or justice of the peace of any county in this commonwealth, for rants. any offence there committed, shall escape, go into, reside or be in any other city or county out of the jurisdiction of the judge, alderman, justice or justices of the city or county granting such warrant as aforesaid, it shall and may be lawful for, and it is hereby declared to be the duty of any alderman, justice or justices of the city or county where such person shall escape, go into, reside or be, upon proof being made, upon oath or affirmation, of the bandwriting of the judge, alderman, justice or justices granting such warrant, to indorse his or their name or names on such warrant, which shall be sufficient authority to the person or persons bringing such warrant, and to all other persons to whom such warrant was originally directed, to execute the same in such other city or county, out of the jurisdiction of the alderman, justice or justices, granting such warrant as aforesuid, and to apprebend and carry such offender before the alderman, justice or justices who indorsed such warrant, or some other aldermas, justice or justices of such other city and county where such warrant was indorsed. And in case the offence Ball. for which such offender shall be so apprehended, shall be bailable in law by an alderman or justice of the peace, and such offender shall be willing and ready to give bail for his appearance at the next court of general jail delivery or quarter sessions, to be held in and for the city and county where the offence was committed, such alderman, justice or justices shall and may take such bail for his appearance, in the same manner as the alderman or justice of the peace of the proper city or county might have done; and the said alderman, justice or justices of the peace of such other city or county so taking bail, shall deliver or transmit such recognisance and other proceeding to the clerk of the court of general jail delivery or quarter sessions, where such offender is required to appear by virtue of such recognisance, and such recognisance and other proceedings shall be as good and effectual in law as if the same had been entered into, taken or acknowledged in the proper county where the offence was committed, and the same proceedings shall be had therein. And in case the offence for which such offender shall be apprehended in Removal. any other city or county, shall not be bailable in law by an alderman or justice of the peace, or such offender shall not give bail for his appearance at the proper court having cognisance of his crime, to the satisfaction of the alderman or justice before whom he shall be brought, then the constable or other person so apprehending such offender, shall carry and convey him before one of the aldermen or justices of the peace of the proper city or county where such offence was committed, there to be dealt with according to law. (d)
4. No action of trespass, or false imprisonment, or information, or indictment, Magistrates shall be brought, sued, commenced, exhibited or prosecuted by any person, against the backing such alderman, justice or justices, who shall indorse such warrant, for or by reason of his or warrants to indemnitheir indorsing the same, but such person shall be at liberty to bring or prosecute his or fied. their action or suit against the alderman or justice who originally granted the warrant.(e)
5. When any person shall be accused before a magistrate, upon oath or affirma- Disposition
2. Aot 31 Maroh 1580, 5 2. P. L. 429.
3. Ibli. $\$ 3$.
4. Ibid. 14.
5. rbid. §5.
of property
(a) This section is composed of the 8th section of the act of only be arreated under the provisions of the succeeding section. 22d May 1722.18 m .138 ; of the 14th section of the act of 28 d Grant 218.
September $1791,3 \mathrm{Sm} .43$; and of the 2 d section of the act of (c) This section is taken from the 3 d section of the act of 4 th 25 th April 1846, P. L. 406 . It is not proposed to repeal all the of April $1807,4 \mathrm{Sm} .393$, IReport on the Penal Code 39.
8 th section of the art of 1723 , because part of it equally applies (d) A warrant issued by a justice of tho peace in one county, to civil as well as criminal proceelings. Report on the Penal and indorsed by a justice of another county, olbarging a misleCode 39. The county is not Ifable for the expenses incurred in meanor to bave been committed in the county whence the waren unsnccessful attempt to arrest a fugitive from justice, who has taken refage in another state. 8 C .540 .
(b) This does not exteud to misdemeanors; a fugitive charged (b) This does not extend to misdemeanors; a fugitive charged (e) The 3d and 4th sections are taken from tho nct of 16 th
with having committed a misdemeanor in another county can April 1827, 9 Sm. 424. Report on the Pcnal Code 39 .
supposed to
be stolen,

## found in the

 possession of one accused.tion, of the crime of burglary, robbery or larceny, and the said magistrate shall have issued his warrant to apprehend such person or persons, or to search for such goods as have been described, on oath or affirmation, to have been stolen goods, if any shall be found in the custody or possession of such person or persons, or in the custody or possession of any other person or persons, for his, her or their use, and there is probable cause, supported by oath or affirmation, to suspect that other goods, which may be discovered on such search, are stolen, it shall and may be lawful for the said magistrate to direct the said goods to be seized, and to secure the same in his own custody, unless the person in whose possession the same were found shall give sufficient surety to produce

## Inventory.

## Notice.

 an inventory to be taken of the said goods, and shall file the same with the clerk of that court in which the accused person is intended to be prosecuted, and shall give public notice in the newspapers, or otherwise by advertising the same in three or more public places in the city or county where the offence is charged to have been committed, before the time of trial, noting in such advertisement the said inventory, the person chargedRestitution. and time of trial. And if, on such trial, the accused party shall be acquitted, and no. other claimant shall appear or suit be commenced, chen, at the expiration of three months, suad goods shall be delivered to the party accused, and he, she or they shall be discharged, and the county be liable to the costs of prosecution; but if he be convicted of larceny only, and, after restitution made to the owner and the sentence of the court being fully complied with, shall claim a right in the residue of the said goods, and nc other shall appear or claim the said goods, or any part of them, then it shall be lawful, notwithstanding the claim of the said party accused, to detain such goods for the term of nine months, to the end that all persons having any claim thereto may have ful, opportunity to come, and to the satisfaction of the court, prove their property in them: on which proof the said owner or owners, respectively, shall receive the said goods, of the value thereof, if from their perishable nature it shall have been found necessary to make sale thereof, upon paying the reasonable charges incurred by the securing the said goods and establishing their property in the same; but if no such elaim shall be brought and duly supported, then the person so convicted shall be entitled to the remainder of the said goods, or the value thereof, in case the same shall have been sold agreeably tc

When to be delivered to county commissioners.

Disposition of proceeds. the original inventory. But if, upon an attainder of burglary or robbery, the court shall, after due inquiry, be of opinion that the said goods were not the property of such burglar or robber, they shall be delivered, together with a certified copy of the said inventory, to the commissioners of the county, who shall indorse a receipt therefor on the originai inventory, register the said inventory in a book, and also cause the same to be publicly advertised, giving notice to all persons claiming the said goods to prove their property therein to the said commissioners; and unless such proof shall be made within three months from the date of such advertisement, the said goods shall be publicly sold, and the net moneys arising from such sale shall be paid into the county treasury for the use of the commonwealth: Provided always, That if any claimant shall appear within one year, and prove his or her property in the said goods to the satisfaction of the commissioners, or in the case of dispute, shall obtain the verdict of a jury in favor of such claim, the said claimant shall be entitled to recover, and receive from the said commissioners, or treasurer, the net amount of the moneys paid as aforesaid into the hands of the said commissioners, or by them paid into the treasury of this commonwealth. (a)
Surety of the 6. If any person shall threaten the person of another to wound, kill or destroy him, peace. or to do him any harm in person or estate, $(b)$ and the person threatened shall appea: before a justice of the peace, and attest, on oath or affirmation, that he believes that by such threatening he is in danger of being hurt in body or estate, such person so threatening as aforesaid, shall be bound over, with one sufficient surety, to appear at the next sessions, (c) according to law, and in the meantime to be of his good behavior, and keep the peace toward all citizens of this commonwealth. $(d)$ If any person, not being an officer on duty in the military or naval service of the state or of the United States shall go armed with a dirk, dagger, sword or pistol, or other offensive or dangerous weapon, without reasonable cause to fear an assault or other injury or violence to his family, person or property, he may, on complaint of any person having reasonable cause to fear a breach of the peace therefrom, be required to find surety of the peace as aforesaid.(e)
Bail.
7. In all cases the party accused, on oath or affirmation, of any crime or misdemeanor against the laws, shall be admitted to bail by one or more sufficient sureties, to be taken before any judge, justice, mayor, recorder or alderman where the offence charged has been committed, except such persons as are precluded from being bailed by the constitution of this commonwealth: $(g)$ Provided also, That persons accused as aforesaid, of
(a) This section is taken from the 10 th section of the act 23 d September $1791,3 \mathrm{Sm} .42$. Report on the Penal Code 39.
(b) Surety of the paace is demandable of right by any individual who will make the necessary oath. 1 13. 102, n. See 1 Ash. 46. 2 P. 458.
(c) A committing magistrate has no authority to bind a person to keep the peace, or for his good behavior, longer than the next term of the court. 2 P. 458
(d) Surety for good behavior may be ordered by the court, after the acquittal of a prisoner, in such sum. and for such length of time, as the public safety requires. 2Y.437,
339. 2 Hayw. 73-4. See 12 Eng. L. \& Eq. 462.
(e) This section is partly taken from the act of 1700.1 Sm .5 the addition thereto provided by this section, against the unnecessarily carrying deadly weapons. is introduced from at annecessurnecessity, arising from daily experience and observa obvious necessity, arising from dail
tion. Report on the Penal Code 39 .
(g) A justice may take bnil after commitment for trial. 6 W S. 311 P 458 lake bail after comm 5 B. 512 . 1 Em. $57 . \mathrm{n}$ A reope. 2 P. 458 . And see T W. 40t. 5 B. 512. 1 sat. A recognikance taken by a justice to answer the charge ch
is coram non judice, and void. Com. v. Hillips, 2 U . La $044^{316 .}$
murder or manslaughter, shall only be admitted to bail by the supreme court or one of the judges thereof, or a president or associate law judge of a court of common pleas : persons accused, as aforesaid, of arson, rape, mayhem, sodomy, buggery, robbery or burglary, shall only be bailable by the supreme court, the court of common pleas, or any of the judges thereof, or a mayor or recorder of a city. (a)
8. All sureties, mainpernors, and bail in criminal cases, whether bound in recogni-surrenesa of sances for a particular matter or for all charges whatsoever, shall be entitled to have a bail. bail-piece, duly certified by the proper officer or person before whom or in whose office the recognisance of such surety, mainpernors or bail shall be or remain, and upon such bail-piece, by themselves, or their agents, to arrest and detain, and surrender their principals, with the like effect as in cases of bail in civil actions; (b) and such bail-piece shall be a sufficient warrant or authority for the proper sheriff or jailor to receive the said principal, and bave him forthcoming to answer the matter or matters alleged against him : Provided, That nothing herein contained shall prevent the person thus arrested and detained from giving new bail or sureties for his appearance, who shall have the same right of surrender hereinbefore provided.(c)
9. In all cases where a person shall, on the complaint of another, be bound by recog- Settlement nisance to appear, or shall, for want of security, be committed, or shall be indicted for of criminal an assault and battery or other misdemeanor, to the injury and damage of the party ${ }^{\text {cases. }}$ complaining, and not cbarged to have been done with intent to commit a felony, or not being an infamous crime, and for which there shall also be a remedy, by action, if the party complaining shall appear before the magistrate who may have taken recognisance or made the commitment, or before the court in which the indictment shall be, and acknowledge to have received satisfaction for such injury and damage, it shall be lawful for the magistrate, in his discretion, to discharge the recognisance which may have been taken for the appearance of the defendant, or in case of committal, to discharge the prisoner, or for the court also where such proceeding has been returned to the court, in their discretion, to order a nolle prosequi to be entered on the indictment, as the case may require, upon payment of costs: Provided, That this act shall not extend to any assault and battery, or other misdemeanor, committed by or on any officer or minister of justice. (d)

## B. indictments and.pleadings.

10. The foreman of any grand jury, or any member thereof, is hereby anthorized and Grand jurors empowered to administer the requisite oaths or affirmations to any witness whose name may adminmay be marked by the district attorney on the bill of indictment.(e)
11. Every indictment shall be deemed and adjudged sufficient and good in law which Form of charges the crime substantially in the language of the act of the assembly prohibiting indictments. the crime, and prescribing the punishment, if any such there be, or, if at common law, so plainly that the nature of the offence charged may be easily understood by the jury. Formal obEvery objection to any indictment for any formal defect, apparent on the face thereof, jections to shall be taken by demurrer, or on motion to quash such indictment, before the jury shall be sworn, and not afterward; and every court, before whom any such objection shall be Amendtaken for any formal defect, may, if it be thought necessary, cause the indictment to be ments on forthwith amended in such particular, by the clerk or other officer of the court, and $k$ c. thereupon the trial shall proceed as if no such defect appeared. $(g)$
B. Aet 31 Mareh 1850, § 8 P. L. 432.
12. Tbid. $\$ 9$.
13. Tbld. 510.
14. Tbld. $\frac{5}{5} 11$.

## (a) This section is a consolidation of the first clause of the act of $1705,18 \mathrm{~m}$. 56 ; and the first section of the aet of 30 th act of $1705,1 \mathrm{Sm} .56$; and the first section of the aet of 30 th

 April 1832. P. L. 388. It-port on the Penal Code 39.(b) See 1 T. \& H. Pr. 303-10.
(c) This section is taken from the 3d section of the act of 10 th April 1848, P. L. 449. Report on the Ponal Code 40.
(d) This section is an extension of the existing law of the 17 th March 1806, 48 sm .318 . Report on the Penal Code 40 .
(e) This is taken from the 1st section of the act 5tb April 1826, 98 m . 136 . That witnesses, whose names had not been marked by the district attorney on the bill of indictment, were sworn and examined by the foreman of the grand jury, is not plendable in bar; at mont, it is only ground for a motion to quash. Tillard $v$. Com., 13 Leg . Int, 132 ,
(g) Suctions 11 to 22 are all new, and are certainly not the least important in the proposed amendments of our penal systam. The history of criminal administration abounds with instances in which the guilty bave escaped, by reason of the apparently unrwasonable nicety required in indictments. Lord IIale, one of the best, and most humane of Eoglish judges, Iong aince remarked, that auch niceties were "grown to be a blemisb and an inconvenience in the law, and the administration thervof; that more offenders escaped by the ensy ear given to exceptions to indictinents, than by the manifestations of their innocence, nul that the grossest crimes had gone unpunished, by reason of these unseemly niceties." The reason for recognising these subtilities by the common law, no doubt arose from the humanity of the juiges, who, in admiuistering a system in which the punishment of death followed almost every conviction of folony, were naturally disposed, in favor of life, to hold the crown to the strictest rules. Since, however, the reform of the penal laws, and the just apportionment of runikhment to crimes according to their intrinsic atrocity and cal niceties has ceaved, and with the cessation of the reason, the technicalities themselves should be expunged from our the technicalities themkeives should be expunged from our
missioners believe will be an effective remedy to this reproarh of the common law, without depriving the accused of any proper privilege; it leaves him, at the outset of his trial, to determine whether he will question the relevancy of his necusation, or take issue on the merits of the charite; if he elects the latter, and is condemned, there seems neither moral nor legal fitness in permitting him to urge formal exceptions, which, if suggested, at an early period, would have been promptiy corrected. The 12 th and 13 th sections are intended to muet cases of frequent occurrence, in which, although an indictment is strictly formal, yet, owing to some accidental slip in its preparation, it is found on the trial that the proofs do not entirely tally with the description of the instrument set forth in the indictment, or in the names of persons or places described therein. By the law hs it now stands, where written instruments enter into the gist of the offence. as in forgery, passing counterfeit money, selling lottery tickets, sending threatening letters, \&e., they are required to be set out in words and figures; the omission of a figure in an indictment for furgery is fatal. In the casu of Com. v, Gillesple, 7 8 , \& K. 469, a mistake in Rpelling the name of "Burrall," which in the indictment was spelled "Burrill," was adjudged fatal after verdict. So, a variance betwenn the names of the persons aggrieved, and places described in the indictment, and the proofs thereof on trial, will entitle the defendant to an acquittal, on the ground of the want of agreement betwoon the allegata and the probsta. The proposed suctions authorize the courts to amend such verbal errors, if ohjected to; and thus terminate a class of technical niceties, which are a reproach to the rational adminiatration of justice. The 14th and 15th eec tions avoid the existing necessity of setting forth, in indictments, the names of numerous individuals, owners of property feloniously or frnudulently taken, or maliclously injured or destroyed; it will serve to reduce the voluminouspess of such indictments, and can do no possible injury to the defendant, who cannot be interested in the fact, whuther one person is, of one hundred persons are the owners of property in regard to

Variances
between written instruments as produced and laid in indietment azuendable.

Immaterial mariances hetween indictment and proof amenduble.
12. It shall be lawful for any court of criminal jurisdiction, if such court shall see fit so to do, to cause the indictment for any offence whatever, when any variance or variances shall appear between any matter in writing or in print, produced in evidence, and the recital or setting forth thereof in the indictment whereon the trial is pending, to be forthwith amended in such particular or particulars, by some officer of the court, and after such amendment the trial shall proceed in the same manner, in all respects, as if no such variance or variances had appeared.
13. If, on the trial of any indictment for felony or misdemeanor, there shall appear to be any variance between the statement of such indictment and the evidence offered in proof thereof, in the name of any place mentioned or described in any such indictment; or in the name or description of any person or persons or body politic or corporation therein stated, or alleged to be the owner or owners of any property, real or personal, which shall form the subject of any offence charged therein; or the name or description of any person or persons, body politic or corporate therein stated or alleged to be injured or damaged, or intended to be injured or damaged, by the commission of such offence; or in the Christian name or surname, or both Christian and surname, or other description whatsoever of any person or persons whomsoever therein named or described; or in the name or description of any matter or thing whatsoever therein named or described; or in the ownership of any property named or described therein; it shall and may be lawful for the court before whom the trial shall be had, if it shall consider such variance not material to the merits of the case, and that the defendant cannot be prejudiced thereby in his defence upon such merits, to order such indictment to be amended, according to the proof, by some officer of the court, both in that part of the indictment wherein said variance occurs, and in every other part of the indictment in which it may become necessary to amend; and after such amendment, the trial shall proceed in the same manner, in all respects, and with the same consequences, as if no variance had occurred. And every verdict and judgment which shall be given after making such amendment, shall be of the same force and effect, in all respects, as if the indictment had ariginally been in the same form in which it was after such amendment was made.
Manner of laying the ownership of property in cases of par ners and joint owners.
14. In order to remove the difficulty of describing the ownership of property, in the case of partners and joint owners, in any indictment for any felony or misdemeanor committed on or with respect to any money, chattels, bond, bill, note or other valuable security or effects belonging to or in the possession of any partners or joint owners, it shall be sufficient to aver that the particular subject-matter on which or with respect to which any such offence shall have been committed, to be the property of some one or more of the partners or joint owners named in the indictment, and of other persons being partners or joint owners with him or them, without stating any of the names of such other persons ; and in any indictment for any felony or misdemeanor, committed on or with respect to any house or building whatsoever, belonging to or in the possession of any partners or joint owners, or for any felony or misdemeanor committed on or with
12. Aet 31 March 1860,512 . P. L. 433.
13. Ibid. § 13 .
14. Tbid. § 14.
which he is charged with having committed a felony or misdemeanor. The 16th section refers to public property, and rests on the same principle as the fourteenth and fifteenth sections. The 17th and 18th sections will enable the eriminal pleader to simpilify hercafter the forms of indictments in forgery, and facilitate him in averring instruments necpssary to be recited in any other indictment. The 12th and 13th sections contemplate the ameodment of indictments, framed according to the existing law, where an accidental error occurs between the instrument and names described, and those offered in proof. These sections strike at the root of the evil sought to be eradicated, by giving the pleader the option to prepare his indictment in such a way as to avoid, altogether, such difficulties; which can be done with ordinary care and caution. The 19th section contemplates avoilling the necessity of specificslly describing the parlies intented to be defrauded, and the embarrassing the proofs, in any case, with a question not really material to the issue. In forgeries, uttering and passing forged money, and in cheating by false pretences (the crimes contemplated by the section), the gist of the offence is, tbat the act charged was committed with an intent to defraud; an indictment containing that averment. should be sufficient, without requiring the pleader to go into the description of who was the party intended to be defraudeal; a mistake in whom would aequit the accused, although the jury should be convinced that he bad forged or uttered false money, or had been guilty of cheating by false pretebere, with intent to defrand. The $20 t h$ section, providing for indictments for murder and manslanghter, from the nature and consequences of these offences, reguire that a somewhat detailer explanation of the reasons which have led to their introduction should be given. By the common law, in an indictment for murder, it is essentially necessary to set forth, particularly, the manner of the killing and the means hy which it whs effected; if a person be indieted for one specios of killing, as ly prisoning, he cannot be couvi ted by evidence of a difierent spucies of death, as by shooting. starying or strangling. A fow cases will serve to illustrate how far this 1 rinciple has been carried. In Rex v. Kelly, 1 Mood. Cro. Cas. 113, decided in $15 \% 5$. the indictment charged that the prisoner ftruck the deceased with a piece of brick, and it appeared probable that the prisoner had not struck with the brick but that he struck with his fist, and that the deceased fill from the blow upon a piece of brick, and that the fall on the brick was the enuse of the death; it was unanimously held by the twive onuse of the death; it was unanimously held by the twelva will remedy these evils, and place indictments for thes rational footiog. Report on the Penal Cude $40-3$.
judges of England, on a case reserved, that the cause judges of England, on a case reserved, that the cause 5

## Crimbal mocedure.

respret to any property being in any such house or building, it shall be sufficient to aver that the particular house or building on or with respect to which, or on or with respect to the property being in which, any such offence shall have been committed, is the property of some one or more of the partners or joint owners named in the indietment, and of other persons being partners or joint owners with him or them, without stating any of the names of such other persons.
15. With regard to frauds committed against partners and joint owners, it shall be Manner of sufficient in any indictment for any felony or misdemeanor committed with intent to charger of defraud any partners or joint owners, to allege that the act was committed with intent frauds to defraud any one or more of the partners or joint owners named in the indictment, ners and part and other persons being partners or joint owners with him or them, without stating any jors. ownof the names of such other persons.
16. With respect to property belonging to counties, cities, townships and districts, it Manner of shall be sufficient in any indictment for any felony or misdemeanor committed on or laying pro with respect to any goods, chattels, furniture, provisions, clothes, tools, utensils, mate- county of rials or things whatsoever, which have been or at any time shall be provided for or at ties, townthe expense of any county, city, township or district, to be used in any court, jail, bouse ships, sc. of correction, almshouse, or other building or place, or in any part thereof respectively, or to be used for the making, altering or repairing of any bridge or road, to aver that any such things are the property of such county, city, township or district.
17. In any indictment for forgery, uttering, stealing, embezzling, destroying or con- Forms of is. cealing, or obtaining by false pretences, any instrument, it shail be sufficient to describe dictment in such instrument by any name or designation by which the same may be usually known, inges of forgg or by the purport thereof, without setting out any copy or fac-simile thereof, or otherwise embezzling, describing the same or the value thereof.
\&c.
18. In all other cases whatsoever in which it shall be necessary to make any averment Forms in in any indictment, as to any instrument, whether the same consists wholly or in part of other cases. writing, print or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, and in such manner as to sufficiently identify such instrument, without setting out any copy or fac-simile of the whole or any part thereof.
19. It shall be sufficient in any indictment for forging, uttering, offering, disposing Intent to do of, or putting off auy instrument whatsoever, or for obtaining or attempting to obtain fraud partiany property by false pretences, to allege that the defendant did the act with intent to sons, need defraud, without alleging the intent of the defendant to be to defraud any particular not bealperson ; and on the trial of any of the offences in this section mentioned, it shall not be ven in ocro pro necessary to prove any intent on the part of the defendant to defraud any particular tain cases. person, but it shall be sufficient to prove that the defendant did the act charged with an intent to defraud.
20. In any indictment for murder or manslaughter, it shall not be necessary to set Indictmentr forth the manner in which, or the means by which the death of the deceased was caused, for murder but it shall be sufficient in every indietment for murder, to charge that the defendant slaugbter. did feloniously, wilfully and of his malice aforethought, kill and murder the deceased; and it shall be sufficient in every indictment for manslaughter, to charge that the defendant did feloniously kill and slay the deceased. (a)
21. In every indietment for wilful and corrupt perjury, it shall be sufficient to set Requisites of forth the substance of the offence charged, and in what court, or before whom the oath indictment or affirmation was taken, averring such court or person or body to have competent for perjury. authority to administer the same, together with the proper averment, to falsify the matter wherein the perjury is assigned, without setting forth the information, indictment, declaration or part of any record or proceeding, other than as aforesaid, and without <etting forth the commission or authority of the court, or person, or body before whom the perjury was committed.
22. In every indictment for subornation of perjury, or for corrupt bargaining, or con-Requisites of tracting with others to commit wilful and corrupt perjury, it shall be sufficient to set for suboroaforth the substance of the offence, without setting forth the information, indictment, tion of perdeclaration or part of any record or proceedings, and without setting forth the commis-jury. sion or authority of the court, or person or body before whom the perjury was committed, or was agreed or promised to be committed.
23. In cases arising under the laws of this commonwealth for the restraint of the Indictment horrid practice of duelling, it shall be sufficient to form an indictment generally, against for duelling. either of the principals for challenging another to fight at deadly weapons, and notwithstanding it may appear on the trial that the defendant only accepted the challenge, it shall be sufficient to convict and render him liable to the penalties of the law; and in like manner an indictment against the seconds may be framed generally, for carrying and delivering a challenge, and proof of the mere act of fighting, and the defendant being present thereat, shall be sufficient to convict the defendant apon an indictment so framed; and if the duel shall take place within this commanwealth, the mere fact of fighting shall be full and complete evidence of the charges, respectively, of giving or receiving, or of carrying or delivering a challenge, without other proof thereof. (b)
15. Aet 31 March $1860,+15$. P. L. 434.
16. Ibid. 16 .
16. 1bid.
17.
16 ibid.
17.
18. Ibid. 18.
19. Ilid.
20. Ibid.
19.
20.


