## Statutory Addendum Under Rule 28(f)

English statutes and royal proclamations	
13 Edw. 1, 102 (1285)	Add. 1
7 Edw. 2, 170 (1313)	Add. 2
Statute of Northampton, 2 Edw. 3, 258, ch. 3 (13	28)Add. 3
25 Edw. 3, 320, ch. 2, § 13 (1350)	
34 Edw. 3, 364, ch. 1 (1360)	Add. 10
7 Ric. 2, 35, ch. 13 (1383)	Add. 12
20 Ric. 3, 93, ch. 1 (1396)	Add. 15
Calendar of the Close Rolls, Henry IV (Jan. 30, 1409)	Add. 17
American enactments of the Statute of Nort	hampton
1694 Mass. Laws 12, no. 6	Add. 19
1699 N.H. Laws 1	Add. 22
1786 Va. Laws 33, ch. 21	Add. 28
1792 N.C. Laws 60 ch. 3	Add. 29
1795 Mass. Laws 436, ch. 2	Add. 33
1801 Tenn. Laws 710, § 6	Add. 34
1821 Me. Laws 285, ch. 76, § 1	Add. 35
1852 Del. Laws 330, ch. 97, § 13	Add. 41
1859 N.M. Laws 94, § 2	
Other colonial-era American laws	
1686 N.J. Laws 289, ch. 9	Add. 54
American laws in the 19th and early 20th ce	
1836 Mass. Laws 750, § 16	
1838 Wisc. Laws 381, § 16	
1841 Me. Laws 709, ch. 169, § 16	
1846 Mich. Laws 690, ch. 162, § 16	
1847 Va. Laws 127, ch. 14, § 15	
1851 Minn. Laws 526, ch. 112, § 18	

1853 Or. Laws 218, ch. 16, § 17	Add. 72
1854 Ala. Laws 588, § 3272	Add. 75
1861 Ga. Laws 859, § 4413	Add. 79
1861 Pa. Laws 248, 250, § 6	Add. 80
1869 N.M. Laws 312, § 1	Add. 99
1870 S.C. Laws 403, no. 288, § 4	Add. 102
1870 W. Va. Laws 702, ch. 153, § 8	Add. 105
1871 Tex. Laws 1322, art. 6512	Add. 108
1873 Minn. Laws. 1025, § 17	Add. 111
1875 Wyo. Laws 352, ch. 52, § 1	Add. 112
1889 Ariz. Laws, ch. 13, § 1	Add. 113
1889 Idaho Laws 23, § 1	Add. 114
1891 W. Va. Laws 915, ch. 148, § 7	Add. 115
1901 Mich. Laws 687, § 8	Add. 117
1903 Okla. Laws 643, ch. 25, art. 45, § 584	Add. 119
1906 Mass. Sess. Laws 150 § 1	Add. 120
1909 Ala. Laws 258, no. 215, §§ 2, 4	Add. 121
1909 Tex. Laws 105	Add. 123
1911 Mass Acts 568, ch. 548	Add. 125
1913 Haw. Laws 25, act 22, § 1	Add. 126
1913 N.Y. Laws 1627	Add. 127
1919 Mass. Acts 156, ch. 207	Add. 131
1922 Mass. Acts 560	Add. 137
1923 Cal. Laws 701, ch. 339	Add. 139
1923 Conn. Laws 3707, ch. 252	Add. 147
1923 N.D. Laws 379, ch. 266	Add. 151
1923 N.H. Laws 138, ch. 118	Add. 156
1925 Ind. Laws 495, ch. 207	Add. 160
1925 Mich. Laws 473, no. 313	Add. 167