Counts for stealing and receiving, may be joined.

Issue and trial in criminal casos.

Prisoners standing mute.
24. In every indictment for feloniously stealing property, it shall be lawful to add a count for feloniously receiving the said property, knowing it to bave been stolen; and in any indictment for feloniously receiving property, knowing it to have been stolen, it shall be lawful to add a count for feloniously stealing said property; and it shall be lawful for the jury trying the same, to find a verdict of guilty either of stealing the property, or of receiving the same, knowing it to have been stolen; and if such indictment shall have been preferred and found against two or more persons, it shall be lawful for the jury who shall try the same, to find all or any of the said persons guilty of either stealing the property or of receiving it, knowing it to have been stolen, or to find one or more of the said persons guilty of stealing the property, and the other or others of them guilty of receiving it, knowing it to have been stolen. (a)
25. In all cases of felony the prisoner shall be arraigned, and where any person on being so arraigned shall plead not guilty, every such person shall be deemed and taken to put himself upon the inquest or country for trial, without any question being asked of him how he will be tried, and the inquest shall be charged only to inquire whether he be guilty or not guilty of the crime charged against him, and no more. And wherever a person shall be indicted for treason or felony, the jury impannelled to try such person shall not be charged to inquire concerning his lands, tenements or goods, nor whether he fled for such treason or felony. (b)
26. If any prisoner shall, upon his arraignment for any offence with which he is indicted, stand mute, or not answer directly, or shall peremptorily challenge above the number of persons summoned as jurors for his trial to which he is by law entitled, the plea of not guilty shall be entered for him on the record, $(c)$ the supernumerary challenges shall be disregarded, and the trial shall proceed in the same manner as if he had pleaded not guilty, and for his trial had put himself upon the country. (d)
27. No person shall be required to answer to any indictment for any offence whatso-

Prosecutor's
name to be
indorsed on Indictment. ever, unless the prosecutor's name, if any there be, is indorsed thereon; and if no person shall avow himself the prosecutor, the court may hear witnesses, and determine whether there is such a private prosecutor, and if they shall be of opinion that there is such a prosecutor, then direct his name to be indorsed on such indictment. (e)
Distinct acts of embezzlecharged in same indictment.

Nolle prose-
28. It shall be lawful in cases of embezzlement by clerks, servants or other persons in the employ of another, to charge in the indictment, and proceed against an offender for any distinct acts of embezzlement, not exceeding three, which may have beeu committed by him against the same master or employer, within the space of six calendar months, from the first to the last of such acts, and in every such indictment, except where the offence shall relate to a chattel, it shall be sufficient to allege the embezzlememt to be of money, without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained, if the offender shall be proved to have embezzled any amount, although the particular species of coin or valuable security of which such amount was composed, shall not be proved, or if he shall be proved to have embezzled any piece of coin or valuable security, or any portion of the value thereof, although such piece of coin or valuable security may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, and such part shall have been returned accordingly. $(g)$
qui.
29. No district attorney shall, in any criminal case whatsoever, enter a nolle prosequi, either before or after bill found, without the assent of the proper court in writing first had and obtained. ( $h$ )
Plea of autre- 30. In any plea of autrefois acquit, or autrefois convict, it shall be sufficient for any fois convict,
or autrefois defendant to state, that he has been lawfully convicted or acquitted, as the case may be, acquit. of the offence charged in the indictment. (i)

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& \begin{array}{l}
\text { 24. Act } 31 \text { March } 1860, \S 24 \text {. P. L. } 436 . \\
25 \text {. Ibid. } \$ 25 \text {. }
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& \begin{array}{l}
\text { 26. Ibid. } \\
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\text { Ibid. }
\end{array} \frac{26 .}{27 .} \\
& \text { 2R. Ibid. } 528 . \\
& \text { 30. Tbid. } \S \$ 0 .
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(a) This section is new, and is intended to remedy difficulties arising from the common law doctrines in relation to the joinder of offences and joint offenders. At common law, a felony and a misdemeanor, such as burglary and receiving stolen goods, could not be regularly joined; in larceny, counts for receiving were sometimes added, but the pructice was regarded as of doubtful legality, until in the cases of Rex $v$. Galloway, 1 Mood. Cro. Cas, 234, and of Rex v. Madden, 1 Mood. Cro. Cas. 277, it was decided to be erroveous. In Pennsylvanin, the uniform practice has been to unite counts for lnrceny and receiving, but in no other kind of felonious taking has such joinder been permittud. So, at common law, if two persons are charged with jointly receiving stolen goods, a joint ast of receiving must be proved; proof that one received in the absence of the other, and afterwards delivered to him, will not suffice. Rex v. Messingham. I Mood. Cro. Cas. 257 . The proposed section will obviate these technical difficulties, ns it permits a count for receiving to be joined with all indictments for felonious taking, and authorizes the conviction of one or more of severnl persons, jointly indicted, for folonious taking or receiving, either as principals or receivers, according to their actual guilt. Report on the Penal Code 43 .
(b) This section is new, and has been introduced to dispense with the useless forms which prevail in some of our criminal courts, following the ancient practice of the common law. Report on the Penal Code 43 .
(c) Where a plea of "not guilty" is entered under this section, for a prisoner who stands mute, and there is a trial and
judgment, he cannot subsequently assign for error any matters appertaining to the precept, venire, drawing, summoning and returning of jurors, \&c.; such case is withiu the 53d section of this net. $5 \mathrm{~Wh} .67,78$.
(d) This section is taken from the 5th section of the act of 23d September $1791,3 \mathrm{Sm} .40$. Report on the Penal Code 44.
(c) This section is taken from one of the clauses of the act of 1705.18 sm .56 . The old law has been so smended as to enable the court to determive the question, in any case, whether there is such a prosecutor, and who he is, and if any, to order his name to be indorsed on the indictment. Repart on the Penal Code 4t. If there be no proof of a prosecutor, the de fendant must plead without such indorsement. 1 D. 5.
(g) The provisions of this section ure necessary for preventing the difficulties that may be hereafter experienced in the prosecution of the various fraudulent embezzlements prescribed against by the "Act to consolidate, revise and amend the penal laws of this commonwealth." and parlicularly by the 107 th section thereof (tit. "Crimes" 107 ), against such embezzlement by clerks, servants and other persons in the employ of others Report on the Penal Code $\downarrow 4$.
(h) This section is taken from the proviso to the 1st section of the act of 3d May 1800, P. L. 654 . Report on the Peual Code 44 . See tit. "Distri=t Attorueys," 10 , note $a$.
(i) This section proposec in favor of the accused, to simplify the pleas of heretofore acquitted, and heretofore convicted, and thus relieve them from all technical embarrassments; it is new. Report on the Pearl Corie 44
31. The courts of oyer and terminer and general jail delivery shall have power-(a) Courts of
I. To inquire by the oaths and affirmations of good and lawful men of the county, of all oyer and tor orimes committed, or triable in such county.
II. To hear, determine and punish the same, and to deliver the jails of such county of all prisoners therein, according to law,
III. To try indictments found in the quarter sessions, and certified by the said court according to law; and the said courts shall have exclusive jurisdiction and power to try and punish all persons charged with any of the crimes herein enumerated, which shall be committed within the respective county, to wit:
(1.) All persons charged with any murder or manslaughter, or other homicide, and all persons charged with being accessory to any such crime.
(2.) All persons charged with treason against the commonwealth.
(3.) All persons charged with sodomy, buggery, rape or robbery, their counsellors, arders and abettors.
(4.) All persons charged with the crime of voluntarily and maliciously burning any building, or other thing, made punishable in the same manner as arson.(b)
(5.) All persons charged with mayhem, or with the crime of cutting off the tongue, putting out the eye, slitting the nose, cutting off the nose, cutting off a lip, cutting off or disabling any limb or member of a person, by lying in wait, or with malice aforethought, and with intent in so doing to maim or disfigure such person, and their aiders and abettors and counsellors.
(6.) All persons charged with burglary.
(7.) Every woman who shall be charged with having endeavored privately, either by herself or the procurement of others, to conceal the death of any issue of her body, male or female, which, if it were born alive, would be by law a bastard, so that it may not be known whether such issue was born dead or alive, or whether it was murdered or not.
(8.) All persons charged with the second or any subsequent offence of receiving, harboring or concealing any robber, burglar, felon or thief, or with the crime of receiving or buying any goods or chattels, which shall have been feloniously taken or stolen, knowing the same to be so taken or stolen.
32. The courts of quarter sessions of the peace shall have jurisdiction and pewer within Quarte: om the respective counties-
I. To inquire, by the oaths or affirmations of good and lawful men of the ounty, of all crimes, misdemeanors and offences whatsoever, against the laws of this commonwealth, which shall be triable in the respective county.
II. To inquire of, hear, determine and punish, in due form of law, all such crimes and misdemeanors and offences, whereof exclusive jurisdiction is not given, as aforesaid, to the courts of oyer and terminer of such county.
III. To take, in the name of the commonwealth, all manner of recognisances and obligations heretofore taken and allowed to be taken by any justice of the peace ; and they shall certify such as shall be taken, in relation to any crime not triable therein, to the next court of oyer and terminer having power to take cognisance thereof.
IV. To continue, or discharge the recognisance and obligations of persons bound to keep the peace, or to be of good behavior, taken as aforesaid, or certified into such court by any justice of the peace of such county, and to inquire of, hear and determine, in the manner hitherto practised and allowed, all complaints which shall be found thereon.
V. The courts of quarter sessions shall also have jurisdiction in cases of fines, penalties or punishments, imposed by any act of assembly, for offences, misdemeanors or delinquencies, except where it shall be otherwise expressly provided and enacted.
VI. The said courts shall also have and exercise such other jurisdiction and powers, not herein enumerated, as may have been heretofore given to them by law.

Whenever any indictment shall be found in any court of quarter sessions, for any crime When causee or offence not triable therein, it shall be the duty of said court to certify the same into to be certifithe court of oyer and terminer next to be holden in such county, there to be heard and and termidetermined in due course of law.

The judges of the county courts of oyer and terminer and quarter sessions, and every powers of of them, shall have power to direct their writs or precepts to all or any of the sheriff's the courts. or other officers of any of the counties, cities, boroughs or towns corporate of this commonwealth, to arrest and bring befure them persons indicted for felonies and other offences, and amenable to the respective court ; each of said courts shall have power to award process to levy and recover such fines, forfeitures and amercements, as shall be imposed, taxed or adjudged by them respectively; each of the said courts shall have full power and authority to establish such rules for regulating the practice thereof respectively and for expediting the determination of suits, causes and proceedings therein, as in their

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\text { 31. Aet } 31 \text { Mareh } 1860, ~\{31 . \text { P. L. } 437 .
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32. ты $1.53 \%$
[^11]Writs of error and certiorari.
discretion they shall judge necessary or proper : Provided, That such rules shall not be inconsistent with the constitution and laws of this commonwealth; each of the said courts is empowered to issue writs of subpcena, under their official seal, into any county of this commonwealth, to summon and bring before the respective court any person to give testimony in any cause or matter depending before them, under the penalties hitherto appointed and allowed, in any such case, by the laws of this common wealth.
33. Every person indicted in any court of quarter sessions, or in any county court of oyer and terminer and general jail delivery, may remove the indictment, and all proceedings thereon, or a transcript thereof, into the supreme court by a writ of certiorari, or a writ of error, as the case may require: Provided, That no such writ of certiorari, or writ of error shall issue, or be available, to remove the said indictment and proceeding thereupon, or a transcript thereof, or to stay execution of the judgment thereupon rendered, unless the same shall be specially allowed $(a)$ by the supreme court, or one of the justices thereof, upon sufficient cause to it or him shown, (b) or shall have been sued out, with the consent of the attorney-general; which special allowance or consent shall be in writing, and certified on the said writ.(c)

## D. of the trial.

Persons under bail not to be placed in the bar.

Persons indicted for dictedson to have copy of indictment.
Peremptory challenges.

Challenges
by the commonwealth.

How challenges are to be conducted.

How to be
determined.
Trial of persons jointly indicted, and joint challenges.
34. No person who may hereafter be arraigned on any indictment, and who shall be bound by recognisance to appear and abide by the judgment of the court, shall be placed within the prisoner's bar to plead to such indictment, or be confined therein during his trial; and all persons shall have an opportunity of a full and free communication with their counsel.(d)
35. Every person indicted for treason shall have a copy of the indictment (e) and a list of the jury and the witnesses to be produced on the trial for proving such indictment, mentioning the names and places of abode of such jurors and witnesses, delivered to him three whole days before the trial. $(g)$
36. On the trial of any indictment for treason or misprision of treason, murder, manslaughter, concealing the death of a bastard child, rape, robbery, burglary, sodomy, malicious maiming and arson, the accused shall be at liberty to challenge, peremptorily, twenty of the jurors, and on the trial of all other indictments the accused shall be at liberty to challenge, peremptorily, four of the jurors. ( $h$ )
37. The commonwealth shall have the right, in all cases, to challenge, peremptorily, four persons, $(i)$ and every peremptory challenge beyond the number allowed by law in any of the said cases, shall be entirely void, and the trial of such person shall proceed as if no such challenge had been marle.
38. All challenges in criminal proceedings shall be conducted as fullows, to wit: the commonwealth shall challenge one person, and then the defendant shall challenge one person, and so alternately, until all the challenges shall be made; but if the commonwealth shall refuse to make any challenge, the defendant shall, nevertheless, have the right to challenge the full number allowed him by law.
39. When a challenge for a cause assigned shall be made in any criminal proceeding, the truth of such cause shall be inquired of and determined by the court. $(k)$
40. In all cases in which two or more persons are jointly indicted for any offence, it shall be in the discretion of the court to try them jointly or severally, except that in cases of felonious homicide, the parties charged shall have the right to demand separate trials; $(l)$ and in all cases of joint trials, the accused shall have the right to the same

## 33. Act s1 March 1860, $\$ 33$. P. L. 139. 34. Ibid. $\$ 34$.

35. Ibld.
36. Ibid. $\frac{35 .}{36 .}$
37. Tbid. \{ 37.
ber of challenges ns the defendant, to wit: four. The ohject of thus extending to the commonwealth the right of challeng. ing. in the minor f-lonies. the samm number of jomoss as the defendant, arives from the fact, that by the present code a large number of offences, which were misdemeatuors at common law, number of offences, which were thisdemeations at common iaw, are now made felonies; hence. The excinding of the common-
wealth from the rigbt of challenge in any felony, is almost totally to deprive her of the right of challenge, in the practical administration of criminal justice, the ri,ht of the commonwealth to clanllenge four jurors peremptorily, is of the deepest importance; it is not an uncommon thiug to find in a panel of jurors, one or more persons pledged to the defendant banel of jurors, one or more persons or social sympathies, or influenced in his favor by worse motives; the right to peremptorily challenge four jurors, is the security of the public against such coutingencies. The 39th section of the present act assigns to the court the autberity of determining upon the truth and sufficiency of challenges for cause. Report on the I'enal Cole 45 .
(i) This provivion is not in conflict with the clause in the constitution, which provides " that trial by jury shall be as beretofore, and the right thereof shall remain inviolate." 1 Wr. 45.
(k) The power to challenge for cause may be excrcised at any time before the oath is tendered to the jury. 11 H .12 . It is good cause of challenge that the juror has conscientious scruples on the subject of capital punishment. 17 S. \& R. 155 . Or that he has formed and expressed an opinion upon the evidevce in the cause. 14 S. \& 1. 292 . See 2 W. \& S. 202. 1 Cranch C. C. $t$ the cause. 14 S. \& K. 292 . See 2 suppovaed as a witness ly the prisoner. 7 W. 585. . Or that he is a tenant of one of the parties. 8 W. 304. Or that be had grossly mistwhaved bimself on a former occasion, declating that he had tried to acquit any one the jodge desired to have convicted; and that he wns "a ine man, and would as lief swear on a spelling book as ine man, and woul
Eible." 11 II. 12.
(l) See $1^{\circ} \mathrm{C} .305$
number of peremptory challenges to which either would be entitled if separately tried,
and no more. ( $a$ ) and no more. (a)
38. All courts of criminal jurisdietion of this commonwealth shall be and are hereby How talos authorized and required, when oceasion shall render the same necessary, ( $b$ ) to order a man bog tales de circumstantibus, either for the grand or petit jury, ( $c$ ) and all talesmen shall bo amarded liable to the same challenges, fines and penalties as the principal jurors: Provided, nummoned. That nothing herein contained shall repeal or alter the provisions of an act passed the 20 th day of April 1858, entitled, "An act establishing a mode of drawing and selecting jurors in and for the city and county of Philadelphia." ( $d$ )
39. No alien shall, in any criminal case whatsoever, be entitled to a jury de medietate or juries de lingua, or partly of strangers.(e) medietato 43. The trial of all treason against the commonwealth, committed out of the jurisdic. tion of the state, shall be in the county where the offender is apprehended, or into which place of tral
fe shall first be brought. $(g)$
40. If any person shall become an accessory before the fact, to any felony, whetber of accossothe same be a felony at common law, or by virtue of any act of assembly now in force ries before or hereafter to be in force, such person may be indicted, tried, convieted and punished the fact. in all respects as if he were a principal felon. (h)
41. If any person shall become an accessory after the fact, to any felony, whether the or accesso. same be a felony at common law, or by virtue of any act of assembly now in force, or riea fitcor tho that may be hereafter in force, he may be indicted and convicted as an accessory after ${ }^{\text {rech }}$ the fact, to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether
42. Act 31 Mar
43. Ibid. 142
44. Ibid. $\{43$.
45. Ibid. $\$ 4$.
46. Ibld. $\uparrow 45$.
(a) This section is new, and is introdnced to settle a question in criminal practice, which has producel difficulty. At common law, upon a joint trial, each prisoner may challenge his full number, and every juror challenged as to one is withdrawn number, and every juror chalenged as to one, is withdrawn
from the panel as to all the prisoners on trial, and thus, in from the panet, the prisoners in such $a$ case possess the power of peremptory challenge to the nggregate of the numbers to which they are respectively entitled. The umbarrassments from defect of jurors, resulting from the exercise of this right by numerous defendants jointly indicted, led the courta, at a very carly period, to determine that they had the power, asaiust the will of the prisoners, to sever the panel, and try them severally, if they insisted upon their right of several challenzes. This settled the question that prisoners. jnintly indicted, could, against their wizhes, be tri-d separately; but whether prisoners, jointly indicted, could demand a separate trial, prespnted another question; some invisting that they poscess such a right; others contending that such severance is a matter of sound discretion, to be exercised by the court, with that due regard and tenderness to prisoners, which characterizes our criminal jurisprudence: and this latter we regard as the better opinion. In the section under consideration this doctrine has been adopted, except as to cases of joint indictments for felonious homicide, in which it is proposed to give the arcused the positive right to whichand separate trials; in cases of joint trials. it is aloo prodemand separate triais; in cases of joint trinis. it is also pro-
posed to limit the number of the challenges. of all the prisoners, posed to limit the number of the challenges. of all the prisoners,
to the number each would be entitled to if separately tried, and no more. As prisoners jointly indieted for felonious homicide have, by this section. the right to sever in their trials, persons so circumstanced will not be affected by this latter provision. in cases of joint trial, ns their being so tried is a matter resting entirely in their own choice. Report on the Penal Code 45.
(b) The court may direct a special venire to issue to two citizens, instead of the sheriff or coroner, whenever in their opinion, the nature of the case requires It . 15 Leg. Int. 325.
(c) It is an irregularity to call talesmen, unless it appear of record, that the regular panel was exhausted, and an orler for talesmen made; but such irregularity, if not objected to, is eured by the venlict, under the 53 d section. 10 H .94 .
(d) This section is a summary of the 144th. 145th, 146th, 147 th and 148 th sections of the act of 14th April 1834, P. L. 367 ; which sections have been left unrepealed, as they apply equally to civil as well as criminal proceedings. Report on the Penal Code 46 .
(c) This section is taken from the 149th section of the act of 14th April 1834. P. L. 368 ; which has also been left unrepealed for the satae reason. Report on the Penal Code 46.
(6) This section is new, and necessary in the event of trials of treason against the state hareafter takiog place. Report on the Penal Code 46.
(h) Thin princliple of this section. which preseribes the same puilhment against ae escories hefore the fict in felony, under the various synonymes of aiflers, abettors, counsellors, comfreters, \&e., us against principala, is faniliar to our criminal lezisintion: it is found in the 7 th section of the act of 1718,1 Sm .113 ; in the 21 section of the act of 8th March 1780.1 Sm . 499: in the $2 d .30$ and 5 th sections of the act of 5 th April 1790, 2 Sm .531 ; and in the 4th rection of the act of 231 April 1829, 10 Sm .431 . Thero is, therefore, nothins new in the pripeiple of this rection, which is founded on the theory of the moral guilt of the arcessory before thin fact being equal to that of the principal offoniler. The new principle in the section is that Which makes the accessory before the fact, gnilty of a subatantive offence, and which subjerts him to punishment f.r his crime, without postponing it until the convirtion of the actual perpetrator: or more pracisely speaking. which abolishes in felonjes tice technical distinction now existing between accesso-
ries before the fact and principal offenders. Tbis was always the law as regards misdemeanors in which there are no accessories, all being regarded by law as prineipals; in folony, however, except in certain cases about to bo noticed, an accessory cannot be tried before the conviction or outlawry of his principal, unless tried with him. In folonies of frequent occurrence, this was found a great and serious evil, which called for and received partial legislative correction; as early as the act of the 31st May 1718, 1 Sm . 105, it was provided that pereons barboring. concealing or receiving robbers, burglars, feluns or thieves, or receiving or buying any goods or chattels that should have been feloniously taken or stolen by any such robbers, \&o., knowing the same to be stolen. might be proceeded agalust as is therein directed; and that if any such principal felon could not be takien, so as to be prosecuted and convicted for such offence, that nevertheless it shall be lawful to prosecute and punish every such person buying or receiving any goods stolon by such principal felon. knowing the same to be stolen, althourh the principal felon should not be convicted of the felony. This, however, embraced only one class of nece sories, to wit, receivers of stolen goods, in cases where the principal was not amenatile to justice; aftervards, by the act of 23 d September 1791, 3 Sm . 41 , it was provided "in all cases of felonies of death, robbery and burglary. it shall be lawful to punish receivers of such felons, robbers and burglars, by a fine and imprisonunent, flthough the principal felons, robbers and burglapiscannot be although the principal felons, robbers and burglars cannot be
taken. so as to be prosecuted and tried for said offences; which conviction and sentence of said receivers shall exempt them from being prosecuted as accessories after the fact in cuse the principal felon, robber or burylar shall afterwarda be taken and envicted. This act extended only to accessories after the fact, in eaves in which the principals could not be taken.
The act of 11th April 1825, 8 Sm .438 , was passed to avoid a dificulty which afterwards arose in the prosecutions of receivers of stolen goods, in eases in which the principals were amenable to justice. The act of 1718 was taken from the 4 th section of tth and 5th Anne, chap. 31, which only authorized proceedings against such receivers before the conviction or attainder of their principals, when such principals could not be taken. Foster, in his discourse on accomplices, \& 6, p. 373 , says on this point: "I know attempts have been made, under various shapes, to prosecute the receiver as for a misdemeanor, while the principal hath been in custody and amenable, but not convicted; but I think such devices illegal." The act of 1825 solved the difficulty, by declaring that receivers of property, knowing it to have been feloniously stolen, may be property, knowing it the althongh the principal be not before convieted, aud secuted, althongh the principal be not
whother be is amenable to justice or not.
It will thus be seen, that all our legislation with regard to the trial of accessories to felonies, before the conviction of th-ir principals, applies only to acressorlex after the fact, a clans of offenders who have had no primary connection with the origi al crime. and whose guilt only consixts in having given comfort and succor to the actual offender after its perpetration; except in crses of receivers of stolen goods, this offence is often almost venial. consisting frequently in parents and frievds, influenced veninl. consisting frequently in pares of blood, or the impulses of affertion, giving nid and comfort to an offender whose crime they abominate and deplore. It seems strange that the common law privilege, which exempted accessories from liability to justica until the convietion or attainder of the principal, should be taken awny in cases of acressorjes after the fact. and left in those of nceenwories before the fact. whose guilt is always as great, and often much greater, than that of the principal. The 45th section proposes putting our statute laws on the subjeet of accessorics to felonies in harmony with justice and reason. Report on the Penal Cola 46-8.
the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may thereupon be punished in like manner as any accessory after the fact to the same felony, if convicted as an accessory, may be punished; and the offence of such person, howsoever indicted, may be inquired of, tried, determined and punished, by any court which shall have jurisdiction to try the principal felon, in the same manner as if the act by reason of which such person shall have become accessory, had been committed at the same place as the principal felony: Provided always, That no person who shall be once duly tried for any such offence, whether as an accessory after the fact, or as for a substantive felony, shall be liable to be again indicted or tried for the same offence.(a)
47. If any person hereafter shall be feloniously stricken, poisoned or receive other cause of death in one county, and die of the same stroke, poisoning or other cause of death in another county, then an indictment found therefor by jurors of the county where the death shall happen, shall be as good and effectual in law, as well against the principal in such murder as against the accessory thereto, as if the stroke, poisoning or other cause of death had been given, done or committed in the same county where such indictment shall be found; and the proper courts having jurisdiction of the offence shall proceed upon the same as they might or could do in case such felonious stroke, poisoning or other cause of death, and the death itself thereby ensuing, had been committed and happened all in one and the same county. (b)
48. If any person shall be feloniously stricken, poisoned or receive other cause of

Felonious striking or pnisouing in the stute and leath out of the state.

Proof of offences committed near county lines. felony or misdemeanor was committed in any of the said counties; and every such felony
or misdemeanor shall and may be inquired of, tried, determined and punished in the or misdemeanor shall and may be inquired of, tried, determined and punished in the county within which the same shall be so alleged to have been committed, in the same manner as if it had been actually committed therein. (d)
Proof of offences com-
mitted during journeys. death within the jurisdiction of this state, and shall die of such stroke, poisoning or othet cause of death at any place out of the jurisdiction of this state, an indictment therefor found by the jurors of the county in which such stroke, poisoning or other cause of death shall happen as aforesaid, shall be as good and effectual, as well against the principal in any such murder, as against the accessory thereto, as if such felonious stroke, poisoning or other cause of death, and the death thereby ensuing, and the offence of such accessory, had happened in the same county where such indictment shall be found; and the courts having jurisdiction of the offence shall proceed upon the same, as well against principal as accessory, as they could in case such felonious stroke, poisoning or other cause of death, and the death thereby ensuing, and the offence of such accessory, had both happened in the same county where such indictment shall be found. (c)
48. In order to obviate the difficulty of proof as to all offences committed near the boundaries of counties, in any indictment for felony or misdemeanor committed on the boundary or boundaries of two or more counties, or within the distance of five hundred yards of any such boundary or boundaries, it shall be sufficient to allege that such
49. In order to obviate the difficulty of proof as to offences committed during journeys from place to place, in any indictment for felony or misdemeanor committed on any person or on any property, upon any stage coach, stage, wagon, railway-car or other such carriage whatever, employed in any journey, it shall be sufficient to allege that such felony or misdemeanor was committed within any county or place through any part whereof such coach, wagon, cart, car or other carriage shall have passed in the course of the journey during which such felony or misdemeanor shall have been committed; and in all cases where the centre or other part of any highway shall constitute the boundaries of any two counties, it shall be sufficient to allege that the felony or mis-

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\text { 46. Act } 31 \text { March 1860, § 46. P. L. } 441 .
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47. rbid. § 47.
48. Pbid. § 49.
(a) This section is only an extension of the existing laws. which, as will be seen from the preceding remarks, subjected accessories after the fact, and receivers, to punishment before the conviction or attainder of their principals, It embrachs such accessories not only in common law felonies, but those created. or which hereafter may be created, by statute; it authorizes the conviction of such offenders either with or after the conviction of the frincipals, or for a substantive offence, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice. It also provides for the case of a party becoming an accessory nfter the fact in one county to a felony committed in another; giving jurisdiction over the crime of such accessory to the courts of the county having jurisdiction over the crime of the principal oflender. This provixion supplies the 22 d and 23 d rections of the act of $1718,1 \mathrm{Sm} .119$, made, probably, to meet a doubt at common law, whether an accessory in one county to a felony in another, was indictable in either. Report on the 1'edal Code 48.
(b) This section has been introduced to remove a difficulty which might arise in a case of homicide, where a man had died in one county from an injury, or other cause of death, received in another county. Hawkins, in his Pleas of the Crown, book 2. chap. 25,$\} 36$, says, that "at the common law, if a man had died in one county of a stroke received io another, it seems to have been the more general opinion that, regularly, the bomicide was indictable io neither of them, because the offence was not completo in either, and no grand jury could inquire of what happened out of their county." This inconvenionce was remedied by $2 d$ \& $3 d$ Edward VI., chap. 2\&, by which it was enacted,
that in such cases the trial should take place in the county where the death happened. This statute is among those reported by the juiges of the Supreme Court, as being in force in Pennsylvania; hence the expediency of this section to meet such a case, should it hereafter arise. Report on the Penal Code 49.
(c) In the case of a wound, or other cause of death, being given in this state, and the party receiving the same dying in another state (a thing which might very readily occur, as in the case of duels), by the existing law it is at least doubtful whether a prosecution for homicide could be maintained in either; Hawkins, hook 1, chap. 31, z 11, 12. If a mortal injury, or poison is given or administered maliciously in the state, and death ensues therefrom out of the state, the act which caused the death, and the malice which influenced the act, the two great essential elements of felonious homicide, have been per petrated and manifested within our jurisdiction; it seems, therefore, fitting, that in such cases, jurisdiction over the crime should be exercised by the state. The section is new, but manifestly necessary in any penal system claiming to bo complete. Report on the Penal Code 49.
(d) The 48th and 49 th sections are new; they are intended to obviate difficulties which occur in laying the county, where a crime has been committed, so near county lines, as to render it doubtful in which of two counties it has been actually perpetrated; and to obviate similar difficulties, where the crime bas been committed during journeys or voyages by land or water, in carriages or vessels of any kind, which have passod through various counties in the journey or voyage during which the crime has been committed. The sections will be fouvd of real practical value. Report on the Penal Code 49.

## Criminal purocedure.

demeanor was committed in either of the said counties through, or adjoining to, or by the boundaries of any part whereof such coach, wagon, cart, car or other carriage shafl have passed in the course of the journey during which such felony or misdemeanor shall have been committed; and in any indietment for any felony or misdemeanor, committed on any person or on any property on board any vessel whatsoever, employed in any voyage or journey on any navigable river, canal or inland navigation, it shall be sufficient to allege that such felony or misdemeanor was committed in any county or place through any part whereof such vessel shall have passed in the course of the royage or journey during which such felony or misdemeanor shall have been committed; and in all cases where the side or bank of any navigable river or creek, canal or inland navigation, or the centre or other part thereof, shall constitute the boundary of any two counties, it shall be sufficient to allege that such felony or misdemeanor was committed in either of the said counties through, or adjoining to, or by the boundary of any part thereof, such vessel shall have passed in the course of the royage or journey during which such felony or misdemeanor shall have been committed; and every such felony or misdemeanor committed in any of the cases aforesaid, shall and may be inquired of, tried, determined and punished in the county or place within which the same shall be so alleged to have been committed, in the same manner as if it had actually been committed therein.
50. If on the trial of any person charged with any felony or misdemeanor, it shall party indictappear to the jury upon the evidence, that the defendant did not complete the offence ed for feloty charged, but was guilty only of an attempt to commit the same, such person shall not by meanor mase reason thereof be entitled to be acquitted, but the jury shall be at liberty to return, as bo found their verdict, that the defendant is not guilty of the felony or misdemeanor charged, but guilty of ntis guilty of an attempt to commit the same; and thereupon such person shall be liable commit to to be punished in the same manner as if he had been convicted upon an indictment for same. attempting to commit the particular felony or misdemeanor charged in the indictment; and no person so tried as herein lastly mentioned, shall be liable to be afterward prosecuted for an attempt to commit the felony or misdemennor for which he was so tried. (a)
51. If upon the trial of any person for any misdemeanor, it shall appenr that the Personstried facts given in evidence amount in law to a felony, such person shall not by reason for misdethereof be entitled to be acquitted of such misdemeanor ; and no person tried for such to be acquitmisdemeanor shall be liable to be afterwards prosecuted for felony on the same facts, ted if the ofunless the court before whom such trial may be had shall think fit, in its discretion, to fence turn discharge the jury from giving any verdict upon such trial, and direct such person to be lony. indicted for felony; in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor.
52. No person shall be deemed and adjudged an incompetent witness on the trial of mitnesces any indictment, for or by reason of such person being entitled, in the event of the con- entiteded to vietion of the defendant, to a restitution of his property feloniously taken, or the ralue to be compe thereof, or if fraudulently obtained, to a pecuniary remuneration or compensation there- tent. for, or for or by reason of such witness being liable and subject to the payment of the costs of prosecution. (b)
53. No verdict in any criminal court shall be set aside, nor shall any judgment be cure of dearrested or reversed, nor sentence delayed, for any defect or error in the precept issued ferts in jary from any court, or in the venire issued for the summoning and returning of jurors, or process by for any defect or error in drawing, summoning or returning any juror, or panel of jurors, (c) but a trial, or an agreement to try on the merits, (d) or pleading guilty, or the general issue(c) in any case, shall be a waiver of all errors and defects in, or relative

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50 . & \text { Aet } 31 \text { March } 15 e 0, & \text { § } 50 . \text { P. L. } 442 & 51 . \text { Mad. } \$ 51 . & 52 . \text { roid. } \$ 52 .
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(a) The 50th and 51st sections are new, and intended to facilitate the convletion of offenders, and avoid unnecessary delay in the administration of criminal justice. By the law as it now stands, if on the trial of an indictment for felony, it appears that some circomstance is wanted to establish the complete technical offence, the prisoner must be sequitted, although the proofs are perfect of an attempt to commit the crime; and on the other hand, whem the indictment charges an attempt to commit a crime, and the proof establishes that the crime has actually been committed, the Americau courts have generally held that the prisoner must be acquitted, because the misdemeanor charged, is merged in the felony proved. The operation of the first of these doctrines is best exemplified by decided cases. Iord Hale, in his Eleas of the Crown, vol. 1, p. 508 , thus recites one of these cases: "A. hath his keys tied to the strings of his parse; B., a cut-purse, takes his purse, with the money in it, out of his pocket, but the keys Which were hanged to his purse strings, hanged in his pocket; A. takes B. with his purse in his hand, but the strings havged to his pocket by the keys; it was ruled that this was no felony, for the keys and purse strings hanged in the pocket of $A$. whereby A. had still in law the possession of his purse, so that liot, opit non asportarit. So, where a thief went into a shop, took up some goods, intending to steal them, but before he had removed them from the spot on which they lay, discovered they ware tied to the counter by a cord; upon being tried for stcaling, it was held that the property never was either onmpletely severed from the possession of the owner, nor completely In the posssession of the prisoner, and he was acquitted. rought to be changed by this section, viz.: that a misdemeanor
charged is merged in a felony proved, it has been frequently held in this country that where, on an indictment for an assault, attempt or conspiracy, with intent to commit a felony, it appeared that the felony was actually committed, it was the duty of the court to charge the jury, that the misdemeanor had merged, and that the defendant must be acquittel. Wharton's American Criminal Law 38364,2204 . In Eugland, however, this doctrine has been shaken, if not repudiated by the cases of Rex e. Neale, 1 Dennison's Cro. Cas. 36, and Rex e. Button, 11 Ad. \& Ellis (N. S.) 829. The section under consideration will, if adopted, destroy the future operation of a subtle fiction, having no origin in substantial common seuse. Report on the Penal Code 50.
(b) This section is taken from the act of 29 th March 1809, 5 $\mathrm{Sm} .48 ;$ and the 31st section of the act of 31st May 1718, 1 Sm 123. Report on the Penal Code 51.
(c) See 2 8, \& R. 300.4 P. L. J. 512
(d) A trial on the merits is a waiver of all irregularities and defects in the mode of summoning and returning the jurors. 5 C. 429. After a trial it is too late to object to mistakes in the process as to the Christian and surname of some of the jurors by whom the ventict was rendered. 10 H .94 . If a person, not on the panel, is called, and permitted to sit, the irnegularity is cured by this section. 3 H .236 . But if a stranger answer to the name of one of the panel, and is sworn as a juror, it is a mistrial, and not within the statute. Com, e. Spring, 10 Leg. Int. $54-6.1 \mathrm{Am}$. L. R. 424 . See 4 P. L. J. 521 .
(c) If the prisoner stands mute, and the plea of not guilty is entered by the court, it is within the act. 5 Wh .67 . Soe 2 Ash. 90.
or appertaining to the said precept, venire, drawing, summoning and returning of jurors. (a)

Of the trial of prisoners committed.
54. If any person shall be committed for treason or felony, or other indictable offence, and shall not be indicted and tried some time in the next term, session of oyer and terminer, general jail delivery, or other court where the offence is properly cognisable, after such commitment, it shall and may be lawful for the judges or justices thereof, $(b)$ and they are herehy required on the last day of the term, sessions or court, to set at liherty the said prisoner upon bail, unless it shall appear to them, upon oath or affirmation, that the witnesses for the commonwealth, mentioning their names, could not the he produced; (c) and if such prisoner shall not be indicted and tried the second term, session or court $(d)$ after his or her commitment, unless the delay happen on the application or with the assent of the defendant, or upon trial he shall be acquitted, he shall be discharged from imprisonment:(e) Provided always, That nothing in this act shall extend to discharge out of prison, any person guilty of, or charged with treason, felony or other high misdemeanor in any other state, and who by the constitution of the United States ought to be delivered up to the exccutive power of such state, nor any person guilty of, or charged with a breach or violation of the laws of nations. (g)
Witnerses in
55. Upon the trial of any indictment for making or passing, and uttering, any false,
forged or counterfeited coin, or bank note, the court may receive in evidence, to establish either the genuineness or falsity of such coin or note, the oaths or affirmations of witnesses who may, by experience and habit, have become expert in judging of the genuineness or otherwise, of such coin or paper, and such testimony may be submitted to the jury without first requiring proof of the handwriting or the other tests of genuineness, as the case may be, which have been heretofore required by law: and in prosecutions for either of the offences mentioned or described in the 164 th, 165 th, 166 th and 167 th sections of the "Act to consolidate, revise and amend the penal laws of this commonwealth," $(h)$ the courts shall not require the commonwealth to produce the charter of either of said banks, but the jury may find that fact upon other evidence, under the direction of the court. $(i)$
56. No witness in any case who enters bis or her recognisance, in such sum as the

Witneases not to be im prisoned excopt in certain cases. ception and writs of error allowed. magistrate may demand, to appear and testify in such prosecutions as require his testimony, shall be committed to prison by the judge, alderman or magistrate before whom any criminal charge may be preferred: Provided however, That in all cases triable in the oyer and terminer, where a positive oath is made, reduced to writing and signed by the deponent, setting forth sufficient reasons or facts to induce the firm belief on the part of the judge, magistrate or alderman, that any witness will abscond, elope or refuse to appear upon the trial, that then and in such case the judge, magistrate or alderman may exact bail of said witness to testify. $(k)$
57. Upon the trial of any indictment for murder or voluntary manslaughter, $(l)$ it shall and may be lawful for the defendant or defendants to except to any decision of the court upon any point of evidence or law, $(m)$ which exception shall be noted by the court, and filed of record as in civil cases, $(n)$ and a writ of error to the supreme court may be taken by the defendant or defendants, after conviction and sentence. (o)
(a) This section is a transcript of the aet of 21st February $1814,6 \mathrm{Sm} .111$. The original act has been left unrepealed, and bas been introduced here in order to give rulative cumpleteness to the code of criminal procedure. Report on the Penal Cule 51. (b) The application must be made to the court in which the prisoners were indicted. $2 \mathrm{~Wh} 502,3 \mathrm{Y} .204 .7 \mathrm{~W} . \& 8.110$.
(c) This section only applies where there has been wilful delay on the part of the commonwealth. $16 \mathrm{~S} . \& \mathrm{~B} .305$. 7 W . 306. Not where the trial is delayed by the prisoner. 3 Y. 266. $16 \mathrm{~S} . \& \mathrm{R} .304 .2 \mathrm{~Wh} .601 .7 \mathrm{~W} .366 .1 \mathrm{D} .9$.
(d) A prisoner can only elaim his discharge on the last day of the second term after his arrest, when there has been a competent and rigularly constituted court before whom he could have been indicted and tried. 5 C. 129.
(e) The act was designed to prevent wrongful restraints of liberty growing out of the malice and procrastination of the prosecutor; but not to shield a prisoner, in any case, from the consequences of any delay made necersary by the law itself; and, therefore, wbere the array of grand jn rors was quashed at two successive terms after the arrest of the prisoner. for informality in selecting and drawing them, he is not entitled to a diacharge. 5 C. 129.
(g) This rection is a transcript of the 3 d section of the act of 18 th February $1785,2 \mathrm{Sm} .277$. The woris, " or other indictable offence," afler the word "felony," have been introlured in order to harmonize the language of the law with the actual prartice under it, which has been to extend the provisions of the 3 d section of the habeas corpas act. not only to commitmonts for treason or felony, but to commitments for all eriminul offences. Ex parte Walton, 2 Wh 50L. The only chanse its the proviso of this section is the substitution of the worde "the constitution of the United States," fir the words, "the confirleration," of the original act. The original section has also heen left unrepealed, so as to avold any unneressary intererence with this important law. The commissioners consider its introduction into this act is jndicious, composing, as it does, so important an element in our criminal juri-prudence. Repurt on the Penal Code 51.
(") Seu tit. "Crimes," pl. 173-6.
(i) This section is framed from the $3 d$ section of the set of 4 th May 1852, P. L. 574 ; and the 13th section of the act 25 th March 1824, 8 sm .238 . Report on the Penal Code 52.
(k) This section is taken from the act of 22d April 1856, P. I. 506 . Report on tho Yenal Coile 52.
(l) A bill of exceptions to the admission or rejection of evi dence. on the trial of one charged by indictment with a criminal offence, other than murder or voluntary manslaughter, is not the suljeet of consideration on a writ of error althongh the bill may have been sualed by the court below. 2 W. 285 .
(m) The prisoner must show that a substantinl error was committed on the trial, in the admission or rejection of evidence, mitted on the trian, in the admission or rejection of evidence, stract or technical error has taken place. 5 C. 429.
( $n$ ) The supreme court is limited to a review of the points so noted and filed of record by the court below. $5 \mathrm{C}, 429.1 \mathrm{Wr}$. 108. The act dous not authorize an exception to the charge of the court. Com, v, Jacohy, 6 Pittsburgh Leg. J. 178.
(o) Sections 57 to 61 are taken from the 1st, 2d, 3d, 4th and 5 th sections of the act of 6 th Novomber 1856, P. L. 795. Tho changes made thorein, consist in striking out the whole of the provivo to the 1st section, and so much of the 4 th section as provides for the oath or affirmation required, being filed in tha prothonotary's office of the proper district. The effect of the proposed amendment will le, to superscde the necessity of a party convicted of murder or manslan :hter. making an oath that his application for a writ of error is not for the purpose of delay, and to correct the manifest inconsistruey in the provion, in anthorizing a defeudant, convicted of voluntary manslaughter, to enter hail to apprar and abide the sentence of the court, when by the prerinus part of the section, no writ of error can issue until affer cobviction and santence. The coms, mi-sioners believe that the oath demanded will $\times$ top few, if nny, persons convleted of murder or voluntary manslanghter, frou suing out a writ of error, to obtain a reversal of their condemnations; they think that sueb a temptation to perjury should not be placud in the way of a party so situated. Experince slonws that even in civil proceedings, such oaths bave but the influence in preventing litigation; how much less must they
58. If during the trial upon any indictment for murder or voluntary manslaughter, Written ophthe court shall be required by the defendant or defendants to give an opinion upon any nions to be point submitted and stated in writing, it shall be the duty of the court to answer the filod. same fully, and file the point and answer with the records of the case.(a)
59. No such writ shall be allowed, unless special application be made therefor, and Granting of cause shown within thirty days after sentence pronounced; and if the supreme court be writs of error sitting in banc in any district, the application shall be made, and cause shown there; if the said court be not sitting, application may be made to, and cause shown before one of the judges of that court, and upon the allowance of such writ, the said court or judge shall fix a time and place for hearing the said case, which time shall not be more than thirty days thereafter; if the said court shall be at that time sitting in banc in any district of the state, the said court or judge, upon the allowance of any such writ, shall make all such proper orders, touching notice to the commonwealth, and paper-books, as may be considered necessary.
60. The writ of error shall issue from the prothonotary's office of the proper district, Whence a and all orders, decrees and judgments in the case shall also be entered of record there; writ of erior but the application and final hearing may be made and had before the said supreme to issue. court while sitting in any other district.
61. Upon the affirmance of the supreme court of the judgment in any case, the same proceedings shall be enforced pursuant to the directions of the judgment so affirmed, and the said nfleer affirmcourt may make any further order requisite for carrying the same into effect; and if the nere or rosupreme court shall reverse any judgment, they shall remand the record, with their judgnent. opinion, setting forth the causes of reversal, to the proper court for further proceeding.

## E. of costs.

62. In all prosecutions, cases of felony excepted, if the bill of indictment shall be power of returned "ignoramus," the grand jury returning the same shall decide and certify on grand and such bill whether the county or the prosecutor shall pay the costs of prosecution ; and over costs. in all cases of acquittals ( $h$ ) by the petit jury on indictments for the offences aforesaid, the jury trying the same shall determine, by their verdict, whether the county, $(c)$ or the prosecuter, or the defendant shall pay the costs, $(d)$ or whether the same shall be apportioned between the prosecutor and the defendant, and in what proportions; and the jury, grand or petit, so determining, in case they direct the prosecutor to pay the costs or any portion thereof, shall name him in their return or verdict; $(e)$ and whenever the jury shall determine as aforesaid, that the prosecutor or defendant shall pay the costs, the court in which the said determination shall be made shall forthwith pass sentence to that effect, and order him to be committed to the jail of the county until the costs are paid, unless he give security to pay the same within ten days. ( $g$ )
63. In all prosecutions where the petit jury trying the same shall acquit the or the defendefendant, and shall determine, by the verdict, that the prosecutor shall pay the costs $\left(h_{1}\right.$ dant's costs. the defendant's bill for his subpcenas, serving the same, and attendance of his material and necessary witnesses, shall be included in the costs and paid accordingly. ( $i$ )
64. The costs of prosecution accruing on all bills of indictments charging a party payment of with felony, returned "ignoramus" by the grand jury, shall be paid by the county; and conts genethe costs of prosecution accruing on bills of indictment charging a party with felony, rally. shall, if such party be acquitted by the petit jury on the traverse of the same, be paid by
65. Aet 51 March 1860, is 58. P. L. 444.
66. Ibid. +59.
67. Ibid. $\{60$.
68. Ibid.
69. 

62 Mid. $\left\{\begin{array}{l}62 \\ 63 . \\ \text { Ibid. } \\ 63 .\end{array}\right.$
64. Moid. 464.
have in a criminal proceeding, where the matter in issue is life or liberty ! The privilege given in the proviso, in a case of voluntary manslaughter, of entering bail to appear to abide by the senfence of the court. is utterly irreconcilnble with the main section itself. Which gives the writ of error after conviction and sentence; if the commissioners are permitted to speculate upon the causes of the incongruity between the section and its proviso, they would be inclined to suppose that the proviso was one of those amendments bastily made and adopted, which sometimes occur in rapid legislation. The only manner in which the proviso and the section can be reconciled, would be to suppose that the legislature intended, in case of conviction and sentence for voluntary manslaughter, to permit the defendant, juing out a writ of error, to go at large on bail until ine final new in a system of criminal jurisprudence, based upon the new in a system of criminal jurisprudence, based upon the
conmmon law. If nuch a privilege is to be given to a convicted felon, there scems no good renson that it should be exclusively extended to felonious homicide; as has been heretofore remarked. the line between murder and voluntary manslaughter is often so vicely charactorized. that it requires much technical acumen to discriminate the differences between them; surely in a community in which law ought to protect life by every possible means, a party convicted by the verdict of a jury of his peers, of voluntary and fulonious homicide, should not be permitted to go nt large, while the sentence against him remains unreversid and unripealed. We ought not, in our anxiety to cuard the rights of the offender, to forget thore of the community, an urror which seems gradually insinunting itself into neval legislation and miministration; the reasoning on this suhject might be extended, but the commissioners think they have said enough to recommend their propnsed modifiration of this act to legislative favor. Report on the Penal Code 52.
(a) This section does require the court to write out its charge to the jury. Com. v. Jacoby, 5 Pittsburgb Leg. J. 178.
(b) If the act be charged to have been done feloniously, t
an indictment for a felony, a count for a misdemennor is joined. 2 C. 154 . The statate extends to the case of a defective indictment. 4 B. 194. 4 S. \& R. $122^{7}$. And to an acquittal on a plea of the statute of limitations. 2 C 171. The Jury cannot convict one of two defendants, and acquit the other, and direct the latter to pay the costs. $13 \mathrm{~S} \& \mathrm{~K}$. 301. The court may set aside a verdiet of acquittal, so fur as it imposes costs on the prosecutor. $2 \mathrm{Gr}, 66$.
(c) If the jury acquit the defendant, and say notbing as to the costs, the county is not liable. $3 \mathrm{P}, \mathrm{I}, 365$.
(d) This does not include the costs of a former bill, on which judgment was arrested. 2 C .171.
(e) No person can be senteuced to pay costs as prosecutor, unless named by the jury. $7 \mathrm{~W}, 485$. But whure the grand jury ignored a bill for assault and battery, and directed the perkon upon whom it was alleged to bave been committed, to pay the costs, it was held sufficient, allhough thry omitted to designate hin as prosecutor. Com, $v$ Carr. Quarter Srssions, Phila., 23 October 1847. MS. The act dous not upply to persous concerned is prosecutions in their official caparity; 2 Am L. R. 243; 11 Lug . Int. 58; and hence, in a proveculfon for kevping a disorderly house, the jury cannot impose the costs on the constable who made the return. Com. v. Barr, Quarter Sersiotik, Lancaster, January 1848. MS.
(g) See 2 P. R. 240,13 S. \& R. 303. This section is taken from the 1st and $2 d$ sections of the act of 8 th Derember 1804 . I Sm .204 ; and the act of 12 th A pril 1859. P. L. 528. The only change made in these laws is, that the like privilege of giving security for the payment of costs in ten days is giren to the defendant, who, although acquitted, is ordered to pay the costs, as is given to the prosecutor in case he is ordered to pay the corts. Report on the Punal Code 53.
(h) If the jury acquit the defendant, and direct the costs of prosecution to be paid by the county, the latter is not lia
the attendance of the defendant's witnesses, $12 \mathrm{C}, 317$.
(i) This section is taken from the act of 9th February 1820, section is taken from the act of
Report on the Penal Code 53 .
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the county, $(a)$ and in all cases of conviction $(b)$ of any crime, all costs $(c)$ shall be paid by the party convicted; but where such party shall have been discharged, according to law, (d) without payment of costs, the costs of prosecution shall be paid by the county; and in cases of surety of the peace, the costs shall be paid by the prosecutor or the defendant, or jointly between them, or the county, as the court may direct.(e)

## Costs whero

 are present- names of all concerned (if a prosecution shall be commenced) shall be contained in one are present- bill of indictment, for which no more costs shall be allowed than if the name of one perjoint offend-son only was contained therein. (g) ors.
## F. general provisions.