## Case: 18-55717, 11/27/2018, ID: 11100861, DktEntry: 39-2, Page 3 of 210

	1925 N.J. Laws 185, ch. 64	Add. 171
	1925 Or. Laws 468, ch. 260	Add. 176
	1925 W. Va. Laws 25	Add. 184
	1936 Mass Acts 289 ch. 302, § 131	Add. 193
Aı	merican ordinances	
	Nebraska City, Neb., Ordinance no. 7 (1872)	Add. 195
	Nashville, Tenn., Ordinance ch. 108 (1873)	Add. 196
	Los Angeles, Cal., Ordinance nos. 35-36 (1878)	Add. 198
	Salina, Kan., Ordinance no. 268 (1879)	Add. 199
	Syracuse, N.Y., Ordinances ch. 27 (1885)	Add. 200
	Dallas, Tex., Ordinance (1887)	Add. 201
	Checotah, Okla., Ordinance no. 11 (1890)	Add. 202
	New Haven, Conn., Ordinances § 192 (1890)	Add. 203
	Rawlins, Wyo., Rev. Ordinances art. 7 (1893)	Add. 204
	Wichita, Kan., Ordinance no. 1641 (1899)	Add. 206

13° EDWARDI, I. Circ. Agatis.

A.D. 1285.

102

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 Prohibitant tion shall lie.

Also if a Prelate enjoin Penance pecuniary to any Man for his Sin, if the Money be demanded before Pre-

Amends for Violence to a Clerk.

Pecuniary Penance.

Man for his Sin, it the Money be demanded before Pre-lates, a Prohibition shall lie.

And if any lay violent Hands on a Clerk or Lay-Brother for the (') Peace broken, Amends shall be made before the King, and for the Excommunication before a Bishop or Prelate; and if a Corporal Penance be en-joined, which (') the Offender will (') redeem by giving Money to the Prelate, or to the Party grieved, a Prohibition shall not lie.

In Cause of Defending Prelate may freely corpol.

In Causes of Defamation, Prelates may freely correct the King's Prohibition notwithstanding; first enjoining a Corporal Penance, which, if the Parry will redeem, the Prelate may lawfully receive the Money, though the Prohibition be shewed.

' King's

Item si contencio sit (') de jure decimaz, origine fiens de jure patronatus, & eas decimas q'ntitas excedat quartam partem ecclie, locu het Regia prohibicio.

Item si Prelatus imponat pena pecuniariam alicui p peco & petat illam pecuniam, locil het Regia phibicio, si coram Prelatis pecunia exigat'.

Item si quis manus violentes injecit in clicum, (1) p (1) pace Dñi Regis debent emende fieri coram Rege; p excoicacione vero coram (1) Epo, & si imponat' pena corporalis, quam si reus velit redime dando Plato vel leso pecuniam potest, nec in tib3 locus est phibicoi.

In diffamacionib; [libox ] corrigant Prelati regia prohibicione non obstante, [licet porrigat'."]

in Curia Christianitatis \* vel conversum,
1 libere

porrigatur.

#### Statuta Civitatis London.

#### STATUTES FOR THE CITY OF LONDON.

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 Curfew 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 for such Offenders; and on the morrow he shall be brought and presented before the Warden, or the Mayor of the City for the Time being, and before the Aldermen; and according as they shall find that he hath offended, and as the Custom 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 Tavern open for Wine or Ale, after the tolling of the aforesaid Curiew; but they shall keep their Tavern shut after that hour, and none therein drinking or resorting; Neither shall any Man admit others in his House except in common Taverns, for whom he will not be answerable unto the King's Peace. And if any Taverner be found doing the contrary, the first time he shall be put in pledge by his Tavern drinking cup, or by other good pledge there found, and he amerced furtypence; and if he be found a second time offending, he shall be amerced half a mark; and the third time Ten Shillings; and the fourth time he shall pay the whole Penalty double, that is so say, Twenty Shillings: And the fifth time he shall be forejudged of his Trade for ever.

Ex magno Rot. Stat. in Turr. Lond. m. 42, in Cedula.