Insane prisoners.
Jury to find the fact of insanity. Defendant to be detained in custody.

Where defendant is found insane upon arraignment.

Where prisoner brought up to be discharged appears to be insane.
66. In every case in which it shall be given in evidence upon the trial of any person charged with any crime or misdemeanor, that such person was insane at the time of the commission of such offence, and he shall be acquitted, the jury shall be required to find specially whether such person was insane at the time of the commission of such offence, and to declare whether he was acquitted by them on the ground of such insanity; and if they shall so find and declare, the court before whom the trial is had shall have power to order him to be kept in strict custody, in such place and in such manner as to the said court shall seem fit, at the expense of the county in which the trial is had, so long as such person shall continue to be of unsound mind.( $h$ )
67. The same proceedings may be had, if any person indicted for an offence shall, upon arraigument, be found to be a lunatic, by a jury lawfully impannelled for the purpose; or if, upon the trial of any person so indicted, such person shall appear to the jury, charged with such indictment, to be a lunatic, the court shall direct such finding to be recorded, and may proceed as aforesaid.
68. In every case in which any person charged with any offence shall be brought before the court to be discharged for want of prosecution, and shall by the oath or affirmation of one or more credible persons, appear to be insane, the court shall order the district attorney to send before the grand jury a written allegation of such insanity in the nature of a bill of indictment; and thereupon the said grand jury shall make inquiry into the case, as in cases of crimes, and make presentment of their finding to said court thereon; and thereupon the court shall order a jury to be impannelled to try the insanity of such person; but before a trial thereof be ordered, the court shall direct notice thereof to be given to the next of kin of such person, by publication or otherwise, as the case requires, and if the jury shall find such person to be insane, the like proceedings may be had as aforesaid.

Insane defendant to be delivered to friends, \&c. the ground of insanity, or in the default of such, the guardians, overseers or supervisors of any county, township or place, shall give security in such amount as shall be satisfactory to the court, with condition that such lunatic shall be restrained from the commission of any offence by seclusion or otherwise, it shall be lawful for the court to make an order for the enlargement of such lunatic, and his delivery to his kindred or friends, or as the case may be, to such guardians, overseers or supervisors.
70. The estate and effects of every such lunatic shall, in all cases, be liable to the

How expen-
ges to be paid In such cases.
 of such urder ; but if any person acquited on the estach order; but if any person acquitted on the grounds of insanity, shall have cate or effects, the county, township or place to which such lunatic may be chargeable under the laws of this commonwealth relating to the support and employment of the poor, shall, after notice of his detention aforesaid, be liable for all costs and expenses as aforesaid, in like manner as if he had become a charge upon any township not liable for his support under the laws aforesaid.

## Ciril actions

 against folons.71. In all cases of felony heretofore committed, or which may hereafter be committed, it shall and may be lawful for any person injured or aggrieved by such felony, to have and maintain his action against the person or persons guilty of such felony, in like manner as if the offence committed had not been feloniously done; and in no case whatever, shall the action of the party injured, be deemed, taken or adjudged to be merged in the felony, or in any manner affected thereby.(i)
Executions
upon sen-
tences of res titution.
72. The imprisonment awarded as part of the punishment of any offender, shall not stop or avoid the awarding or taking out of execution to levy such respective sums recovered against them, as such offenders refuse or neglect to pay, when such writs are taken out, which executions shall be directed to the sheriff or coroner of the proper

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\begin{aligned}
& \text { 65. Aet } 31 \text { March 1860, § } 65 . \text { P. L. } 445 \text {. } \\
& \text { 66. Ivid. \& G6. }
\end{aligned}
$$

(a) See 10 C. 440 .
(b) This includrs convictions for drunkenness and vagrancy. 4 (i. 17\%. 5 C .38 . Provided the defendants be sentenced to hard labor, and the commitments follow the sentences as recorded. $12 \mathrm{C}, 349$. The case of a prosecutor on a bill returned ignoramus, is not within the act; nor that of a defendant ncquitted, but ordered to pay the eosts by the petit jury; nor where the prosecutor is ordered to pay costs on an acyuittal. 4 S. \& R. $5+1$. Nor where the case is determined by nolle prosequi $12 \mathrm{~S} . \&$ I. 94.6 II. 493 . Or the indietmunt is quashed. 3 i. 487 . But it extends to cases whore the party may be discharged under the insolvent laws; or where judgment has been arrested, or reversed on error. $12 \mathrm{~S} . \& \mathrm{R} .95$. Or where the defondant has been pardoned after convictior
449 .
(c) This does not include costs of an attachmont aganse a
67. Ibid. § 67.
69. Ibid. $\& 69$.
71. Ibid. $\begin{aligned} & 71 . \\ & 72 . \\ & 72\end{aligned}$
witness, for contempt. 2 S. \& R. 292.
(d) Unless the discharge be a leral one, the county is not liable. 6 F. L. J. 237.
(c) This section is a consolidation of the 11 th and 15 th sections of the act of 23 d September $1791,3 \mathrm{Sm} .43-4$; and the 13 th section of the act of 28 th March $1814,6 \mathrm{Sm} .229$; and the 18 s , section of the act of 20 th March 1797.3 Sm 281 : and embraces the cases provided for by them. Keport on the Penal Code 58. $(g)$ This section is taken from the set of 28 th March 1805, 4 5 m . 235 . Report on the Lenal Code 54
(h) Sections 66 to 70 are taken from the 58 th. 59 th, 60 th, 61 st and 62 d sections of the act of 13 th June 1836, P. L. 603. Report on the Penal Code 54. Sce 6 C 522.10 C. 184.
(i) This section is new ; its olyject is sufticiently manifest withut furthor explanation Report on the Pemal Code ot
county, requiring him to levy the sums due upon such recoveries as aforesaid, of the lands and tenements, goods and chattels of such offenders, returnable to the next term or session of the court where such conviction was had, which shall be executed accordingly; $(a)$ and the lands, goods and chattels thereby seized shall be sold and conveyed by the said officers, and such sales shall be as available and effectual in law as any other sales of land taken and sold for the payment of debts, by virtue of writs of execution awarded out of the courts of common pleas in the respective counties.(b)
73. If any person who hath been, or shall be legally indicted in any court of criminal outlawry. jurisdiction within this commonwealth, of treason, felony of death, robbery, burglary, sodomy or buggery, or as accessories before the fact to any of the same offences, did not or will not appear to answer to such indictment, or having appeared, shall escape before trial, the same indictment, record and proceedings shall be removed by writ of certiorari Certiorari. into the supreme court of this commonwealth, and it shall and may be lawful for the same court to award a writ of capias, directed to the sheriff of the county where the fact shall be charged to have been committed; and if the party indicted shall be supposed, capias. by the indictment, to inhabit or be conversant in any other county, then also to the sheriff of such county; which writ or writs shall be delivered to the said sheriff or sheriffs, at least two months before the day of the return thereof, commanding the said sheriff or sheriffs to take the person so indicted as aforesaid, if he may be found in his or their bailiwicks, and him safely keep, so that he may have his body before the justices of the said supreme court, at the next supreme court to be holden for the said commonwealth, to answer to the said indictment, or prosecute his traverse thereupon, as the case may be, and to be further dealt with as the law shall direct; and if the same sheriff or sheriff's shall make return to the same writ or writs of capias, that the person indicted as afore- Alias capias. said, cannot be found in his bailiwick, then, after such return, a second writ of capias may issue out of the said supreme court, and be delivered at least three months (c) before the return day thereof, to the sheriff of the county where the fact shall be charged to have been committed; and in case the party shall be supposed, by the indictment, to inhabit or bo conversant in any other county, then another writ of capias shall also issue, and be delivered at least three months before the return day thereof, to the sheriff of such county ; which writ or writs of capias shall be returnable before the justices of the same court, $(d)$ on the first day of the second term next after the teste of the said second writ of capias, so that a term shall intervene between the teste of the return days of the same writ or writs, whereby the said sheriff or sheriffs shall be commanded to take the said person so indicted as aforesaid, if he may be found in his or their bailiwicks, and him safely keep, so that he may have his body before the justices of the said supreme court at the day of the return thereof, to answer or prosecute his traverse as aforesaid; but if Proclams he cannot be found in his or their bailiwicks, then to cause public proclamation to be tion. made on three several days(e) in one of the courts of quarter sessions of the peace to be held for the said counties respectively, between the teste and return days of the same writ or writs, that the party so indicted shall appear before the said justices of the said supreme court, at a supreme court to be holden at the time and place contained in the same writs, to answer such indictment or prosecute his traverse thereof, as the case may be, or through default thereof, he will at the return of the same writ or writs be outlawed, and attainted of the crime whereof he was indicted as aforesaid; and the said second writ of capias, directed to the sheriff of the county where the crime hath been, or shall be charged to have been committed, shall contain a further clause commanding the said sheriff, in case the person indicted as aforesaid cannot be found in his bailiwick, Alvertiseto cause public advertisement to be made in one or more of the public newspapers of ment. this state, once a week, in six succeeding weeks, between the teste and return of the said second writ of capias, specifying therein the coming of the said second writ of capias to his hands, with the teste thereof, and the time and place of return to be made thereof, naming the person indicted as aforesaid, with his addition of degree, mystery $(g)$ and place of abode, $(h)$ as contained in the writ, stating the nature of the offence charged against him, and commanding him to appear before the justices of the said supreme court, at the day and place directed by the said second writ of capias, to answer to the said indictment, or prosecute his traverse thereof, as the case may be, or through default thereof at the return of the said second writ of capias, he will be outlawed and attainted of the crime whereof he shall have been indicted as aforesaid; and if upon the return Attainder of the same writ or writs last mentioned, by the said sheriff or sheriffs, that the directions of the said writ or writs had been fully complied with and pursued, and the person indicted as aforesaid shall not yield himself to one of the said sheriffs, so that he may have his body before the justices of the said supreme court at the day and place as directed by the said writ or writs, or having surrendered himself, shall escape from his custody, or having been bailed on his surrender or caption, shall not appear, so that through want of his appearance at the time and place the said supreme court shall appoint for his trial, no trial of his offence can be had, the justices of the said supreme court shall in either of these cases pronounce and declare the $s a^{\circ \lambda} \stackrel{\sim}{\sim}$ person indicted as
73. Aet 31 March 1860, § 73. P. L. 447.

[^12]> (d) 11 D. $88,92$.
> (e) 1 D. $88,92$.
> (g) 2 D. 92.
> (h) 2 D. $92 . \quad 1$ D. 60.
aforesaid, and not appearing at the time and place appointed for his trial as aforesaid, to be outlawed and attainted of the crime whereof he shall have been indicted as afore-

Accessories. pal offender, previously to the declaration of outlawry against the accessory, against whom, in all other respects, it shall be lawful to carry on the proceedings together, and at the same time the said supreme court shall declare the legal punishment for the same crime; and wherever imprisonment shall be a part of the sentence for any of the said ofiences, the term thereof shall commence from the time the person outlawed shall, subsequent to his outlawry, actually be in the custody of the sheriff of the county where the offence was or shall be committed, which sentence shall be fully and particularly entered upon the records of the said supreme court; and the said sentence of outlawry Erect of out-shall have the legal effect of a judgment upon verdict or confession against the person lawry. so outlawed, for the offence whereupon he shall have been outlawed, unless and until the same outlawry shall be afterwards avoided by the judgment of the same court, on plea pleaded in the nature of a writ of error.
How execution to be swarded.

When outlawry may
costs. All the costs and charges of the said proceedings to outlawry shall be borne and paid by the county where the crime is laid to have been committed : Provided always, That
if the person or persons so outlawed shall have real or personal estate, the same or so by the county where the crime is laid to have been committed : Provided always, That
if the person or persons so outlawed shall have real or personal estate, the same or so much thereof as shall be necessary, shall be sold in the manner provided by the seventysecond section of this act, and the net proceeds of such sales shall be applied to the payment of the said costs and charges, or so far as the same shall extend, in exoneration of the county.(b)
Sentences of separate or
74. Whenever any person shall be sentenced to imprisonment at labor by separate or solitary confinement, for any period not less than one year, the imprisonment and labor shall be had and performed in the state penitentiary for the proper district: Provided, That nothing in this section contained shall prevent such person from being sentenced to imprisonment and labor, by separate or solitary confinement, in the county prisons now or hereafter authorized by law to receive convicts of a like description: And provided also, That no convict shall be sentenced by any court of this commonwealth, to either of the penitentiaries thereof, for any term which shall expire between the fifteenth of November and the fitteenth of February of any year. (c)
Sentences of 75 . No person shall be sentenced to imprisonment at labor, by separate or solitary less than one confinement, for a period of time less than one year, except in the counties where, in the
yoar, and
simple im- opinion of the court prononncing the sentence, suitable prisons have been erected for yoar, and simple imprisonment.

When any person outlawed as aforesaid, shall be taken either by capias utlagatum, or otherwise, or being in the sheriff's custody, shall be brought to the bar of the supreme court, the court shall, upon the suggestion and prayer of the attorney-general, award execution $(a)$ to be done upon him, unless the prisoner shall plead either ore tenus, or in writing, as his counsel shall advise, that he was not the person who was outlawed, or shall assign errors, in fact or in law, sufficient to prevent the award of execution, in which case the court shall proceed to determine the same either by an inquest or by their own judgment, agreeably to law; and the prisoner shall by such plea have all the benefit and advantage of all legal matters in his favor, as if he or she had brought a writ of error and had assigned the several matters pleaded as errors: Provided, If any person outlawed shall within the space of one year next after the outlawry pronounced against him, yield him to one of the justices of the supreme court, and offer to traverse the indietment whereon the said outlawry shall be pronounced as aforesaid, that then he shall be received to the same traverse; and being thereupon found not guilty, by the verdict of a jury, of the offence for which he shall have been outlawed as aforesaid, he shall be clearly acquitted and discharged of the said outlawry, and of all penalties and forfeitures by reason of the same, as fully as if no such outlawry had been had, anything hereinbefore contained to the contrary thereof notwithstanding. such confinement and labor; and all persons sentenced to simple imprisonment for any period of time, shall be confined in the county jail where the conviction shall take place: Provided, That in the counties where suitable prisons for separate or solitary confinement at labor do not exist, and the sentence shall be for less than one year, simple

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\text { 74. Aet } 31 \text { March 1860, § 74. P. L. } 449 .
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75. Ibid. § 75.
(a) 1 D. 87,91 .
(b) This section is taken from the 1st, 2d and 3d sections of the act of 23 d September $1791,3 \mathrm{Sm} .37$, and is nearly a transcript thereof. They form in themselves as good a system of outlawry as can now be suggested, and are so skilfully and ably drawn, as to require no amendment of importance. Although proceedings io outlawry have been rarely resorted to in our state, yet they are indispensably necessary in every complete system of criminal jurisprudence. Report on the Penal Code 54.
(c) Whilst the 74th and 75th sections, except the proviso to the 7 tib section, are new in form, no material alteration is made in the law as it now stands. The 74 th section requires that suntences of imprisonment at labur by separate or solitary confinement for a period of time not less than one year, shail be performed in the state penitentiary of the proper district, or in such county prisons as are now, or may hereafter be authorized to receive convicts of a like description; and the Fith rized to reccive convicts of a like description; and the iith
section prohibits sentences of imprisonment at labor by sepakection prohibits sentences of imprisonment at labor by sepa-
rate or solitary confinement for a less period of time than one year, except in the counties where suitable prisons hav
or shall hereafter be erected for such confinemuent and
imprisonment shall be substituted in all eases for the separate and solitary confinement at labor required by the "Act to consolidate, revise and amend the penal laws of this commonwealth."
76. Whenever, hereafter, any person shall be condemned to suffer death by hanging, Execution in for any crime of which he shall have been convicted, the said punishment shall be capital cases. inflicted upon him within the walls or yard of the jail of the county in which he shall have been convicted; and it shall be the duty of the sheriff or coroner of the said county to attend and be present at such execution, to which he shall invite the presence of a physician, the district attorney of the county, and twelve reputable citizens, who shall be selected by the sheriff; and the said sheriff shall, at the request of the criminal, permit such ministers of the gospel, not exceeding two, as he may name, and any of his immediate relatives, to attend and be present at such execution, together with such officers of the prison, and such of the sheriff's deputies as the said sheriff or coroner, in his discretion, may think it expedient to have present; and it shall be only permitted to the persons above designated to witness the said execution: Provided, That no person under age shall be permitted, on any account, to witness the same. And after the execution, the said sheriff or coroner shall make oath or affirmation, in writing, that he proceeded to execute the said criminal, within the walls or yard aforesaid, at the time designated by the death warrant of the governor; and the same shall be filed in the office of the clerk of the court of oyer and terminer of the aforesaid county, and a copy thereof published in two or more newspapers, one, at least, of which shall be printed in the county where the execution took place. (a)
77. All indictments which shall hereafter be brought or exhibited for any crime or Limitation of misdemeanor, murder and voluntary manslaughter excepted, shall be brought or ex-prosecutions. hibited within the time and limitation hereafter expressed, and not after; $(b)$ that is to say, all indictments and prosecutions for treason, arson, sodomy, buggery, robbery, burglary, perjury, counterfeiting, forgery, uttering or publishing any bank note, check or draft, knowing the same to be counterfeited or forged, shall be brought or exhibited within five years next after the offence shall have been committed; and all indictments and prosecutions for other felonies not named or excepted heretofore in this section, and for all misdemeanors, perjury excepted, shall be brought or exhibited within two years next after such felony or misdemeanor shall have been committed: (c) Pronided however, That if the person against whom such indictment shall be brought or exhibited, shall not have been an inhabitant of this state, or usual resident therein, during the said respective terms for which he shall be subject and liable to prosecution as aforesaid, then such indictment shall or may be brought or exhibited against such person at any period within a similar space of time during which he shall be an inhabitant of, or usually resident within this state: And provided also, That indictments for misdemeanors committed by any officer of a bank, or other corporation, may be commenced and prosecuted at any time within six years from the time the alleged offence shall have been committed. (d)
78. All fines imposed upon any party, by any court of criminal jurisdiction, shall be Fines to bo decreed to be paid to the commonwealth; but the same shall be collected and received, decreed to be for the use of the respective counties in which such fines shall have been imposed as satate, for the aforesaid, as is now directed by law.(e)

## 76. Aet 31 March 1860, i 76. P. L. 450.

This section is taken from the act of 10th April 1834, P. L. 234 . Report on the Penal Code 55.
(b) The finding of an informal presentment is not sufficient to take the case out of the statute. 1 Cranch C. C. 485. Nor will a foruser indictment, on which a nolle prosequi was entered. will a foruler ind
$8 \mathrm{McLean}, 469$.
(c) The limitation need not be specinlly pleaded; it may be taken advantage of on the general issue. 4C. 259. See 3 Cranch C. C. 442.5 Cranch C. C. 38, 60, 368.
(d) This rection considerably extends the existing laws relating to th b limitation of criminal prosecutions; these only relate to misdemeanors, in all of which, prosecutions must be commenced within two years, if the alleged offender is accessible to justice, except in forgeries, perjuries and misdemeanors by bank offlicers, the limitations in the latter cases being six years; the present section extends the principle to all crimes, murder and voluntary manalaughter excepted. Where the alleged offender is accessible to justice, prosecutions should not be unnecessarily delayed: such delays do not often take place from worthy motives; charges are often kept suspended over the heads of the accused to subserve the ends of the accuser, and the accused kept in a state of moral slavery, to which no human being should be subjected; it is true, that stale prosecutions are
77. IbId. \& 77. 78. Ibid. | T8. use of the county.
looked upon with an unfavorable eye by courts and juries, but the very existence of this feeling in cribinal tribunals is a strong argument in itself in favor of reasonable limitations in criminal prosecutions. In the more sorious clars of felonies and misdemennors, the limitation has been extended to fire years; in those of less malignity, the limitation of two years has been adopted. The existing laws on this sulyect are the lat section of the art of 10 th April 1848, P. I. 428 ; the 7 th section of the act of 16 th $A$ pril $18+9$, P. L. 664 ; the 36 th section of the act of 25 th April 1850, P, L. 575 ; the act of 10th March 1852, P. L. 124 ; and the net of 24th April 1857, P. L. 305. The act of 1852, which provides for a general limitation of two years in all cases of misdemeanors, forgeries and perjuries excepted, may be regarded as having repealed all antecedent laws; the act of 1857 , though purporting by its title to be a repeal of the act of 1852 , is only a modification thereof extending the limitation in cases of prosecutions for wisdemeanors of bank or other corporation officers to five years. Report on the Penal Code 55.
(e) This section is a re-enactment of the existing law, and is introduced here for the purpose of giving more completeness to the code. Report on the Penal Code 56.

## Cumberland hoad.

1. Road accepted from the United States.
2. Appointment of supurintendents. Term. Vacancies, how filled. Oarth of office. Bond.
3. Superintundent in Fayette and Somerset countics.
4. Powers of the superintendents.
5. Compensation. Accounts.
6. Compensation. Accounts.
7. Toll-gates to be erected.
tain parties not to be charged toll.
8. When tolls may be increased. How payment may be en forced.
9. Rates of toll increased. Exemptions.
10. Suits for collection of tolls. Plea of nou-joinder not to be received. Vehicles may be detained till tolls be paid.
11. Drivers to report number of passengers. Penalty for neglect.
12. Book of entries to be evidence of unpaid tolls.
13. Estimates to be made of tolls, not reported. Commutations. Evidence.
14. Penalty for fraudulent evasion of toll.
15. Commissioners to establish rules. Subject to approval of
the courts.
16. Tolls to be collected although no gates be passed. To be collected by action.
17. Location of gates may be changed. Rates of toll may be raised in certain cases.
18. Toll-gatherers to be appointed; who shall account quar terly. Commissioners to render anmual accounts, on oath.
19. Tolls to be applied to preservation of road. Limitation of power to increase tolls.
20. Directors to be set up. Penalty for violation.
21. Penalty for delaying travellers, or demanding excessive
tolls.
22. Penalty for injuring or obstructing road.
23. Toll-gatherers to keep accounts.
24. How penalties recoverable.
25. Penalty for driving rough-locked, \&c.
26. Culverts to be constructed along the road
27. Payment of falaries and expenses. Repairs of road.
28. When proceeds may be applied to payment of creditors.

Road accepted from U.S

1. The surrender by the United States of so much of the Cumberland raad as lies within the state of Pennsylvania, is hereby accepted by this state; and the commissioners to be appointed under this act are authorized to erect toll-gates on the whole or any part of said road, at such times as they may deem it expedient and proper to do so.
2. At the first session happening after the passage of this act, it shall be the duty of the court of quarter sessions of Washington county to appoint a suitable person to be superintendent of that section of the Cumberland road within this commonwealth which lies between the Monongahela river and the Virginia state line; [and it shall also be the duty of the court of quarter sessions of Fayette county, at the first session of the said court happening after the passage of this act, to appoint a suitable person to be superintendent of that section of the Cumberland road within this commonwealth which lies
Term. between the Monongahela river and the Maryland state line ;] (a) which appointments shall severally continue for two years, if they shall discharge the duties hereinafter prescribed in a proper manner; and in case of the death, resignation or removal, the vacancy shall be filled by the same courts of the proper county: The said superintendents shall be sworn, in open court, to discharge the duties of their trust with honesty and fidelity; and shall, before entering upon the duties of their respective trusts, give bond, in such sum and with such security as the said respective courts may deem sufficient; the bonds to be given in the name of the commonwealth, and shall be conditioned for the faithful discharge of their trust in all things.
Superintendent in Fayette and Somerset counties.

Powers of the superintendents.

Compensa-
tion.