ES sont les Articles le queus nie Seign' le Rey ✓ Comaunde q bien seient gardez en sa Citee de Loundres, p' sa pes garder e meyntenir. Primeremet p' ceo 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 divses aventures de mal avenuz encontre sa pes; Defendu est q nul seit si hardi estre trove alaunt ne wacraunt p my les Ruwes de la Citee, aps Coeverfu psone a Seint Martyn le gent, a Espeye ne a Bokuyler ne a autre arme p' mal ferc, 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 Reyn message q de els serra garaunty q vount li un a lautre p conduyte de Lumere. E si nul seit trove alant encontre la fourme avantdite, ou q il seit encheson de tart venir en vyle, seit p's p les Gardeyns de la pes e seit mys en Le Tonel, la quel p' tiels meffesours est assigne, e Lendemeyn seit amene e psente devant le Gardeyn ou le Meyre de la Citee q p' tens serra, e devant les Aldermans, e solong ceo q il troveront qil eit trespasse e a ceo seit coustumers seit puny. E pur ceo q tiels meffesours avauntditz, alant nutauntre, communalment ont lour Recet e lour Covynes, e font lour mauveyses purparlances en taverne plus q aillours, e illoekes querent umbrage attendanz e geitant lor tens de mal fere; Defendu est q nul ne tiegne taverne overte de Vyn no de Cerveyse aps le Coevertu avantdit psone; mes q il tiegne sa taverne elose apis cel houre, e nul leinz Bevaunt ne recettant ne en sa mesoun hors de Communes tavernes nul ne recette p' quy il ne voillit estre respoignant a la pes le Rey, E si nul tal'ner seit trove q autrement faceo, primerement seit degage p soen Hanap de la Tavne, ou p altre bon gage leinz trove, e seit airicye a quaraunte deniers; E si altre fiez seit trove q ceo faceo, seit arilcye a demy mark e a la tierce fiez a dys souz; e a la quarte fiez paie tute la peyne double, cest asav vynt souz. E la quynte fiez seit forsjugge del mestier p' tutz jourz.

THE King to All who these Letters shall see or hear, Greeting. Know Ye that in our Parliament at Westminster, the Sunday next after the Feast of St. Matthew the Apostle, in the Seventh year of our Reign; for certain and expedient Causes, It was provided and granted by Us, and by the Archbishops, Bishops, 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, molested, nor aggrieved, 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, &c. Given as above.

Ex Rot. Pat. 7 Ed. II. P. 1. m. 14. in Cedula.

E Roy, a tuz ceux, qi cestes lies Pront, ou orront De eodem La Salutz. Sachetz, que nie plement, comence a negotio. Westmoistier le dimeynch Pachein aps la feste de Seint Matheu le Apostle, en lan de nie regne septisme, p cheines & covenables enchesons, p'veu est & g'nte p no9, & p - - Ercevesqs, Evesqs, Abbes, Priours, Contes & Barons, & tote la comunalte de nre roiaume, illoeqs a nre maundement, uniement assentuz & acorde; q nul de quel estat, ou condicion qil soit, en nul temps avenir, soit chalange, p's, ne enp'sonetz, empeschez, molestez, ne grevez, nen juge-ment menez, p no, ne p autre a nre suite, ne a suite dautri, qi qil soit, en nre Court ne nulle pt aillors, p encheson du revenir de monf Piers de Gavaston en Engletre, ne de eide, meintenaunce, aerdaunce, ne de conseil, ne de recette de li, ne dalliaunce fait a li, ou por li, p escrit ou autrement, ne p'encheson de demorer en sa compaignie, ne en svice, en nul temps passe cea en arrieres. E volons q ce g'nt & acord soit ferm & estable en touz sez pointz, & chescun de eux soit tenu & garde a ppetuite. En tesmoign, &c. Don 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 Article is intituled "Ne quis occasionetur pro reditu Petri de Gaveston." It begins "Edwarde par la grace de dieu &c. as touts ceux" and ends "Done a Westm le vii. jour de Novembre lan de nostre reigne septisme."