Accounts. a said road, in Fayette and Somerset counties, for the term of two years from the date of said appointment, at a salary not exceeding two hundred dollars per annum, to be paid out of the tolls collected upon said road, whose duties shall be those of superintendent of said road, as now directed by the law of this commonwealth, authorizing the court of Fayette county to appoint a superintendent, approved the 22d day of April 1856.
4. Each of the said superintendents so appointed, shall have over their respective sections of said road all the powers heretofore conferred upon commissioners of said road, and all the powers conferred upon superintendents by the fourth section of the act to which this is a supplement, (b) and also all the powers which have heretofore been conferred upon trustees authorized to be appointed for said road.
5. For compensation, the said superintendents shall each receive a certain per centage of the gross revenues of their respective sections, which per centage shall be ascertained and allowed by the court, at the end of each year; at which time it shall be the duty of aid superintendents to make a full and just exhibit of the receipts and expenditures on their respective sections, to the court from which he received his appointment; which accounts, before they are certified, shall receive the consideration and examination of the court, and for this purpose the court may appoint an auditor, if necessary.
Toll-gates to be erected.
6. For the purpose of keeping so much of the said road in repair as lies within the state of Pennsylvania, and paying the expenses of collection and other incidental expenses, the commissioners shall cause to be erected on so much of the said road as passes within this state, at least six gates; and as soon as said gates and toll-houses shall be erected, it shall be the duty of the toll-collectors, and they are hereby required to demand and receive for passing the said gates, the tolls hereafter mentioned; and they may stop any person riding, leading or driving any horse, cattle, sulky, chair, phaeton,

1. Act 1 April 1835,6 3. P. L. 102.
(a) See infra 3.
2. Net 1 May 1861, § 1. P. L. 678. S. Ibid. 3 .
$\begin{array}{ll}\text { 4. } \Delta \text { ct } 22 \text { April 1856, \& 2. P. L } 523 . & \text { 6. Aot } 4 \text { April 1831, § 2. P. L. } 119 .\end{array}$
for the like offense, he shall be sentenced to be confined in the penitentiary for one year.

Id. 228.
1 Va. Cas.,151-2.
sen. When any person is convicted of two or more offenses, before sentence is pronounced for either, the confinement to which he may be sentenced upon the second, or any subsequent conviction, shall commence at the termination of the previous terms of confinement.
Code Va., p. 815 , 329.

10 Gratt. 755.
27. When a person is convicted of selling, or offering or exposing for sale, at retail, spirituous liquors, wine, porter, ale, or beer, or drink of like nature, and it is alleged in the indictment or presentment on which he is convicted, and admitted, or by the jury found, that he has been before convicted of the like offense, he shall be fined as provided in the third section of chapter thirty-two, and may, at the discretion of the court, be confined in jail not exceeding six months.
28. No criminal prosecution for any felony or misdemeanor shall be maintained in the courts of this state against any person for any act done in the suppression of the late rebellion; and it shall be a sufficient defense to such prosecution, to show that such act was done in obedience to the orders, or by the authority, of any civil or military officer of this state, or of the re-organized government of Virginia, or of the government of the United States; or that said act was done in aid of the purposes and policy of said authorities, in retarding, checking, and suppressing the said rebellion.

## CHAPTER CLIII.

## FOR PREVENTING THE COMMISSION OF CRIMES.

| sEc. | SEC. ${ }^{\text {S }}$ ( ${ }^{\text {a }}$ |
| :---: | :---: |
| 1. Conservators of the peace ; power to bind to good behavior. | 8. Person going armed with deadly weapon, when required to give recognizance, etc. |
| 2.) Duty of, on complaint that a crime is in- | 9. Affray, etc., in the presence of constable. |
| 3.) tended. | 10. In presence of justice; duty of jnstice where |
| 4. Proceedings when accused a | rought before |
| 5. Right of accused to appeal. | 11. Proccedings where person suspected of un- |
| 6. Power of court upon such appeal, and when <br> 7. $\int$ the accused is committed. | lawful retailing of spirituous liqu |

Code of Va., p. $817, \% 1$.
Const. art. 7, \& 9.
Acts of 1863 , p.
234, ch, 132, \& 1 .
their good behavior for a term not exceeding one year.
Code Va., p. 817,
82.

1. Every justice and constable shall be a conservator of the peace, within his county. As such conservator, every justice shall have power to require from persons not of good fame, security for
2. If complaint be made to any justice, as such conservator, that there is good cause to fear that a person intends to commit an offense against the person or property of another, he shall examine on oath the complainant, and any witnesses who may be produced, reduce the complaint to writing, and cause it to be signed by the complainant.
3. If it appear proper, such justice shall issue a warrant, reciting the complaint, and requiring the person complained of forthwith to be apprehended and brought before him or some other justice.
4. When such person appears, if the justice, on hearing the par- Code Va, p. 818, ties, consider that there is not good cause for the complaint, he shall ${ }^{\text {84. }}$ discharge the said person, and may give judgment in his favor against the complainant for his costs. If he consider that there is good cause therefor, he may require a recognizance of the person against whom it is, and give judgment against him for the costs of the prosecution, or any part thereof; and, unless such recognizance be given, he shall commit him to jail, by a warrant, stating the sum and time in and for which the recognizance is directed. The justice giving judgment under this section for costs may issue a writ of fieri facias thereon, if an appeal be not allowed; and proceedings thereupon may be according to the two hundred and twenty-seventh section of chapter fifty.
5. A person from whom such recognizance is required may, on ${ }_{\text {Id. }} \mathrm{f} 5$. giving it, appeal to the circuit court of the county; and in such case the officer from whose judgment the appeal is taken shall recognize such of the witnesses as he thinks proper.
6. The court may dismiss the complaint, or affirm the judgment, ra.?6. and make what order it sees fit as to the costs. If it award costs against the appellant, the recognizance which he may have given shall stand as a security therefor. When there is a failure to prosecute the appeal, such recognizance shall remain in force, although there be no order of affirmance. On any appeal the court nay require of the appellant a new recognizance, if it see fit.
7. Any person committed to jail under this chapter may be dis- Id. $\mathrm{\imath} 7$. charged by the circuit court, or the judge thereof in vacation, upon such terms as may be deemed reasonable.
8. If any person go armed with a deadly or dangerous weapon, $\mathrm{xd} . \frac{\mathrm{z}}{} 8$. without reasonable cause to fear violence to his person, family, or property, he may be required to give a recognizance, with the right of appeal, as before provided, and like proceedings shall be had on such appeal.
9. If any person shall, in the presence of a constable and within rd $\boldsymbol{z}^{2}$. his county, make an affray, or threaten to beat, wound, or kill Atts of 1863, p. another, or to commit violence against his person or property ; or contend with angry words to the disturbance of the peace; or improperly or indecently expose his person; or appear in a state of gross intoxication in a public place ; such constable, as such conservator, may, without warrant or other process, or further proof, arrest such offending person and carry him before some justice of the township in which such offense is committed, who, upon hearing the testimony of such constable and other witnesses, if any are then and there produced, if, in his opinion the offense charged be proved, shall require the offender to give a bond or recognizance, with security, to keep the peace and be of good behavior for a term not exceeding one year.
10 . If any offense enumerated in the preceding section be com- Id. p. $235, \boldsymbol{\imath}$.
mitted in the presence of a justice within his county, or the offender being brought before him, the commission thereof be proved to his satisfaction, he may, besides requiring a bond or recognizance with security, as provided in the preceding section, impose a fine upon the offender not exceeding five dollars. If such bond or recognizance be not then and there given, or such fine be not then and there paid, the said justice shall commit the offender to the jail of his county, there to remain until such bond or recognizance be given, and such fine be paid; but no imprisonment under this section shall continue more than ten days, at the end of which the sheriff or jailor shall discharge the prisoner, unless he has been commanded by sufficient authority to detain him for some other cause.
Code of
818,810
Va., p. 11. If any justice suspect any person of selling, by retail, wine, ${ }_{57}^{\text {Acts }}$ of $1865, \mathrm{p}$. 67, ch. 61 . ing, or offering or exposing for sale, any intoxicating liquor, or keeping open any distillery, bar, office, stall, or room in his possession, or under his control, at which such liquor had theretofore usually been sold, or permitting any person to drink any intoxicating liquor at the same, on the day of an election, and within two miles of the place of such election, or during the night succeeding such day, contrary to the eleventh section of chapter five, such justice shall summon the person suspected of such offense, and such witnesses as he may think proper, to appear before him ; and upon the person so suspected appearing, or failing to appear, if the justice, on examining the witnesses under oath, find sufficient cause, he shall direct the prosecuting attorney for the county to institute a prosecution against the person so suspected, and shall recognize the material witnesses, or cause them to be summoned, to appear at the next term of the circuit court of the county. Such justice may also require the person suspected to enter into recognizance to keep the peace and be of good behavior for a time not exceeding one year. If recognizance be given by the person so suspected, the condition thereof shall be deemed to be broken, if during the time for which it is given, such person shall sell, by retail, wine, or ardent spirits, or a mixture thereof, contrary to law, or violate in any particular the eleventh section of chapter five.

## CHAPTER CLIV.

## OF INQUESTS UPON DEAD BODIES.

[^13]8EC.
7. Justice to issue warrant for the arrest of accused, if not in custody.
8. When deceased a stranger, body to be buried, etc.; costs, how paid.
9. Justice may require physicians to attend inquest.
10. Penalty on justice for neglect of duty. 11. Inquest may be taken on Sunday.
days' imprisonment.

12 Aug.. 1870; took effect 12 Oct., 1870. Vol.21, part 1, p. 63. Persons not to
bear arm $=$ at public assemblies. Social inter-
course and elections not to be made dangerous.

Art. 6512.

Kinds of weapons prohibited.

Fine $\$ 50$ to $\$ 500$. Notes, 111, 167.

Scalp-lifting
country excepted.
Armed officials.

12 April, 1871 took effect 12 June, 1871. Vol. ${ }^{21}$, part 2, p. 25. Carrying arms a misdemeanor, punishable by fine and forfeiture, unless. \&c. Patriots and militiamen excepted. Art. 6511.

Fine $\$ 25$ to $\$ 100$ for first offense.

Imprisonment
for second of-
fense.
Notes 111, 167.

People at home and officials excepted.

Legislators not "eivil officers."

## Art. 6512.

 Justificationmust be immedi-
jail nor less than one day nor more than ten days, or both, in the discretion of the court or jury before whom the trial is had.

## AN ACT REGULATING THE RIGHT TO KEEP AND BEAR ARMS.

Art. 6511. [1] If any person shall go into any church or religious assembly, any school-room or other place where persons are assembled for educational, literary, or scientific purposes, or into a ball room, social party, or other social gathering, composed of ladies and gentlemen, or to any election precinct on the day or days of any election, where any portion of the people of this state are collected to vote at any election, or to any other place where people may be assembled to muster or to perform any other public duty, or any other public assembly, and shall have about his person a bowie-knife, dirk, or butcher-knife, or firearms, whether known as a six-shooter, gun, or pistol of any kind, such person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than fifty or more than five hundred dollars, at the discretion of the court or jury trying the same: Provided, That nothing contained in this section shall apply to locations subject to Indian depredations: And provided further, That this act shall not apply to any person or persons whose duty it is to bear arms on such occasions in discharge of duties imposed by law.
an act to regulate the keeping and bearing of deadly weapons.
Art. 6512. [1] Any person carrying on or about his person, saddle, or in his saddle-bags, any pistol, dirk, dagger, slungshot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured or sold for the purpose of offense or defense, unless he has reasonable grounds for fearing an unlawful attack on his person, and that such ground of attack shall be immediate and pressing; or unless having or carrying the same on or about his person for the lawful defense the state, as a militiaman in actual service, or as a peace officer or policeman, shall be guilty of a misdemeanor, and, on conviction thereof, shall, for the first offense, be punished by fine of not less than twenty-five nor more than one hundred dollars, and shall forfeit to the county the weapon or weapons so found on or about his person; and for every subsequent offense may, in addition to such fine and forfeiture, be imprisoned in the county jail for a term not exceeding sixty days; and in every case of fine under this section the fines imposed and collected shall go into the treasury of the county in which they may have been imposed: Provided, That this section shall not be so construed as to prohibit any person from keeping or bearing arms on his or her own premises, or at his or her own place of business, nor to prohibit sheriffs or other revenue officers, and other civil officers, from keeping or bearing arms while engaged in the discharge of their official duties, nor to prohibit persons traveling in the state from keeping or carrying arms with their baggage: Provided further, That members of the legislature shall not be included under the term "civil officers" as used in this act.

Art. 6513. [2] Any person charged under the first section of this act, who may offer to prove, by way of defense, that he was
in danger of an attack on his person, or unlawful interference with his property, shall be required to show that such danger was immediate and pressing, and was of such a nature as to alarm a person of ordiuary courage; and that the weapon so carried was borne openly and not concealed beneath the clothing; and if it shall appear that this danger had its origin in a difficulty first commenced by the accused, it shall not be considered as a legal defense.

Art. 6514. [3] If any person shall go into any church or religious assembly, any school-room, or other place where persons are assembled for amusement, or for educational or scientific purposes, or into any circus, show, or public exhibition of any kind, or into a ball-room, social party, or social gathering, or to any election precinct on the day or days of any election, where any portion of the people of this state are collected to vote at any election, or to any other place where people may be assembled to muster, or to perform any other public duty, (except as may be required or permitted by law, ) or to any other public assembly, and shall have or carry about his person a pistol, or other firearm, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufastured and sold for the purposes of offense and defense, unless an officer of the peace, he shall be guilty of a misdemeanor, and, on conviction thereof, shall, for the first offense, be punished by a fine of not less than fifty, nor more than five hundred dollars, and shall forfeit to the county the weapon or weapons so found on his person ; and for every subsequent offense may, in addition to such fine and forfeiture, be imprisoned in the county jail for a term of not more than ninety days.
Art. 6515. [4] This act shall not apply to nor be enforced in any county of the state which may be designated in a proclamation of the governor as a frontier county, and liable to incursions of hostile Indians.

Art. 6516. [5] All fines collected under the provisions of this act shall be paid into the treasury of the county, and appropriated exclusively to the keeping in repair and maintenance of public roads, and all weapons forfeited to the county under the provisions of this act shall be sold as may be prescribed by the county court, and the proceeds appropriated to the same parpose.

Art. 6517. [6] It shall be the duty of all sheriffs, constables, marshals, and their deputies, and all policemen and other peace officers, to arrest any person violating the first or third sections of this act, and to take such person immediately before a justice of the peace of the county where the offense is committed, or before a mayor or recorder of the town or city in which the offense is committed, who shall investigate and try the case without delay. On all such trials the accused shall have the right of a trial by jury, and of appeal to the district court; but, in case of appeal, the accused shall be required to give bond, with two or more good and sufficient sureties, in a sum of not less than one hundred, nor more than two hundred dollars, if convicted under the first section, and in a sum of not less than two hundred, nor more than one thousand dollars, if convicted under the third section of this act; said bond to be payable to the state of Texas, and approved by the magistrate, and conditioned that the defendant will abide the judgment of the district court that may be rendered
ato and pressing danger;
and weapon not concealed.

Impending danger.

Attending public meetings armed an utf nse to be punt hed in like manner. Soriety protected and nttempted civilization.

Character of arms prohibited.

Fine $\$ 50$ to $\$ 100$ for first offense, and imprisonment for perseverance.

Governor may ex mpt frontier counties by proclamation.

Art. 6517.
All fines under this act must be paid into county treasury.

Peaca officars to arrest offenders, ac.

Jury trial and appeal allowed. Appeal bond.

Forfeiture. in the case; and in case of forfeiture the proceedings thereon shall be as is or may be prescribed by law in similar cases; and all moneys collected on any bond or judgment upon the same,

Art. 6516

Art. 6517 Officer failing to arrest to be discharged. Arts. $6512,6514$.

And fined not more than $\$ 500$.

District courts to have concurrent jurisdiction.

Governcr to publish the act. shall be paid over and appropriated as provided in the fifth section of this act.

Art. 6518. [7] Any officer named in the sixth section of this act who shall refuse or fail to arrest any person whom he is required to arrest by said section on his own information, or where knowledge is conveyed to him of any violation of the first or third sections of this act, shall be dismissed from his office on conviction in the district court, on indictment or information, or by such other proceedings or tribunal as may be provided by law, and, in addition, shall be fined in any sum not exceeding five hundred dollars, at the discretion of the court or jury.

Art. 6519. [8] The district courts shall have concurrent jurisdiction under this act, and it is hereby made the duty of the several judges of the district courts of this state to give this act especially in charge to the grand juries of their respective counties.

Art. 6520. [9] It is hereby made the duty of the governor to publish this act throughout the state; and this act shall take effect and be in force from and after the expiration of sixty days after its passage.

TITLE XIII. - OF OFFENSES AGAINST PUBLIC POLICY AND ECONOMY. CHAPTER I.-ILLEGAL BANKING AND PASSING SPURIOUS MONEY.

## AN ACT CONCERNING PRIVATE CORPORATIONS.

Art. 6521. [79] Every such corporation shall semi-annually, in the months of July and January, publish in one or more newspapers in the county where such corporation shall have its place of business, a statement, verified by the oath of its president or secretary, setting forth its actual financial condition, and the amount of its property and liabilities, under a penalty of five hundred dollars to the state, to be recovered by indictment against the president, cashier, or directors, and shall also deposit a copy of said statement, verified as aforesaid, in the office of the secretary of state.

## CHAPTER III.-OF SELLING TO INDIANS.

Art. 6522. [408] If any person shall give or barter, or cause to be sold, given, or bartered, any ardent spirits, or any spirituous or intoxicating liquors, or firearms, or ammunition, to any Indian of the wild or unfriendly tribes, he shall be fined not less than ten nor more than one hundred dollars. Justices of the peace and mayors shall have jurisdiction under this article.

11 May, 1871; took effect from passage Vol. 21, part: p.es4. Arts. 2046, 2054.

Keeping a gaming tablo or bank punished.

## 31 Aug., 1866. Art. 6347 for cap- <br> tion. <br> Indians. <br> Who may punish.

2 Dec., 1871; took effect from passage. Vol.21, part 3. p 82.

Ofticers to pub-
lish semi-annual lish semi-annual returns: punishment for failure. Arts. 5032-6011.

How reeovered.

Arts. 2043. -
plinised

## > CHAPTER IV.-GAMING. <br> <br> CHAPTER IV.-GAMING.

 <br> <br> CHAPTER IV.-GAMING.}AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ADOPT AND ESTABLISH A PENAL CODE FOR THE STATE OF TEXAS," APPROVED AUGUST 26, A. D. 1856 , AND TO REPEAL AN ACT ENTITLED "AN ACT TO AMEND ARTICLES 412 AND 418 OF AN ACT TO ADOPT AND ESTABLIEII A PENAL CODE FOR THE STATE OF TEXAS," APPROVED DECEMBER 16, A. D. 1863 .

Art. 6523. [412] If any person shall keep or exhibit, for the purpose of gaming, any gaming table or bank, of any name or
or order of the magistrate, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.

Sec. 14. Party committed, hove discharged.-Any person committed for not finding sureties or refusing to recognize as required by the court or magistrate, may be discharged by any judge or justice of the peace, on giving such security as was required.

Sec. 15. Recognizances to be transmitted to district court.-Every recognizance taken in pursuance of the foregoing provision shall be transmitted by the magistrate to the district court for the county, on or before the first day of the next term, and shall be there filed or recorded by the clerk.

Sec. 16. When person may be ordered to recognize, without process.-Any person who shall in the presence of any magistrate mentioned in the first section of this chapter, or before any court of record, make an affray or threaten to kill or beat another, or to commit any violence or outrage against his person or property, and every person, who in the presence of such court or magistrate shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace, and being of good behavior, for a term not exceeding six months, and, in case of a refusal, may be committed as before directed.

Sec. 17. Carrying dangerous weapons, how punished.-Whoever goes armed with a dirk, dagger, sword, pistol or pistols, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury or violence to his person, or to his family or property, may, on complaint of any other person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.

Sec. 18. Judgment on recognizance remitted, when.-Whenever upon an action brought on any such recognizances, the penalty thereof is adjudged forfeited, the court may remit such portion of the penalty on the petition of any defendant, as the circumstances of the case render just and reasonable.

Sec. 19. Surety in recognizance may take and surrender principal-new recognizance may be given.-Any surety in a recognizance to keep the peace, or for good behavior, or both, has authority and right to take and surrender his principal, and upon such surrender shall be discharged and exempted from all liability for any act of the principal subsequent to such surrender, which would be a breach of the con-

- dition of the recognizance; and the person so surrendered may recognize anew with sufficient sureties, before any justice of the peace for the residue of the term, and thereupon shall be discharged.

3. If any judge or justice have notice of a riotous, tumultuous, or unlawful assembly in the county in which he resides, and fail to proceed immediately to the place of such assembly, or as near as he may safely, or fail to exercise his authority for suppressing it and arresting the offenders, he shall be fined not exceeding one hundred dollars.
4. If any person engaged in such assembly, being commanded as aforesaid to disperse, fail to do so without delay, any such judge or justice may require the aid of a sufficient number of persons, in arms or otherwise, and proceed, in such manner as he may deem expedient, to disperse and suppress such assembly, and arrest and secure those engaged in it.
5. If by any means, taken under authority of this chapter, to disperse any such assembly, or arrest and secure those engaged in it, any person present, as spectator or otherwise, be killed or wounded, any judge or justice exercising such authority, and every one acting under his order, shall be held guiltless; and if the judge or justice, or any person acting under the order of either of them, be killed or wounded in taking such means, or by the rioters, all persons engaged in such assembly shall be deemed guilty of such killing or wounding.
6. If any rioter pull down or destroy, in whole or in part, any dwelling house, or assist therein, he shall be confined in the penitentiary not less than one nor more than five years; and though no such house so be injured, every rioter, and every person unlawfully or tumultuously assembled, shall be confined in jail not more than one year and fined not exceeding one hundred dollars.
7. If a person carry about his person any revolver or other pistol, (SeeAcbs 1872.3, dirk, bowie knife, razor, slung shot, billy, metallic or other false Acts 1862, ch. knuckles, or any other dangerous or deadly weapon of like kind or 7 character, he shall be guilty of a misdemeanor, and fined not less than twenty-five nor more than two hundred dollars, and may, at the discretion of the court, be confined in jail not less than one nor more than twelve months; and if any person shall sell or furnish any such weapon as is hereinbefore mentioned to a person whom he knows, or has reason, from his appearance or otherwise, to believe to be under the age of twenty-one years, he shall be punished as hereinbefore provided; but nothing herein contained shall be so construed as to prevent any person from keeping or carrying about his dwelling house or premises, any such revolver or other pistol, or from carrying the same from the place of purchase to his dwelling house, or from his dwelling house to any place where repairing is done, to have it repaired, and back again. And if upon the trial of an indictment for carrying any such pistol, dirk, razor or bowie knife, the defendant shall prove to the satisfaction of the jury that he is a quiet and peaceable citizen, of good character and standing in the community in which he lives, and at the time he was found

dictment, he had good cause to believe and did believe that he was in danger of death or great bodily harm at the hands of another person, and that he was in good faith, carrying such weapon for selfdefence and for no other purpose, the jury shall find him not guilty. But nothing in this section contained shall be so construed as to prevent any officer charged with the execution of the laws of the State, from carrying a revolver or other pistol, dirk or bowie knife.
Acts 1866, p. 23. 8. If any person shall wilfully disturb, molest or interrupt any literary society, school, or society formed for intellectual improvement, or any other school or society organized under the laws of this State, or any school, society, or meeting formed or convened for improvement in music, either vocal or instrumental, or for any moral and social amusement, the person so offending shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than five dollars, and may be imprisoned in the county jail not exceeding ten days. (See ch. 149, sec. 19, of this code.)
Acts 1882, ch. 9 . If two or more persons under the name of "Red Men," "Regulators," "Vigilance Committee," or any other name or without a name combine or conspire together for the purpose of inflicting any punishment or bodily injury upon any other person or persons, or for the purpose of destroying, injuring, or taking and carrying away any property, real or personal, not their own, every such person, whether he has done any act in pursuance of such combination or conspiracy or not, shall be guilty of a misdemeanor and fined not less than fifty, nor more than five hundred dollars, and may, at the discretion of the court, be confined in jail not less than one nor more than twelve months.
8. If any person, in pursuance of such combination or conspiracy as is mentioned in the next preceding section, shall inflict any punishment or bodily injury upon another person, or shall destroy, injure, or take and carry away, any property, real or personal, not his own, he shall be guilty of a felony, and confined in the penitentiary not less than two nor more than ten years. And if, on the trial of an indictment under this section, it be proved that two or more persons, the defendant being one, were present, aiding and abetting in the commission of the offence charged therein, it shall be presumed that such offence was committed in pursuance of such combination or conspiracy, in the absence of satisfactory proof to the contrary. And all persons who shall be present, aiding and abetting, at the commission of any offence mentioned in this section, shall be deemed conspirators within the meaning of this, and the next preceding section.
Acts 1882. ch. 11. No person called as a witness for the State on the trial of any 135. person for an offence mentioned in either of the two next preceding sections, shall be excused from answering any question which may be asked him as such witness, and which would be otherwise legal and proper, on the ground that the answer to such question would or might degrade him, or eSA $12 \dot{9}^{n}$ to punishment; but no such wit-

Factorappropriating cotton taken from bale.
§ 3266. Any factor, commission merchant, or agent, having the control of cotton, who appropriates to his own use any cotton taken from any bale under his control, with intent to defraud the owner thereof, must, on conviction, be punished, as if he had feloniously stolen such cotton.

## Adulterating

 sugar. thing with sugar, so as to deteriorate the quality thereof with intent to injure or defraud, must, on conviction, be fined not less than fifty or more than two hundred dollars, and may be imprisoned not more than three months.
## Making or

 emitting bills for circulation.signing bills for circulation.
§ 3268. Any person, private corporation, or association, who without authority of law, makes or emits any paper to answer the purposes of money, or for general circulation, such person, and each individual of such corporation or association, on conviction, must be fined not less than twenty or more than one hundred dollars, and may be imprisoned not more than twelve months.
§ 3269. Any person in this state who signs any paper to be put in circulation as money, except under the authority of this state, or countersigns the same, must, on conviction, be fined in a sum not less than one hundred or more than five hundred dollars; and the signature of such person to any such paper must be taken as genuine, unless the fact of signing be denied on oath by the defendant.
Passing such
paper. § 3270. Any person who passes or circulates any paper paper. issued to answer the purposes of money, without authority of law, must, on conviction, be fined not less than twenty or more than one hundred dollars.
Passing bills under five dollars.

## Indictment

 for.Concealed weapons,
§ 3271. Any person who passes or circulates in this state, any bank bill of a less denomination than five dollars, not issued under the authority of this state, must, on conviction, be fined not exceeding fifty dollars.
$\S 3272$. An indictment under the preceding section, which charges that the defendant did pass or circulate a bank bill under the denomination of five dollars, not issued under the authority of this state, is sufficient, without describing such bank bill; and proof that such bill on its face purported to be issued by the authority of any other state, or country, or by any bank, or corporation out of this state, or by any bank or corporation known to be out of this state, is sufficient without further proof.
$\S 3273$. Any one who carries concealed about his person a bowie knife, or knife or instrument of the like kind or description by whatever name called, or air gun, must, on conviction, be fined not less than fifty or more than three hundred dollars.
The same.
$\S 3274$. Any one who carries concealed about his person a pistol, or any other description of fire arms, not being threatened with, or having good reason to apprehend an attack, or travelling, or setting out on a journey, must, on conviction, be fined not less than fifty nor more than three hundred dollars.
§ 3275. In an indictment under the preceding section, it Indictment is sufficient to charge that the defendant carried concealed for. about his person a pistol or other description of fire arms; ${ }^{\text {Rxcuse }}$ and the excuse must be made out by the defendant, to the satisfaction of the jury.
$\S 3276$. Any person, who in any newspaper, handbill, or Publeshing other advertisement, written or printed, publishes or pro- another ase. claims any person as a coward, or uses any other opprobrious or abusive language for not accepting a challenge to fight a duel, or for not fighting a duel, must, on conviction, be fined not less than two hundred or more than five hundred dollars, and imprisoned not less than six or more than twelve months.
$\S 3277$. The publisher or printer of any such newspaper, printer to or handbill, or other publication, may be required to testify givencriagainst any defendant indicted under the preceding section; and refusing to give evidence, must be fined five hundred penalty for dollars, and imprisoned until such fine is paid, and also im- retusing. prisoned until he shall testify.
$\S 3278$. Any person who sells and delivers any poisonous selling por-
 printed on the label attached to the vial, box or parcel in which the same is sold; or sells and delivers any tartar emetic, laudanum or morphine, without having the common name thereof, written or printed upon a label attached to the vial, box or parcel, containing the same, must, on conviction, be fined not more than one hundred dollars.
§ 3279. Any person who sells to any slave, or free child sellng poiunder ten years of age, any drug, poisonous in its nature, $\begin{gathered}\text {,ons to siaves } \\ \text { or children. }\end{gathered}$ without an order in writing from the owner or master of such slave, or the parent, guardian, or person standing in that relation to such child, designating the drug, either by name or by its effects, must, on conviction, be fined not more than two hundred dollars, and may be imprisoned not more than three months.
$\S 3280$. Any licensed retailer or other person, keeping fer- seling or mented, vinous or spirituous liquors for sale, who sells, gives tiving iquor or delivers to any student of any college, or pupil of any dc. school or academy, or to any other person for the use of such student or pupil, any of such liquors, knowing the use for which it was intended, without the consent of the parent or guardian, or the person having the charge of such student or pupil, such retailer, or the person so selling, giving or delivering, must, on conviction, be fined not less than fifty or more than five hundred dollars.
$\S 3281$. Any licensed retailer or other person who sells, to minors. gives, or delivers to any minor any of the liquors specified in the preceding section, after notice from the parent, guardian, or person in charge of such minor, forbidding such sale, gift, or delivery, must, on conviction, be fined not less than fifty or more than five hundred dollars.
§ 3282. Any licensed retailer, who, after taking the affida- Licensed revit prescribed in section ${ }^{10} \mathbf{S A}^{\prime} \mathbf{1 3 1}^{\text {ingly }}$ sells any vinous tuiler trad-
ing with
slaves. or spirituous liquors to any slave; or knowingly sells to or

Selling or giving liquor to slaves.

The same. purchases from any slave any article or commodity, without the permission of the master or overseer of such slave; or knowingly permits the same to be done by his partner, clerk, or any other person about his premises; or knowingly permits any gaming to be carried on on his premises, must, on conviction, be imprisoned in the penitentiary not less than two or more than five years.
$\S$ 3283. Any person who sells, gives, or delivers to any slave any vinous or spirituous liquor, except on an order in writing, signed by the overseer or master of such slave, specifying the quantity to be sold, given, or delivered, must, on conviction, be fined not less than fifty dollars.
§ 3284. The provisions of the above section apply to licensed retailers as well as other persons.
Trading with slaves.
19 Ala., 19.
$\S 3285$. Any person who sells to or buys or receives from any slave, any other article or commodity of any kind or description, without the consent of the master, owner, or overseer of such slave, verbally or in writing, expressing the articles permitted to be sold to, or bought or received from such slave, first obtained, must, on conviction, be fined in not less than ten or more than two hundred dollars, and may be imprisoned not more than six months.
Evidence on indictment.
$\S 3286$. Upon the trial of indictments under the preceding and section 3283 , evidence that the slave was seen in the night time, or on Sunday, going into a place where spirituous or vinous liquors or merchandize are sold, with an article of traffic, and coming out without the same; or that such slave was seen at such time, or on such day, immediately after coming out of such place, in possession of spirituous or vinous liquor, or merchandize of any kind, is presumptive evidence of the guilt of the defendant.
$\S 3287$. Any person keeping spirituous liquor for sale, who employs any slave or free person of color in drawing off or selling such liquor, must, on conviction, be fined not less than twenty-five or more than fifty dollars.
$\S 3288$. Any justice or magistrate, whenever he has good reason to believe, or upon information on oath that any of the laws of this state against retailing or trading with slaves have been violated by any person, must forthwith issue a warrant of arrest against such person, and if the evidence proves the offence, must bind him over to answer therefor at the next circuit court, and on his failing to give bond must commit him.
§3289. Any person who employs or knowingly permits any slave or free person of color to sample any cotton, must, on conviction, be fined not less than fifty or more than one thousand dollars.
$\S 3290$. In indictments under the preceding section, the defendant may show in defence he was the owner of the cotton.

Permitting
slave or free negro to sample cotton.

Owner may.

Prosecuting suits in the name of an-
Employing slave or free negro to draw off or sell.

Duty of mag. istrate in relation to laws against retailing or
trading with slaves. courts in this state, in thSA 132 of another person, without
his consent, must, on conviction, be fined not less than five other. hundred dollars.
$\S 3292$. The provisions of the preceding section do not Refasing to $\begin{gathered}\text { obey sumb- }\end{gathered}$ apply to a person having the beneficial interest using the mens of offname of the person having the legal right, in cases where he cannot bring the action in his own name.
$\S 3293$. Any person summoned by any sheriff, or other officer having authority, for the purpose of enabling such officer to make an arrest, or to execute any duty devolving Duty of the upon him under any law in relation to public offences, who refuses obedience to such summons, must, on conviction, be fined not less than fifty or more than three hundred dollars.
$\S 3294$. It is the duty of the officer summoning such person to present the offender to the next grand jury, and failing so to do, he must, on conviction, be fined not less than twenty dollars.

## ARTICLE VII.

## Offences against slaves.

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| :---: | :---: | :---: | :---: |
| 3295. | Causing death of by whipping, is murder in the first degree. | 3298. | Indictments under preceding seetion. |
| 3296. | Causing death by whipping, de., without intention to kill, murder in the second degree. | 329 | Defendant entitled to a jury twothirds of whom are slave holders. |
| 3297. | Inflicting or allowing cruel punishment, \&ce, failing to provide food, raiment, attention in sickness, dc. | 3300. | Assaults by any other person than the master. |

§ 3295. Any person who with malice aforethought causes the death of a slave, by cruel whipping or beating, or by any Deate by inhuman treatment, or by the use of any weapon in its nature whipping,sc. calculated to produce death, is guilty of murder in the first degree.
§3296. Any owner, overseer, or other person having the without in. right to correct any slave, who causes the death of such slave tention to by cruel whipping or beating, or by any other cruel or inhuman treatment, or by the use of any instrument in its nature calculated to produce death, though without any intention to kill, is guilty of murder in the second degree, and may be guilty of murder in the first degree.
§ 3297. Any master, or other person standing towards the slave in that relation, who inflicts, or allows another to inflict on him any cruel punishment, or fails to provide him with a sufficiency of healthy food, or necessary clothing, or to provide for him properly in sickness or old age, or treats him in any other way with inhumanity, on conviction thereof must be fined not less than twenty-five or more than one thousand dollars.
$\S$ 3298. In indictments under the preceding section, it is Indictments. $^{\text {. }}$ sufficient to charge that the defendant did inflict on a slave

## Division 9.-Offences against the Public Peace and Tranquility.

be made; And provided, also, that the only questions to be sub- тtue not esmitted to and determined by the jury in trials for forcible entry, aminable. or forcible detainer, shall be the possession and the force, without regard to the merits of the title on either side.
§4413. Sec. XV. Any person having or carrying about his Carrying person, unless in an open manner and fully exposed to view, any poeady weapistol, (except horseman's pistols,) dirk, sword in a cane, spear, bowie-knife, or any other kind of knives, manufactured and sold for the purpose of offence and defence, shall be guilty of a misdemeanor, and, on conviction, shall be punished by fine or imprisonment, or both, at the discretion of the court.
§4414. SEc. XVI. All other offences against the public peace, $\begin{gathered}\text { other offen- } \\ \text { ces } v s . \text { pub- }\end{gathered}$ not provided for in this Code, shall be prosecuted and indicted lic peace. as heretofore, and the punishment, in every case, shall be by fine or imprisonment in the common jail of the county, or both, at the discretion of the court.

## TENTH DIVISION.

OFFENOES AGAINST THE PUBLIC MORALITY, HEALTH, POLICE AND DECENCY.

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Smortos.
    4415. Bigamy.
    4416. Punishment on married person.
    4417. On unmarried person.
    4418. Incest.
    4419. Adultery.
    4420. Lewdness.
    4421. Lewd houses.
    4422. Disorderly houses.
    4423. Gaming houses.
    4424. Gaming tables.
    4425. Gambling.
    4426. Gaming with minors.
    4427. Gaming with clerks and bank offr's.
    4428. Players-witnesses.
4429. Judge's charge.
4430. Suspected houses.
4431. Unwholesome provisions.
4432. Unwholesome bread, &c.
4433. Spreading small pox.
4434. Violating qquarantine.
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Skerios.
4415. Bigamy.
4416. Punishment on married person.
4417. On unmarried person.
4418. Incest.
4419. Adultery.
4420. Lewdness.
21. Lewd houses.
4423. Gaming houses.
4424. Gaming tables.
4425. Gambling.
4426. Gaming with minors.
4428. Players-witnesses.
4429. Judge's charge.
4430. Suspected houses.
4431. Unwholesome provisions.
432. Unwholesome bread, \&c.
434. Violating qquarantine.

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Sectis:

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Sectis:
4435. Vagrante
4435. Vagrante
4436. Common rogues.
4436. Common rogues.
4437. Nuisances.
4437. Nuisances.
4438. Disinterring bodies.
4438. Disinterring bodies.
4439. Bastardy.
4439. Bastardy.
4440. Retailing without license.
4440. Retailing without license.
4441. Illegal marrying.
4441. Illegal marrying.
4442. lllegal voting.
4442. lllegal voting.
4443. Buying or selling votes.
4443. Buying or selling votes.
4444. Minor voting.
4444. Minor voting.
4445. Adultery with negro.
4445. Adultery with negro.
4446. Whipping wife.
4446. Whipping wife.
4447. Interfering with religious worship.
4447. Interfering with religious worship.
4448, Retaling near church.
4448, Retaling near church.
4449. Working slaves on Sabbath. .
4449. Working slaves on Sabbath. .
4450..Running freight trains on Sunday.
4450..Running freight trains on Sunday.
4451. Violating Sabbath.
4451. Violating Sabbath.
4452. Fines from Sabbath-breakers.
4452. Fines from Sabbath-breakers.
4453. Bonds in case of vagrancy.
4453. Bonds in case of vagrancy.
4454. Att'y or Bol'r-duty in such ense.

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    4454. Att'y or Bol'r-duty in such ense.
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84415. Sko, 1. Polygamy, or bigamy, shall consist in know-Polygamy ingly having a plurality of husbands, or wives, at the same time. ${ }^{\text {and bigany }}$.
shall be responsible for the payment of the expenses of his retention in jail.

## Rewards for the Apprehension of Escaped Prisoners. Act of February 1, 1860.

Section 1. When any person shall make his escape from any county of this Territory after having been sentenced by the court to suffer any penalty, it shall be the duty of the court to inform immediately the governor thereof, giving a description of such fugitive.
§2. The governor is hereby authorized to offer a reward, to be paid out of the funds of the Territory, to any person who shall find and deliver such fugitive: Provided, that such reward shall be at the will of the governor.

Reward for Accused Persons. Act of 1874, Ch. 12.
Seotion 1. In cases of murder or other felony, when the person or persons accused of the crime shall be at large, the governor, when in his judgment it shall be necessary to secure the apprehension of the accused, shall be authorized to issue his proclamation offering a reward, not exceeding five hundred dollars, for the apprehension and delivery of the accused to the proper office.
§ 2. The auditor of public accounts is hereby authorized to draw a warrant on the treasury of the Territory, in favor of the person entitled to a reward, under the provisions of the preceding section, for the amount thereof, upon the presentation by such person of his account certified and approved by the governor.

Deadly Weapons. Act of 1869, Ch. 32
Section 1. It shall be unlawful for any person to carry deadly weapons, either concealed or otherwise, on or about their persons within any of the settlements of this Territory, except it be in the lawful defense of themselves, their families or their property, and the same being then and there threatened with danger, or by order of legal anthority, or on their own landed property, or in execution of an order of court.
$\S 2$. Deadly weapons, in the meaning of this act, shall be construed to mean all kinds and classes of pistols,
whether the same be a revolver, derringer, repeater, or any other kind or class of pistol; any and all kinds of bowie knives, daggers, poniards, butcher knives, dirk knives and all such weapons with which cuts can be given or by which wounds can be inflicted by thrusting, including sword canes and such sharp-pointed canes with which deadly thrusts can be given, and all kinds of slung-shots, and any other kinds of deadly weapon, by whatever name it may be called, by which a dangerons wound can be inflicted.
§3. The penalty for the violation of the preceding sections of this act shall not be less than ten dollars nor more than fifty dollars for each offense, or not less than ten days' imprisonment nor more than fifty days' imprisonment in the county jail, or both; such line and imprisonment in the discretion of the jury trying the case.
§4. Any person who shall draw a deadly weapon on another, or who shall handle a deadly weapon in a threatening manner at or towards another, in any part of this Territory, except in the lawful defense of himself, his family, or his property, or by order of legal authority, upon conviction thereof before the proper tribunal, shall, for each offense, be fined in a sum not less than twentyfive dollars nor more than seventy-five dollars, or by imprisonment in the county jail for a term of not less than twenty days or more than sixty days, or be punished by both such fine and imprisonment, in the discretion of the jury trying the cause.
§5. Any person who shall draw or use any deadly weapon in any ball, dance, or other public gathering of the people, or near where any election authorized by law is being held in any part of the Territory, except it be in the lawful defense of himself, his family, or his property, or in obedience to legal authority, shall, upon conviction before the proper tribunal, be punished by a fine not less than fifty doilars nor more than one hundred dollars for each offense, or by imprisonment in the county jail for a term of not less than one month nor more than three months for each offense, or by both such tine and imprisonment, in the discretion of the jury trying the cause.
§ 6. Justices of the peace, as well as the District Court, shall have jurisdiction of all offenses under the preceding sections of this act ; and in all cases of prosecution under this act, in which a plea of guilty shall be entered, the court shall proceed to hear and determine the case, and
shall assess the penalty, upon corviction, without the intervention of a jury, unless the accused shall demand a trial by jury. [As amended, 1876, Ch. 35.]
§7. A conviction of any person under this act shall not be a bar to a prosecution and conviction of the same person for an assault and battery, aggravated assault, assault with a deadly weapon, assault with intent to kill, or murder, manslaughter, or other crime, and where the words "weapons" or "deadly weapons" are used in this act, such word or words shall be construed to mean the weapons described in section two of this act.
\$8. It shall not be necessary, in the trial of any cause arising under the provisions of this act, to prove that the person charged was not in the lawful defense of himself, his family or his property; but the accused must prove to the satisfaction of the jury that the act charged was done in the lawful defense of himself, his family, or his properts, before the jury can acquit.
§ 9. Any lawful voter of the Territory may without a warrant arrest parties who may violate the preceding sections of this act, and take such persons before a justice of the peace of the county in which the offense was committed, for complaint and trial, and such trial shall be had as soon as possible, giving due time for summoning witnesses.
$\S 10$. All fines collected by virtue of the preceding sections of this act shall go, one-third to the Territory, onethird to the county in which the offense was committed, and one-third to the person or attorney who, on the part of the Territory, procured the conviction.
§ 11. Persons traveling may be permitted to carry arms within settlements or towns of this Territory, for one hour after arriving in such settlements or town, and while going out of such towns or settlements; and sheriffs and constables of the various counties of this Territory and their lawfully appointed deputies may carry weapons in the legal discharge of the duties of their respective office, when the same may be necessary, but it shall be for the jury to decide from the evidence whether such carrying of weapons was necessary or not, and for an improper carrying or using deadly weapons by any officer mentioned in this section, he shall be punished as other persons are punished for a violation of the preceding sections of this act.
$\S 12$. It shall be the duty of the keeper of each and
$\underbrace{\text { A. D. 1870. dred dollars, and one per cent. for all sums over that amount; for search }}$
$\underbrace{\text { D- for each paper, fifteen cents; for certificate and seal, fifty cents; for copy- }}$ ing papers on file in office, per copy sheet of one hundred words, twentyfive cents; for final discharge of executor, administrator or guardian, two dollars; for proceedings in dower, inclusive of all charges, twenty dollars; for proceedings in lunacy, inclusive, five dollars.

Approved March 1, 1870.

No. 287. AN ACT to Incorporate the Coopers' Trades-Union, of CharlesTON.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, Corporators. and by the authority of the same, That A. R. Mitchell, A. F. Gregorie, Edward Jones, James Chapman, and such other persons as may now, or hereafter shall be, associated with them, are hereby made and declared to be a body politic and corporate by the name and style of the Coopers' Trades-Union, of Charleston.

Sec. 2. That said Coopers' Trades-Union, of Charleston, shall have
Powers and succession of officers and members according to its by-laws, and shall privileges. have power to make by-laws, not repugnant to the laws of the land, and to have, nse and keep a common seal, and the same to alter at will, to sue and be sued, plead and be impleaded, in any Court in this State. It is hereby empowered to retain, possess, and enjoy all such property, real and persoual, as it may possess or be entitled to, or which shall hereafter be given, bequeathed to, or in any manner acquired by it, and to scll, alien, or transfer the same.
Sec. 3. That this Act shall be a public Act, and continue in force for the term of twelve years from the date of its ratification.
Approved March 1, 1870.

No. 288. AN ACT to Define the Criminal Jurispiction of Trial Justices.
Sectrov 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in Ceneral Assembly, and by the authortiy of the same, That Trial Justices shall have and exercise within their respective Counties all the powers, authority and jurisdiction, in criminal cases, hereinafter set forth.

Sec. 2. Trial Justices shall have jurisdiction of all offences which may
Ponalties be subject to the penalties of either fine or forfeiture not exceeding one \$ntexceeding hundred dollars, or imprisonment in the Jail or Work House not exceeding thirty days, and may impose any sentence within those limits, singly or in the alternative.

Sec. 3. They may punish by fine not exceeding one hundred dollars, Assault and or imprisonment in the Jail or House of Correction not exceeding thirty days, all assault and batteries, and other breaches of the peace, when the offence is not of a high and aggravated nature, requiring, in their judgment, greater punishment.
Rioters, sc. Sec. 4. They may cause to be arrested all affrayers, rioters, disturbers
and breakers of the peace, and all who go armed offensively, to the terror of the people, and such as utter menaces or threatening speeches, or otherwise dangerous and disorderly persons.

Persons arrested for any of said offences shall be examined by the Trial Justice before whom they are brought, and may be tried before him, and, if found guilty, may be required to find sureties of the peace, and be punished within the limits prescribed in Section 2, or, when the offence is of a high and aggravated nature, they may be committed or bound over for trial before the Court of General Sessions.

Spc. 5. They shall have jurisdiction of larcenies, by stealing of the property of another, of money, goods or chattels, or any bank note, bond, promissory note, bill of exchange, or other bill, order or certificate; or any book of accounts for or concerning money or goods due, or to become due, or to be delivered; or any deed or writing containing a conveyance of land or any other valuable contract in force; or any receipt, release or defeasance ; or any writ, process or public record, if the property stolen dues not exceed twenty dollars in value.

SEc. 6. They shall have jurisdiction of the offences of buying, receiving or aiding in the concealment of stolen goods or other property, where they would have jurisdiction of the larceny of the same goods or property.

Sec. 7. They shall have jurisdiction of the offences of obtaining property by any false pretence, or by any privy or false token, or by any game, device, slight of hand, pretensions to fortune telling, trick or other neans, by the use of cards or other implements or instruments, where they would have jurisdiction of a larceny of the same property, and may punish said offences the same as larceny.

Sec. 8. They shall cause to be arrested all persons, found within their Counties, charged with any offence, and persons who, after committing any offence within the County, escape out of the same; examine into treasons, felonies, grand larcenies, high crimes and misdemeanors; and commit or bind over for trial those who appear to be guilty of crimes or offences not within their jurisdiction, and punish those guilty of such offences within their jurisdiction.

Sec. 9. All proceedings before Trial Justices, in criminal cases, shall be commenced on information, under oath, plainly and substantially setting forth the offence charged, upon which, and only which, shall a warrant of arrest issue.

The information may be amended at any time before trial.
All proceedings before Trial Justices shall be summary, or with only such delay as a fair and just examination of the case requires.

Sec. 10. Every person arrested and brought before a Trial Justice charged with an offence within his jurisdiction, shall be entitled, on demand, to a trial by jury, to be selected in the manner indicated by Section 6 of the Act entitled "An Act to provide for the temporary appointment of Magistrates, and to define their powers and duties," ratified 24th day of September, A. D. 1868.

Sec. 11. Trial Justices are authorized to issue all necessary processes to carry their powers into effect, and may exercise all the powers heretofore conferred by law upon Magistrates.

Sec. 12. Every person convicted before a Trial Justice of any offence whatever, and sentenced, may appeal from the sentence to the next term
A. D. 1870.

Sureties.

Larceny.

Stolen Goods.

False pretence.

When proceedings to

Trial by Jary.
appeal.
A. D. 1870.

## $\underbrace{\text { A. } 1 .}$

of the Court of General Sessions for the County. The appellant shall be committed, to abide the sentence of said Court, until he recognizes to the State in such reasonable sum, and with such sureties, as the Court requires, with condition to appear at the Court appealed to, and at any subsequent term to which the case is continued, if not previously surrendered and discharged, and so, from term to term, until the final decree, sentence or order of the Court thereon; and to abide such final sentence, order or decree, and not depart without leave; and, in the meantime, to keep the peace, and be of good behavior.

Sec. 13. All Acts and parts of Acts inconsistent or supplied by this Act are hereby repealed.

Approved March 1, 1870.

No. 289. AN ACT to authorize Trustees to Invest Funds in the Bonds of the State of South Carolina.

Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Guardians, Trustees, Administrators, Executors, Probate Judges, and Clerks of Courts, and all other persons holding funds in trust for investment, are hereby authorized to invest the same in bonds of the State of South Carolina. And they are hereby relieved from all responsibility for said investment, except for the safe keeping of the bonds: Provided, That as to officers of the Court, there be no order of the Court directing a different investment.

Approved March 1, 1870.

No. 290. AN ACT to Fix the Per Diem and Mileage of the Members of the General Assembly.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the members of the next General Assembly shall receive the same mileage and per diem as now allowed the members of the present General Assembly by the provisions of the Constitution of this State, as ratified by the people on the 14th, 15th and 16th days of April, 1868.

Approved March 1, 1870.

No. 291. AN ACT to Incorporate the Comet Light Infantry, and the Randolph Riflemen, both of the city of Charleston, and, also, the Lincoln Guards, of Saint Stephens, and the Santee National Guards.
Section 1. Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General AsCorporators. sembly, and by the authority of the same, That Samuel Dickerion, P. L.

Sec. 2. Be it further enacted, That this Act take effect from and after its passage, the public welfare requiring it.

Passed December 12, 1871.
JAMES D. RICHARDSON,
Speaker of the House of Representatives. JOHN C. VAUGHN,

Speaker of the Senate.
Received at Executive Office December 15, 1871, and approved December 15, 1871.

JOHN C. BROWN゙,
Governor.

## CHAPTER XC.

AN ACT to preserve the peace and prevent homicide.
Section 1. Be it enacted by the General Assembly of
the State of Tennessee, That it shall not be lawful for any Not lawful person to publicly or privately carry a dirk, sword cane, to carry dirk Spanish stiletto, belt or pocket pistol or revolver other stiletto, or . than an army pistol, or such as are commonly carried and pistol.
used in the United States Army, and in no case shall it be lawful for any person to carry such army pistol publicly or privately about his person in any other manner than openly in his hands, and any person guilty of a vio-

To do so a lation of the provisions of this section, shall be guilty of a misdemeanor, and subject to presentment or indictment, and, on conviction, shall pay a fine of not less than ten, nor more than fifty dollars, and may be imprisoned in the county jail not more than three months: Provided, Proviso. hovever, the Court may commute the imprisonment altogether, and in lieu thereof, require the person convicted to give bond with approved security in not less than the sum of five hundren dollars, conditioned that he keep the peace for six months after such conviction.

SEc. 2. Be it further enacted, That it shall be the duty of all peace officers in the State, including Sheriffs, Deputy Sheriffs, Constables, Coroners, and Juctices of the peace ottic'rs Peace, to see that the first section of this Act be strictly enforced, and it is hereby made their duty to report without delay any violation thereof, to the grand juries of cheir respective counties, and it shall be the duty of the grand juries to send for witnesses in all cases where they have good reason to believe there has been a violation

## CHAPTER 52.

An Act to Prevent the Carrying of Fire Arma and Other Deadly Weapons.
Be it enacted by the Council and House of Representatives of the Territory of Wyoming:
Carrying wea- Section. 1. That hereafter it shall be unlawful for any resinons whith dent of any city, town or village, or for any one not a resident of villifollims, any city, town or village, in said Territory, but a sojousner prohibited. therein, to bear upon his person, concealed or openly, any fire arm or other deadly weapon, within the limits of any city, town or village.

Sec. 2. That if any person not a resident of any town, city or

Non - restdent fiffed.
village of Wyoming Territory, shall, after being notified of the existence of this act by a proper peace officer, continue to carry or bear upon his person any fire arm or other deadly weapon, he or she, shall be deemed to be guilty of a violation of the provisions of this act and shall be punished accordingly.
Viontion of SEc. 3. Any person violating any of the provisions of this act this actanmis- shall be deemed guilty of a misdemeanor, and upon conviction
demenor. thereof, shall be punished by a fine of not less than five dollars nor penalty. more than fitty dollars, and, in the default of the payment of any fine which may be assessed against him, shall be imprisoned in the county jail for not less than five days nor more than twenty days. its passage.

Approved, Deeember 2nd, 1875.

# LIII.-CARRYING WEAPONS. . 

Skcrion
1907. Of what kind prohibited; exceptions.
1008. Weapons excepted, how to be carried; unlaw-
ful carrying a misdemeanor.
1009. Sale of weapons a misdemeanor; exception.
1910. Unlawful sale or carrying, how punlshed.

Section
1011. Justices failing to proceed against offenders, how punished.
1912. Omleer failing to make arrest, how punished. 1913. In what courts offenders to be prosecuted.

Section 1907. Any person who shall wear or carry in any manner whatever as a weapon any dirk or bowie knife, or a sword, or a spear in a cane, brass or metal knucks, razor, or any pistol of any kind whatever, except such pistols as are used in the army or navy of the United States (jjj), shall be guilty of a misdemeanor. Provided, that officers whose duties require them to make arrests, or to keep and guard prisoners, together with the persons summoned by such officers to aid them in the discharge of such duties, while actually engaged in such duties, are exempted from the provisions of this act. Provided, further, that nothing in this act be so construed as to prohibit any person from carrying any weapon when upon a journey or upon his own premises (**).

SEc. 1908. Any person, excepting such officers or persons on a journey and on their premises as are mentioned in section 1907, who shall wear or carry any such pistol as is used in the army or navy of the United States, in any manner except uncovered and in his hand, shall be deemed guilty of a misdemeanor (kkk).

Sec. 1909. Any person who shall sell, barter or exchange, or otherwise dispose of, or in any manner furnish to any person, any dirk or bowie knife, or a sword or a spear in a cane, brass or metal knucks, or any pistol of any kind whatever, except such as are used in the army or navy of the United States, and known as the navy pistol, or any kind of cartridge for any pistol, or any person who shall keep any such arms or cartridges for sale, shall be guilty of a misdemeanor.

Sec. 1910. Any person convicted of a violation of any of the provisions of this act shall be punished by a fine of not less than fifty nor more than two hundred dollars.

Sec. 1911. Any justice of the peace in this state, who, from his own knowledge or from legal information, knows, or has reasonable grounds to believe, any person guilty of a violation of the provisions of this act, and shall fail or refuse to proceed against such person, shall be deemed guilty of a non-feasance in office, and, upon conviction thereof, shall be punished by the same fine and penalty provided in section 1910, and shall be removed from office (*).

Sec. 1912. Any officer in this state whose duty it is to make arrests, who may have personal knowledge of any person carrying arms contrary to the pro-

[^14]Sec. 3. This Act shall take effect from and after its passage.

Approved March 18, 1889.

No. 12.
AN ACT
Concerning the Transaction of Judicial Business on Legal Holidays.
Be it enacted by the Legislative Assembly of the Territory of Arizona:

SECTION I. No Court of Justice shall be open, nor shall any Judicial business be transacted on any Legal Holiday, except for the following purposes:
I. To give, upon their request, instructions to a Jury when deliberating on their verdict.
2. To receive a verdict or discharge a Jury.
3. For the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature; provided, that the Supreme Court shall always be open for the transaction of business; and provided further, that injunctions, attachments, claim and delivery and writs of prohibition may be issued and served on any day.

Sec. 2. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Sec. 3. This Act shall be in force and effect from and after its passage.

Approved March 18, 1889.

No. 13 .
AN ACT
Defining and Punishing Certain Offenses Against the Public Peace.
Be it Enacted by the Legislative Assembly of the Territory of Arizona:

Section i. If any person within any settlement, town, village or city within this Territory shall carry on or about his person, saddle, or in his saddlebags, any pistol, dirk, dagger, slung shot, sword cane, spear, brass knuckles, bowie knife, or any other kind of knife manufactured or sold for purposes of offense or defense, he shall be punished by a fine of not less than twenty-five nor more than one hundred dollars; and in addition thereto, shall forfeit to the County in which he is convicted, the weapon or weapons so carried.

SEC. 2. The preceding article shall not apply to a person in actual service as a militiaman, nor as a peace officer
around the head of Panther Creek, to the divide between Hat Creek and Ellis Creek, thence on the divide between Hat and Ellis Creeks in an easterly direction to the Salmon River, thence up the main channel of said Salmon River to the place of begimning.

Sec. 2. This act to take effect and be in force, from and after its passage.

Approved Fel,ruary 4, 1 SS0.

## CARRYING DEADLY WEAPONS.

## AN ACT <br> REGULATING TIIE USE AND CARRYING OF DEADLY WEAPONS IN IDAHO TERRITORY. <br> Be it cnacted by the Legislative Assembly of the T'erritory of Idaho, as follows:

Spertion 1. That it is unlawful for any person, except United States officials, cflicials of Idaho Territory, County officials, Peace officers, Guards of any jail, and oflicers or employees of any Express Company on duty, to carry, exhibit or flourish any dirk, dirk-knife, sword, sword-cane, pistol, gun or other deadly weapons, within the limits or confines of any city, town or village or in any public assembly of Idaho Territory. Every person so doing is guilty of a misdemeanor and is punishable hy fine not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period of not less than twenty days nor more than filty days, or by both such fine and imprisonment.

Sicc. 2. One half of all fines collected under the provisions of this net shall be paid to the oflicer making the arrest, which amount shall be payment in full for his services. The other one half shall be paid into the Common School Fund of the county, after deducting the necessary costs of the prosecution of the case.

Sec. 3. All acts or parts of acts in conflict with this act are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved February 4, 1880.
to repeal all acts inconsistent herewith,' and acts supplementary and amendatory thereof, and to repeal all acts and parts of acts inconsistent herewith," be and the same are hereby amended so as to read as follows:

## TITLE III.

Disorderly houses.

Liquors.

Auctions.

Exhibitions.

Nuisances.

Dangerous
buildings.

Location
of slaughter houses.

Sec. 8. The common council in addition to the powers and duties specially conferred upon them in this act, shall have the management and control of the finances, rights and interests, and all property, real and personal, belonging to the city, and make such orders and by-laws relating to the same as they shall deem proper and necessary; and they shall have the power within said city to enact, make, continue, establish, modify, amend and repeal such ordinances, by-laws and regulations as they may deem desirable within said city, for the following purposes:

First. To prevent vice and immorality, to preserve peace and good order, to regulate the police of the city, to prevent and quell riots, disturbances and disorderly assemblages;

Second. To restrain and prevent disorderly and gaming houses, and houses of ill-fame, all instruments and devices used for gaming, and to prohibit all gaming and fraudulent devices, and regulate or restrain billiard tables and bowling alleys;

Third. To forbid and prevent the rending or other disposition of liquors and intoxicating drinks in violation of the laws of the State, and to forbid the selling or giving to be drunk any intoxicating liquors to any child or young person without the consent of his or her parents or guardian and to prohibit. restrain and regulate the sale of all goods, wares and personal property at auction, except in cases of sale authorized by law, and to fix the fees to be paid by and to the auctioneers;

Fourth. To prohibit, restrain, license and regulate all sports, exhibitions of all natural or artificial curiosities, cararans of animals, theatrical exhibitions, circuses or other public performances and exhibitions for money;

Fifth. To abate or remove nuisances of every kind, and to compel the owner or occupant of any grocery, tallow-chandler shop, butcher's stall, soap factory, tannery, stable, privy, hog pen, sewer or other offensive or unwholesome house or place, to cleanse, remove or abate the same from time to time, as often as they may deem necessary for the health, comfort and conrenience of the inhabitants of the city. To compel the owner, lessee or agent to remore buildings that are liable to fall by reason of being burnt, decayed or not properly erected;

Sixth. To direct the location of all slaughter houses, markets and buildings for storing gunpowder or other combustible materials, and to regulate the manner of keeping the same;

Seventh. To regulate, restrain or prohibit the buying, sell- Firearms, ing, carrying and using of firearms, weapons, gunpowder, fire- cetc. crackers or fireworks, manufactured or prepared therefrom, or from other combustible material, and the exhibition of fireworks, and the discharge of firearms, and the lights in barns, stables and other buildings, and to restrain and prohibit the making of bonfires in streets, yards, alleys and other public places;

Eighth. To prevent the encumbering of streets, sidewalks, Encumbering crosswalks, lanes, alleys, bridges, aqueducts, wharves or slips ${ }^{\text {streets. }}$ in any manner whatever;

Ninth. to prevent and punish horse racing and immoder- Horse racing. ate riding or driving in any street, and to authorize the stopping and detaining of any person who shall be guilty of immoderate riding or driving in any street; and to prevent any person from leaving a horse or horses or other animal standing upon the streets of said city without being securely tied, held or fastened so as to prevent their escape;

Tenth. To determine and designate the routes and grades Railroad of any railroad to be laid in said city, and to regulate the use grades, etc. of locomotires, engines and cars upon the railroads within the city; to compel such railroads to erect and maintain safety gates at street crossings;

Eleventh. To regulate, restrain or prohibit bathing in any Bathing, etc. public water, and to provide for (cleansing) cleaning Saginaw river of driftwood and other obstructions;

Twelfth. To restrain and punish drunkards, ragrants, Drunkards, mendicants, street beggars and persons soliciting alms or sub- vagrants, etc. scriptions for any purpose whatever;

Thirteenth. To establish one or more pounds, and to re- Pounds. strain, regulate or prohibit the running at large of horses, cattle, swine and other animals, geese and poultry, and to authorize the impounding and sale of the same for the penalty incurred and the cost of their keeping and impounding;

Fourteenth. To regulate or prevent the running at large Dogs. of dogs; to impose taxes upon the owners of dogs and to punish dog fights and those engaged in aiding and abetting the same, in the streets and elsewhere in said city. To provide for the issuing of licenses to the owners and keepers of dogs, and to compel the owners and keepers thereof to pay for and obtain such licenses; to require them to be muzzled and to authorize the killing of dogs not licensed or running at large in violation of the ordinances of the city; and to authorize the killing of dogs impounded, which shall not be redeemed within the time prescribed by the ordinance regulating the same;

Fifteenth. To prohibit any person from bringing and de-Carcasses, etc. positing within the limits of said city any dead carcass or other unwholesome or offensive substance, and to require the removal and destruction thereof, if any person shall have on his premises such substance or any putrid meats, fish, hides
rocations and trades, professions or callings, which are licensed by the State of 'l'exas or which are taxed by said State: provided, that no tax assessed on such occupation, trade, vocation, profession or culling shall be more than one-half the amount levied thereon by said State, and said commission shall have the power to preseribe penalties against all persons pursuing any occupation, vocation, trade, profession or calling so taxed, without having first paid the tax due, and secured n proper licenso therefor.
(w) Riots.-Power to prevent and suppress riots, affrays, noise, breach of the peace, assaults, disturbances or disorderly assembly in any public or private place within the limits of said city, and to provide punishment therofor; to prohibit and restrain the firing of guns, and pistols in the city limits, and to prohibit and restrain the carrying of pistols.
(x) Racing.-To prevent and prohibit and suppress horse racing, immoderate or careless riding or driving in the streets of said city, or in any public place therein, to suppress racing in the streets of said city by means of animals or vehicles.
(y) Streets.-T'o regulate the use of all streets, alleys, parks, squares, sidewalks and public grounds within said city, and to prevent and suppress all encroachments on said streets, sidewalks, aillys or parks or other public places, and to prevent and suppress all obstructions of every kind and character on the said strects, sidewalks, alleys, parks and other public grounds within said city.
(z) Saloons.- Power to close drinking saloons, dramshops and other public places where intoxicating liquors are sold or given away, and to close any theater or varicty show when necessary or expedient; to make and enforce all needful regulations for saloons, dramshops and other places where intoxicating liquors are sold or given away. The said commission shall have the power to prescribe by ordinance that no intoxieating liquors shall be sold or given away within the corporate limits of the said city, in any certain prescribed district in said corporaton in which there are more residences than business houses, said districts to be accurately defined by said ordinances.

Said commission shall have the power to eancel and forfeit any city license issued by said City of Marshall to the owner or proprictor of any saloon or other place where intoxicating liquors are sold, under such license, within the limits of said city upon conviction of the person owning such license, of any offense against the laws of Texas, or of the City of Marshall pertaining to such liquor business, or to the sale of liquor under such license, and after forfeiture of such license by said commission, no other license for the sale of spirituous, vinous or malt liquors shall be issued or sold by the said city unto such convicted person for the period of two years.
(па) Theaters.-Power to permit, regulate or forbid theaters, balls, variety shows and other public amusements, and to suppress the same whenever the preservation of order, tranquility or public safety may require.
(bb) Ticket Scalpers.-To prevent and prohibit the sale by any other person than a duly authorized agent, of any non-transferable ticket, pass,
all the charges and remove the same for the period of twenty-four hours after the service of such notice, the said officer shall proceed to sell the same at public auction, first giving two days notice, by not less than five hand-bills conspicuously posted, of the time and place of said sale, which said notice shall also contain a brief description and the name of the owner or custodian thereof, if known.

SEc. 4. If the owner or custodian shall not be known to said oflicer he shall immediately advertise the same for sale for at least three days prior to such sale, by three handbills conspicuously posted in said city, which said notice shall contain a description of the swine to be sold, where the same were taken up, the time and place of said sale.

Sec. 5. The officer's fees for proceedings under this ordinance shall be as follows, to-wit: One dollar per head for impounding the necessary expenses for keeping; twenty-five cents for each notice served, and twenty per cent of sales for selling.

Sec. 6. From the proceeds of the sale ef each hog or lot of swine belonging to one individual the officer shall pay the fees and expenses as hereinbefore provided for, and the balance if any there be, shall be paid to the city treasurer and be kept by him as a separate fund and chall only be paid out by warrant duly drawn and made payable to the party justly entitled thereto.

SEc. 7. This ordinance shall take effect and be in force from and after its passage and approval.

Approved, A pril 16, A. D. 1872.

## ORDINANCE No. 7.

An Ordinance probibiting the carrying of fire arms and concealed weapons.
Section 1. Be it ordaized by the Mayor and Councilmen of the city of Nebraska City, That it shall be, and it is hereby declared to be unlawful for any person to carry, openly or concealed, any musket, rifle, shot gun, pistol, sabre, sword, bowie knife, dirk, sword cane, billy, slung shot, brass or otber metallic knuckles, or any other dangerous or deadly weapons, within the corporate limits of Nebraska City, Neb.; Provided, that nothing herein contained shall prevent the carrying of such weapon by a civil or military officer, or by a soldier in the disclarge of his duty, nor by any other person for mere purposes of transportation from one place to another.

Section 2. Upon complaint before the Police Judge that an offence in violation of this ordinance has been committed, he shall inquire into the circumstances of the case to determine whether the charge is well founded, and exercise his own discretion as to the dismissal thereof. If the complaint sball be made good, and the

# CHAPTER 108. <br> CARRYING PISTOLS, BOWIE-KNIVES, ETC. 

## SECTION

1. Penalty imposed for carrying pistols, bowie-knives, etc.
2. Duty of the police to arrest all persons carrying such weapons.
3. Penalty imposed on police officer for failing to arrest persons carrying deadly weapons.

## Section

4. Police Commissioners instructed to increase number of patrolmen to thirty-four.
5. Provisions against carrying deadly weapons do not extend to police officers.

Section 1. That every person found carrying a pistol, bowie-knife, dirk-knife, slung-shot, brass knucks or other deadly weapon, shall be deemed guilty of a misdemeanor, and, upon conviction of such first offense, shall be fined from ten to fifty dollars, at the discretion of the court, but upon conviction of every such subsequent offense, shall be fined fifty dollars; Provided, however, That no ordinary pocketknife and common walking-canes shall be construed to be deadly weapons.

Sec. 2. That it shall be the duty of every police officer who sees any person or persons with, or knows of any person carrying, such deadly weapons, to immediately arrest every such person, that they may be dealt with according to the provisions of this act.

Sec. 3. That every police officer who may refuse or neglect to immediately arrest every such person seen with or known to be carrying such deadly weapons, shall be deemed guilty of dereliction of duty, and, upon conviction thereof, shall be dismissed from service, and any two respectable citizens shall be deemed competent to prefer charges to the proper authorities against, such police officer for such dereliction of duty.

Sec. 4. To the end that the provisions of this act may be more fully carried out, the Police Commissioners be, and are hereby, instructed to increase the number of patrolmen to thirty-four, to be uniformed, paid and controlled in accordance with the present police law.

Sec. 5. It is expressly understood that the provisions of this act relating to carrying such deadly weapons as are mentioned in the preceding sections, do not extend to police or other officers, or persons that are entitled by law to carry
such deadly weapons, nor does it extend to the act of handling or moving such deadly weapons in any ordinary business way.

Sec. 6. That all laws and parts of laws in conflict with this act are hereby repealed, and this act to take effect from and after its passage, the public welfare requiring it.

Approved December 26, 1873.

## CHAPTER 109.

## SABBATH.

| Srction <br> 1. No water-craft to unload on <br> Sunday. | Section <br> keepers and apothecaries ex- <br> cepted. |
| :---: | :---: |
| 2. No vehicle to be laden on Sun- <br> day. <br> 3. No grocery or other place of <br> ordinary business to be kept <br> open on the Sabbath; tavern- | 4. Vendors of ice, ice-cream, soda <br> water, cigars and tobacco ex- <br> cepted. |
| 5. No games allowed on Sunday. |  |

Section 1. That if any owner or owners of any steamboat, keel-boat, barge or other water-craft, should load or unload, or cause to be laden or unladen, any such steamboat, keelboat, barge or other water-craft, on the Sabbath day, within the limits of the corporation of Nashville, unless by the written permission of the Mayor, every person so offending shall forfeit and pay, on conviction thereof, not less than twenty-five nor more than fifty dollars for every such offense.

SEc. 2. That if any person or persons shall load, or cause to be laden, any wagon, cart or dray on the Sabbath day, with any article or package of merchandise, cotton, tobacco or any produce of the country, or unload, or cause to be unladen, any such wagon, cart or dray, or shall receive into his, her or their house, store or warehouse, any such article or package of merchandise, cotton, tobacco, or produce of the country, every person so offending shall forfeit and pay the sum of one dollar for each and every offense.

Sec. 3. That no person or persons shall be allowed to keep his, her or their grocery, dram-shop, confectionery or other place of ordinary business open on the Sabbath day, nor to sell any spirituous liquors on said day, or to deal out the same
the city limits for the purpose of seeing that said ordinance is not violated. That before entering, said Marshal or policeman shall first inform the owner, or person having control of said back yard, the purpose of such entry, and any such owner or person having charge or control of the same, who shall refuse or resist such entry shall thereupon be arrested, and upon conviction thereot, shall be fined in a sum not more than twenty-five dollars, nor less than five, or imprisonment not more than ten days. Approved Nov. 22, 1869.

34 Every owner or occupant of every store, hotel, bar-room, or public house of any kind, as also each and every person oceupying a house having two rooms or more facing the street, shall hang a light outside of the door of his or their building, the first two and a half hours of every dark night, under a penalty of two dollars for the first offence and five dollars for each and every subsequent offence.
35 Every person who shall draw any species of fire-arms, or any sword or sword-cane, or knife, or dirk, or other deadly weapon upon the person of another within the limits of this city, unless in lawful defence of person or property, shall be fined not to exceed one hundred dollars, and imprisunment at the discretion of the Mayor, not to exceed ten days.

In future, no persons, except peace officers, and persons actually traveling, and immediately passing through Los Angeles city, shall wear or carry any dirk, pistol, sword in a cane, slung-shot, or other dangerous or deadly weapon, concealed or otherwise, within the corporate limits of said city, under a penalty of not more than one hundred dollars fine, and imprisonmentat the discretion of the Mayor, not to exceed ten days.

It is hereby made the duty of each police officer of this city, when any stranger shall come within said corporate limits wearing or carrying weapons, to, as soon as possible, give them information and warning of this ordinance; and in case they refuse or decline to obey such warning by depositing their weapons in a place of safety, to complain of them immediately.

No person shall ride any mule, horse or other animals within the fire limits of this city, at a furious rate, or at a greater speed than eight miles per hour. Nor shall any person drive any wagon, carriage, or other vehicle, at a greater speed than as above stated. Nor shall any person leave any hotse or mule, saddled or harnessed, loose in the aforesaid limits.

ORDINANCE No. 268.

## An Ordinance relating to the carrying of deadly weapons.

## Be it ordained by the Mayor and Councilmen of the city of

 Salina:Section i. That it shall be unlawful for any person to carry on or about his person any pistol, bowie knife, dirk, or other deadly or dangerous weapon, anywhere within the limits of the city of Salina, save and except as hereinafter provided.

SEC. 2. This ordinance shall not apply to cases when any person carrying any weapon above mentioned is engaged in the pursuit of any lawful business, calling or employment and the circumstances in which such person is placed at the time aforesaid, are such as to justify a prudent man in carrying such weapon, for the defense of his person, property or family, nor to cases where any person shall carry such weapon openly in his hands, for the purpose of sale, barter, or for repairing the same, or for use in any lawful occupation requiring the use of the same.

SEC. 3. Any person violating any of the provisions of this ordinance shall, upon conviction thereof before the police court, be fined in any sum not less that twenty-five nor more than one hundred dollars.

SEC. 4. This ordinance shall take effect and be in force from and after its publication in pamphlet form.

Approved June 24th, 1879
WM. BERG, Mayor.
Attest: E. E Bowen, City Clerk.
I hereby certify the above and foregoing to be a true copy of an ordinance passed by the mayor and councilmen of the city of Salina on the 24th day of June, 1879. See page 97 of the Journal B for the record of the final vote on its passage.
[CITY SEAL.]
E. E. Bowen, City Clerk.
limits of the city of La Crosse shall be punished by a fine not exceeding twenty-five dollars.

Committing nuisance.

Penalty for intoxication, using indecent language or creating riots.

Peralty for carrying concealed weapons

Penalty for interfering with street lamps, lamp posts, or injuring fences. trees, plants, buildings, sign-boards, etc.

Section 13. Any person found committing any nuisance upon any street, alley, vacant lot, or upon any public ground, shall be punished by a fine not exceeding five dollars.

Section 14. Every person who shall be found in a state of intoxication in any street, thoroughfare or public place within the corporate limits of the city of La Crosse; or who shall make use of any vulgar, indecent or obscene language; or who shall make use of any loud, boisterous, profane or insulting language, or of any language tending to excite a breach of peace, or who shall be engaged in fighting; or who shall make or assist in making any riots, noise or disturbance in said city, or shall aid or countenance any riutous or disorderly assemblage therein; or who shall be guilty of any disorderly or improper conduct in said city of La Crosse, shall upon conviction be punished by a fine of not less than one dollar nor more than one hundred dollars.

Section 15. It shall be unlawful for any person other than a policeman or other officer authorized to maintan the peace and to serve process to carry or wear any pistol, slungshot, knuckles, bowie knife, dirk or any other dangerous weapon, and any person convicted of a violation of this section shall be punished by a fine not exceeding one hundred dollars. In all cases of conviction hereunder, any and all dangerous weapons found on the person of the accused shall be confiscated and become the property of the city of La Crosse, and may be sold for the benefit thereof at such times and in such manner as the common council may from time to time direct.

Section 16. Every person who shall wilfully, maliciously or wantonly break the glass on any street lamp post or in any window or sky light in the city of La Crosse, or extinguish any lamp or climb upon any post, or destroy, remove, throw down or injure any fence or other enclosure on land belonging to or lawfully occupied by another, or interfere with any gate or bars in any such enclosure, or destroy, injure or carry away any tree or plant, or tear down, mutilate, deface or injure any building, signboard, fence or railing being the property of another; or who shall wilfully, maliciously or wantonly injure, destroy or remove any useful or ornamental tree or plant of any kind, vase, statue, arbor, stand or any
three months, or to both such fine and imprisonment.
§ 5. Any person who shall immoderately ride or $\begin{aligned} & \text { Immoder- } \\ & \text { ate driving }\end{aligned}$ drive any horse or other animal whether attached and riding. to a private or public ambulance or other vehicle in any avenue, street, alley or lane in the city, shall be subject to a fine of not less than five nor more than fifty dollars, or to imprisonment in the peni- Penalty. tentiary of the county for not less than ten nor more than thirty days.
§6. Any person who shall solicit alms in the Soliciting city for any purpose whatever, without permission from the mayor, shall be subject to a fine of two dollars or to imprisonment in the penitentiary of Penalty. the county for ten days for each offense.
§7. Any person who shall carry about his or her Carrying person any dirk, bowie knife, sword or spear cane, weapons. pistol, revolver, slung shot, jimmy, brass knuckles, or other deadly or unlawful weapon, or shall use any deadly or unlawful weapon, with intent to do bodily harm to any person, shall be subject to a fine of not less than twenty-five nor more than one Penalty. hundred dollars, or to imprisonment in the penitentiary of the county for not less than thirty days nor longer than three months, or to both such fine and imprisonment.
§8. Any person who shall ring any gong or bell Ringing of or cry any auction in any street, lane for alley, or bells. rupon any sidewalk, or upon any piazza, step or

## UNLAWFUL CARRYING OF ARMS.

An Ordinance Prohibiting and Punishing the Unlawful Carrying of Arms.

Seotion 1. Be it ordained by the City Council of the City of Dallas, that if any person in the City of Dallas shall carry on or about his person, saddle, or in his saddle-bags, any pistol, dirk, dagger, slungshot, swordcane, spear, or knuckles made of any metal or hard substance, bowie knife, or any other kind of knife manufactured or sold for purposes of offense or defense, he shall be punished by fine of not less than twenty five nor more than two hundred dollars and shall be confined in the city prison not less than twenty nor more than sixty days.

Sm. 2. That the preceding section shall not apply to a person in actual service as a militiaman, nor to a peace officer, or policeman or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one's own premises or place of business, nor to persons traveling, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack upon legal process.

Sec. 3. That all Ordinances or parts of Ordinances in conflict with this Ordinance be and the same are hereby repealed.

Sec. 4. That this Ordinance take effect from and after its passage.

$$
\text { Approved July 18, } 18 \dot{8} 7 .
$$

## ORDINANCE NO. 11.

An ordinance relating to the public peace.
Be it ordained by the town council of the incorporated town of Checotah:

Section 1. That it shall be a misdemeanor to do or cause to be dote any of the following acts, and any person convicted thereof shall be fined not more than Twenty Five dollars.

Section 2. To be connected with or participate in any masked ball not authorized by the mavor of the town.

Section 3. To wear or carry any pistol of any kind whatever, or any dirk, butcher knife or bowie knife, or a sword, or a spear in a cane, brass or metal knuckles or a razor, slung shot, sand bag, or a knife with a blade over three inches long, with a spring bandle, as a weapon.

Section 4. To be drunk or in a state of intoxication in any public or private place within the town limits.

Section 5. To use rade, boisterous, offensive, obscene or blasphemous ianguage in any public place, or to make, aid, countenance, or assist in making any improper noise, disturbance, breach of the peace or diversion, or conduct one's self in a disorderly manner in any public place, or in any other place witbin the town limits.

Section 6. To keep a disorderly house or place of public resort in the open air, or by making or cau-ing to be made therein, loud or improper noises, or by collecting therein or permit the collection therein, or allow to remain therein, drunken, disorderly and noisy persons to the annoyance of others and the disturbance of the neighborhood, or to give admission, or cause th he given admission therein, to women of known ill repute or prostitutes, or fail to remove or expel such persons after being notified of their cbaracter.

Section 7. To employ any device, noise or performance tending to the collection of persons on the streets or other places to the obstruction of the same, or to exbibit any tricks or legerdemann or other devices of like kind, or perform with bells, or-

City for any such purpose, shall forfeit and pay a penalty of not less than ten, nor more than fifty dollars for every such offense.

Sec. 192. Every person who shall carry in said City, any steel or brass knuckles, pistol, or any slung shot, stiletto or weapon of similar character, or shall carry any weapon concealed on his person without permission of the Mayor or Superintendent of Police in writing, shall, on conviction, pay a penalty of not less than five, nor more than fifty dollars for every such offense.

## JURORS OF THE CITY COURT.

Section.
193. Penalty for neglecting to serve as juror when summoned.

Be it ordained by the Court of Common Council of the City of New Haven:
Sec. 193. If any person chosen, drawn and summoned to serve on a jury at any session of the City Court of said City, in accordance with the provisions of the Charter of said City, shall make default of appearance, according to the direction of the summons, which shall have been duly served upon him, and returned to Court, he shall forfeit and pay a penalty of five dollars, unless on cause shown, said City Court shall excuse him therefrom.

## LAMPS.

Section.
194. Court of Common Council may order lamps to be set up.

Section.
195. Unauthorized interference with lamps prohibited, etc.; penalty.

Be it ordained by the Court of Common Council of the City of New Haven:
Sec. 194. The Court of Common Council is hereby anthorized to cause to be set up sucb lamps in the streets and public places in said City, for the purpose of
more than one hundred dollars for each and every offense．

SEC．4．If any person shall expose for sale in any market，house，shop or elsewhere in this city，any emaciated，tainted or putrid meat or provision，which from these or other causes may be deemed unwhole－ some，every such person，on conviction，shall forfeit and pay a penalty of five dollars for each offense．

SEC．5．No person shall steam，or boil，or in any way render any offal，tainted or damaged lard or tallow，or steam，boil or render any animal substance in such a manner as to occasion any offensive smell， or which by steaming，boiling or otherwise rendering will so taint the air so as to render it unwholesome to the smell within the limits of the city．Any per－ son who shall violate the provisions of this section， shall，on conviction，be fined in a sum not less than ten dollars nor more than one hundred dollars．

## ARTICLE VII．

CARRYING FIRE ARMS AND LETHAL WEAPONS．
Section 1．It shall be unlawful for any person in said city to keep or bear upon the person any pistol，revolver，knife，slungshot，bludgeon or other lethal weapon，except the officers of the United States，of the State of Wyoming，of Carbon County and of the City of Rawlins．

SEC．2．Any person convicted of a violation of the preceding section shall be fined not exceeding one hundred dollars，or imprisoned in the city jail not exceeding thirty days．

SEC．3．Persons not residing in said city shall



SECTION.
80. Selling Wearing Apparel by Club Drawing.
81. Stenling Parts of a House.
82. Moving Houses with Unpaid Tax.
83. Time for Hauling Slops Along Street.
84. Dead Animals, Disposition of.
85. Traction and Threshing Engine on Paved Streets.
86. Manure not to be Thrown in Streets or Alleys; Limits; Provisions to Make Pen for.
87. Privy Vaults to be Cleaned and not to be Transferred.
88. Stables and Water Closets to be on Line of Alley.
89. Secondhand and Junk Dealers; Buying from Minors; Description book; Night Purchases.
90. Leaving Holes for Stagnant Water.
91. Advertisement on Street Poles.
92. Bicycle Riding Regulated; Sidewalks, Speed, Dismounting, by Threes, Alarm Bell.
98. Obstructing Streets or Walls; How Used by Merchants and Builders; Gutters not to be Obstructed; Debris to be Cleared.
94. Red Night Lights on Building Material on Street.

Section.
95. Hitching to Fire Hydrant or Pole with Alarm Box.
90. Ball Playing in Streets.
97. Running Water into Streets.
98. Throwing Rubbish into the Street,
99. Projections Over the Sidewalks.
100. Stringing Banners Across Streets.
101. Crowds Upon Sidewalks, Streets and Crossings.
102. Obstructing Crossings with Engines or Cars.
103. Digging and Leaving Holes in the Street.
104. Breaking Horses Upon Streets.
105. Leaving Horse, Mule or Ox on Street After Midnight.
106. Auction Sales not on Certain Streets.
107. Height of Telegraph, Telephone and Light-Wires, ( 20 ft .)
108. Building Lines Located by Engineer; Cellar-way Excavation; Power of Mayor and Council to Permit or Remove; Nuisance Declared and Abated; Penalty ; Proviso for Parking Fence.
109. Injuring Shade or Ornamental Trees.
110. Public Vehicles; Limits Prohibited.
111. Take Effect.

## ORDINANCE NO. 1641.

An ordinange relating to certain public offenses and fixing the penalty therefor.

## Be it ordained by the Mayor and Councilmen of the City of Wichita:

Drawing Deadly Weapons Upon Another. Section 1. That any person, not an officer of the law in the execution of his duty, who shall in the city of Wichita, draw a pistol, revolver, knife or any other deadly weapon upon another person shall upon conviction, be fined not less than twenty-five dollars nor more than one hundred dollars.

Carrying Unconcealed Deadly Weapons. Sec. 2. Any person who shall in the city of Wichita carry unconcealed, any fire-arms, slungshot, sheath or dirk knife, or any other weapon, which when used is likely to produce
death or great bodily harm, shall upon conviction, be fined not less than one dollar nor more than twenty-five dollars.

Using or Carrying Bean Snapper. Sec. 3. Any person who shall, in the city of Wichita, use or carry concealed or unconcealed, any bean snapper or like articles shall upon conviction be fined in any sum not less than one dollar nor more than twenty-five dollars.

Carrying Concealed Deadly Weapons. Sec. 4. Any person who shall in the city of Wichita, carry concealed about his person any fire-arm, slungshot, sheath or dirk knife, brass knuckles, or any weapon, which when used is likely to produce death or great bodily harm, shall upon conviction, be fined in any sum not exceeding one hundred dollars.

Disturbing the Peace. Sec. 5. Any person who shall in the city of Wichita, disturb the peace of the city, or any lawful assembly of persons, or of any neighborhood, family, person, or persons, shall upon conviction, be fined in any sum not exceeding one hundred dollars.

Cursing and Using Violent Language. Sec. 6. Any person who shall in the city of Wichita, curse, swear, quarrel or use violent or threatening language, or make any great noise, so as to disturb the peace of any person or neighborhood shall, upon conviction be fined in any sum not exceeding twenty-five dollars

Assault and Battery. Sec. 7. Any person who shall, in the city of Wichita, assault and beat or wound another, shall be deemed guilty of an assault and battery and shall, upon conviction, be fined in any sum not exceeding one hundred dollars, or imprisonment in the city jail not exceeding three months.

Provoking Another to Breach of Peace. Sec. 8. Any person who shall, in the city of Wichita, by signs, words or gestures, provoke or attempt to provoke another to commit assault and battery or other breach of the peace, shall, upon conviction, be fined in any sum not less than three dollars, nor more than twenty-five dollars.

Aiding Resistance or Escape from Officer. Sec 9. Any person who shall, in the city of Wichita, in any

## ORDINANCE NO. 20.

## UNLAWFULLY CARRYING ARM8.

Be it ordained by the city council of the city of McKinney:
Sec 1. If any person in the limits of the city of McKinney shall carry on or about his person. saddle, or in his saddle bags, any pistol, dirk, dagger, slung-shot, sword-cane; spear or nuckles made of any metal or of any hard substance Bowie knife or any other knife manufactured or sold for the purposes of offense or defense, he shall be punished by fine not less than twenty-five nor more than two hundred dollars.

Sec. 2. The preceding section shall not apply to a person in actual service as a militiaman, nor to a peace offcer or a policeman or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one's own premises or place of business, nor to persons traveling, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so iminent and threatening as not to admit of the arrest of the party about to make such attack, upon legal process.

## ORDINANCE NO. 21.

## INDECENT PUBLICATION AND EXPOSURES.

Be it ordained by the city council of the city of McKinney:

That if any person within the limits of the city of McKinney, shall make, publish or print any indecent and obscene print, picture or written composition manifestly designed to corrupt the morals of the youth, or shall designedly make any obscene and indecent exhibition of his own or the person of another in public, he sball be fined not exceeding one handred dollars.
some conspicuous place about his person, and said badge shall authorize the person holding the same to pursue such occupation only during good behavior, and at the pleasure of the mayor.

Sec. 2. The city marshal, on said person complying with Section 1 of this ordinance, shall designate a place or

City marshal to designate place or stand. beat, on the public sidewalk or street, where the said person may pursue and follow his said occupation,

Sec 3. The badge provided for in Section 1 of this ordinance shall not be transferable.

Sec. 4. All persons permitted to pursue the occupation hereinbefore provided for shall be under the immediate cks under supervision of city marshal. supervision and control of the city marshal and police, and it shall be unlawful for any person to pursuẹ and follow said occupation without first complying with Sections 1 and 2 of this ordinance; and it shall be unlawful to pursue said occupation at any other place or beat than that indicated by the city marshal.

Sec. 5. Any person violating any of the provisions of this ordinance shall be fined in any sum not exceeding five dollars ( $\$ 5.00$ ) for each offense.

## CHAPTER TEN.

CONCEALED WEAPONS.
Section 1. If any person, within the corporate limits of the city of San Antonio, shall carry on or about his or her person, saddle, or in his saddle bags, any pistol, dirk, dagger, sling shot, sword cane, spear, or knuckles made of any metal
or any hard substance, bowie knife, or any other kind of knife manufactured or sold for purposes of offense or defense, he or she shall be punished by a fine of not less than twenty-five dollars $(\$ 25.00)$ nor more than two hundred dollars $(\$ 200.00)$.

What persons exempted.

Sec. 2. The preceding section shall not apply to a person in actual service as a soldier of the United St tes army or as a militia man, nor to a peace officer or policeman engaged in the discharge of official daty, or person : ammoned to his aid, or other person authorized or permitted by law to carry arms at the places therein designated, nor to a revenue or other civil officer engaged in the discharge of ofilicial duty, nor to the carrying of arms on one's own premises or place of business, nor to persons traveling, nor to one who has a reasonable ground for fearing an unlawful attack upon his person, where the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack, upon legal process.

## CHAPTER ELEVEN.

## DISORDERLY HOUSES.

Disorderly house defined.

Section 1. A disorderiy house is one kept for prostitution, or where prostitutes are permitted to resort or reside, for the purpose of plying their vocation, or any theatre, play house or house where spirituous, vinous, or malt liquors are kept for sale, and prostitutes, lewd women, or women of bad reputation for chastity, are employed, kept in service, permitted to display or conduct themselves in a lewd, lascivious, or indecent manner, or to which persons resort for the purpose of smoking or in any manner using opium.

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## DODGE CITY, KAISAS

## 1875-1928

City Ordinances, $1875-1900,2$ vols.
City Council Proceedings, 1886-1900, 2 vols.
Glerk's Warrant Register, 1884-1917, I vol.
Pollce Court Docket, 1894-1900, 1 vol.
Voters Register, 1886-1902, 61 vols.
Lot Register, Maple Grove Cemetery, 1888-1928, 1 vol.
Ford County Vital Statigtifas, 1905-1911, 1 vol.

LAWS OF VIRGINIA, SEPTEMBER, 1632 --- 8th CHARLES 1st.

ACT XLII.
NOE man shall goe to worke in the grounds without theire armes, and a centinell Arms. uppon them places where the commander shall require it.


ACT XLIII.
THERE shall be due watch kept by night where need requires.
Watch.


NOE commander of any plantation, shall either himselfe or suffer others to spend ${ }^{\text {Not to spend powder. }}$ powder unnecessarilie, that is to say, in drinkinge or enterteynments.

ACT XLV.
ALL men that are fittinge to beare armes, shall bringe their peices to the church uppon payne for every effence, if the default be in the master, to pay 2 lb . of tobacco, to be disposed by the church-wardens, who shall levy it by distresse, and the servants shall be punished
commander.
$\overline{\text { ACT XLVI. }}$
NOE person within this colony uppon the rumour of supposed change or alteration shall presume to be disobedient to the present government, nor servants to theire private officers, masters and overseers, at their uttermost perill.

ACT XLVII.
THE adioyninge plantations, shall assist the frontiers or their neighbours, uppon alarums, the default to be severelie censured, and false alarums punished.

## ACT XLVIII.

IT is ordered, That no cow hides, oxe hides, bull hides, goats skins, deare skins,

Adjoining plantations to assist the frontiers in case of alarm. or other hides, or skins

By the Body Politicke in the Ile of Aqethnec, Inhabiting this present, 25 of $9:$ month. 1639.
~or

In the fourteenth yeare of $y^{e}$ Raign of our Soveraign Lord King Charles.

It is agreed,
That as Natural subjects to our Prince, and subject to his Lawes, all matters that concerne the Peace shall be by those that are officers of the Peace, Transacted; And all actions of the case, or Dept, shall be in such Courts as by order are here appointed, and by such Judges as are Deputed: Heard and Legally Determined.

Given at Niew-Port on the Quarter Courte Day, which was adjourned till y ${ }^{*}$ Day.

William Dyre, Sec.
Mr. Jeremy Clarke is chosen Constable for one whole yeare, or till a new be chosen ; and is to attend that service according to the Law in that case provided.

Mr. William Foster is chosen Clerke of the Traine Band; and is to attend that service till another be chosen; who is presently to take a view of the Armes, and to Returne the defects the next Court but one.

It is ordered and agreed upon, that the Body of the people, viz.: the Traine Band shall have free libertie to select and chuse such persons, one or more from among themselves, as they would have to be officers among them; to exercise and traine them; and then to present them to the Magistrates for their approbation.
1639. It is ordered, that Mr. Robert Jefferies shall traine the $\sim$ Band for the present.

It is ordered, that noe man shall go two miles from the Towne unarmed, eyther with Gunn or Sword; and that none shall come to any public Meeting without his weapon. Upon the default of eyther he shall forfeitt five shillings.
It is further ordered, that those Commissioners formerly appointed to negotiate the Business with our Brethren of Pocassett, shall give them our propositions under their hands, and shall require their propositions under their hands, with their answers, and shall give reply unto it; and so shall returne to the Body a Brieve of what they therein have done.

By order, Mr. Easson and Mr. John Clarke are desired to informe Mr. Vane by writing, of the state of things here, and desire him to treate about the obtaining a Pattent of the Island from his Majestie; and likewise to write to Mr. Thomas Burrwood, Brother to Mr. Easson, concerning the same thing.

The Court is adjourned to this day three weeks.

At the particular Courte holden the 3 d of $\mathrm{y}^{\mathrm{e}} 10$ th, 1639.

John Bartlett and John Hadson, being convicted and as well by witnesses as their own confession, found guiltie of the Breach of the Peace, by their excess in drinking, are adjudged to pay five shillings a piece unto the hands of the Constable according to the Law in that case provided.

## CERTIFICATE OF SERVICE

I certify that on July 13, 2016, an electronic copy of this Statutory Addendum was served through the Court's ECF system, to:

Alan Gura, Esq.<br>Gura \& Possessky, PLLC<br>916 Prince Street, Suite 107<br>Alexandria, VA 22314

/s/ Holly M. Johnson
HOLLY M. JOHNSON


[^0]:    (a) District of Columbia. The acts for the government and administraton of justice in the District of Columbia, are:

    1. An act for establishing the temporary and permanent seat of the government of the United States, July 16,1790 , chap. 28.
    2. An act supplementary to an act entitled, "An act concerning the District of Columbia," March 3, 1801, chap. 24.
    3. An act concerning the District of Columbia, February 27, 1801, chap. 15.
    4. An act additional to an act amendatory of an act entitled, "An act concerning the District of Columbia," May 3, 1802 , chap. 52.
    5. An act to amend the judicial system of the United States, April 29, 1802, chap: 31, sec. 24.
    6. An act for the relief of insolvent debtors within the District or Columbia, March 3, 1803, chap. 31.
    7. An act to extend the jurisdiction of justices of the peace in the recovery of debts, in the District of Columbia, March 1, 1823 , chap. 24.
    8. An act respecting the adjournment of the circuit court of the District of Columhia, March 3, 1825.
[^1]:    (a) By an act entilied, "An act to limit the right of appeal from the circuit court of the United States for the District of Columbia, passed April 2, 1816, chap. 39, it is provided that no cause shall be removed from the circuit court of the District of Columbia, unless the matter in dispute in the cause shall be of the value of one thousand dollars and upwards. But when a party in a cause shall deem himselfaggrieved by any final judgment or decree of the said circuit court, where the matter in dispute shall be of the value of $\$ 100$, and of less value than $\$ 1000$, on a petition to a justice of the supreme court, if the said justice shall be of opinion that errors in the proceedings of the court involve questions of law of such extensive interest and operation as to render the final judgment of the supreme court desirable, the case may be removed at the discretion of the said justice.

[^2]:    (f) (a) An act concerning the District of Columbia, February 27, 1801, chap. 15; an act to increase the salaries of the judges of the circuit court for the District of Columbia, March 3, 1811; an act to increase the salaries of the judges of the circuit court for the District of Columbia, April 20, 1818; an act concerning the orphans' court of Alexandria county, in the District of Columbia, May 19, 1828, chap. 59.

[^3]:    "an act to improve tie laws of the district of columbia, AND TO CODIPY THE BAME," APPROVRD MARCH 8, 1656.

[^4]:    District of Colum bia.

    Carrying concealed weapons forbidden.

[^5]:    'and Poragoern
    'praysed
    Commyssions, or in other manner MtS. Tr. 2
    'what case should be adjudged 'Treason, and what not ;

[^6]:    ${ }^{1}$
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    be tiken by Purreyore
    by Meature by Measure riked Thinga taken by Parveyors
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[^7]:    "-3statute the Third in all former Printed Copies; and entitled "Statutum pro Clero. A Statute for the Clergy."-It is entered on the Back of the Statute Roll. See the Note to Statute the Firat of this Year.

[^8]:    - Vinters Old Printrd Copies.

[^9]:    i 1 I Interlined on the Roll.

[^10]:    - Prenh 'Omit this wurd. Beffe ar Lierry. Will

[^11]:    (r) The 31st and 32 l sections are transcripts from the 14th, $15 \mathrm{th}, 16 \mathrm{th}, 17 \mathrm{th}, 18 \mathrm{th}, 20 \mathrm{th}, 21 \mathrm{st}$ and 22 d sections of the act of 16th Jvoe 1836, P. L. 790. It has been thought proper, although left unrepealed, to introduce them here, in order to render these bills a complete consolidation of our statute laws relating to crimes, punishments and criminal procedure. As questions of jurisdiction frequently present themselves in criminal courts,
    the laws defining and establishing surh jarisdiction have theit proper place here. The laws in reference to the constitution of these courts are to be found in the "Act relative to the orgarization of the courts of justice," passed Spril 14, 1834, P, L 353; thes6 have not been interfered vith. Report on the Penal Code 44.
    (b) See 8 Pittsburgh Leg. J. 290.

[^12]:    (a) A conveyance made to elude the provisions of this section, would be fraudulent and void at common law. 5 B .114.
    (b) This section is taken from the 30th rection of the act of

    31st May $1718,18 \mathrm{~m} .122$. Report on the Penal Code 54.
    (c) See 1 D. 88, 92.

[^13]:    SEC.

    1. Duty of justice upon being notified of death by violence, etc.
    2. Warrant and summons, how executed.
    3. Jury formed; their oath.
    4. How witnesses compelled to attend; how evidence taken.
    5. Inquisition.
    6. Inquisition, evidence, etc., returned; witnesses recognized.
[^14]:    (jJj) See Wiison v. Slate, 33-557; Holland v. State, Il., 560.
    ${ }^{(\infty)}$ An indictment need not negative the exceptions. Walker v. Statc, 35-380, (kkk) Secs. 1907 and 1908 are not unconstitutional. Halle v. Statc, 38-56t.
    $\left.{ }^{( }{ }^{\circ}\right)$ See State v. Graham, 38-510.