#### Statutu sup' Aportam'to Armor'.\* A STATUTE FORBIDDING BEARING OF ARMOUR.

THE King [to the Justices of his Bench, '] sendeth Greeting. Whereas 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 Us, and the common assent of the Prelates, Earls, and Barons, that in all Parliaments, [Treatisess.'] 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.'] Parliament at Westminster, after the said Treatise, the Prelates, Earls, Barons, and the Commonalty of our Realm, there assembled [to take'] Advice nalty of our Realm, there assembled [to take?] Advice of this Business, have said, that to Us it belongeth, and of this Business, have said, that to Us it belongeth, and our part (\*) is, through our Royal Seigniory, straitly to defend [Force\*] 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, according to [our "] Laws and Usages of our Realm; and (") hereunto they are bound to aid Us as their Sovereign Lord at all Seasons, when need shall be: We command you, that ye cause these Things to be read afore you in the said [Bench,"] and there to be enrolled. Given at Westminster, the thirtieth day of October.

And It was commanded to Sir Roger Brabazon and his Fellows, Justices assigned to hold the King's Pleas before him, that these things 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.

\*to the Lieutenant, the Treasurer and the Barons of the Eschequer,
\*should 'Treaties 'at all times,
without 'Old Trenslations omit. 'taking
'it 'wearing 'the

\* wearing
" Exchange " tbat

Ex Rot. Pat. 7 Ed. Il. P. 1. m. 14. in Cedula.

E Roy, au Lieutenant, le Tresorier, & as Barons L del Eschekier, Salutz. Come nadguaires devant cteines psones deputees a treter s' ascun debatz, euz, entre no9 & ascun de g'ntz de nre Roiaume, entre autres choses feust acordez, q en nre pchein plement aps, p'veaunce se feist p no9 & le comun assentement des Prelatz, Contes, & Barons, q en touz plementz, tretementz, & autres assembletz, q se ferront en roiaume Denglerre a tuz jours, q home veigne santz tote force & saunz armes, bien & peisiblement al honur de no9, & a la pays de no9 & de nre roiaume; et ja en nre [pchein'] plement a Westin aps le ditz tretiz, les Prelatz, Contes, Barons, & la Co. munalte de nëe Roiaume illoeqs assemblez, eu avisement de ceste bosoigne, no aient dit q a no apent, & devons p nre roiale Seignurie, defendre [portement'] darmes, & tote autre force contre nee pais, a totes les foiz q nous plerra, & punir ceux q contre vendront, selonc les leys & les usages de nre roiaume : E q a ce sont il tenuz de no9 aider come leur bon Seign', totes les foiz q mester sra; Vo9 mandons q cestes choses facetz lire devant vo9 en le dit Eschekier, & illoeqs enrouler. Don a Westin le xxx. jour Doctobř.

¶ Et maunde est a Sire Rogier le Brabanzon & ses compaignons, Justices a les pletz le Roy devant lui tenir assignetz, q cestes choses facent lire devant eux, & illoqs enrouler.

¶ Et maunde est as Justices du Bank, q cestes choses facent lire devant eux, en dit Bank, & illoequ enrouler.

Old Printed Copies omit,

1 fortement Old Printed Copies.

<sup>.</sup> This Title is in the Margin of the Roll. In the Old Printed Copies this is intituled " Statutum de Defensione portandi Arma;" and is ascribed to the Seventh Year of King Edward I. The English Title is from the Old Translations.

A.D.1328.

258

Justices of Assise and Gaol-delivery.

Oyers and Terminers.

ш. Riding or going armed in Affray of the Peace.

27 Ed. I. c. 3. 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 shall deliver the Gaois: Wherefore it is enacted, Instead such [Justices ] shall not be made against the Form of the said Statute; and that the Assises, Attaints, and Certifications be taken before the Justices 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 Terminers 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 peop otherwise. 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 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 such 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, sor in no part deswipers, upon pain to forbit their nor in no part elsewhere, upon pain to forfeit their Armour to the King, and their Bodies to Prison at the King's pleasure. And that the King's Justices in their presence, Sheriffs, and other Ministers (') in their Bailiwicks, Lords of Franchises, and their Bailimiks, Lords of Franchises, and their Bailimiks, and Mayors and Bailiffs of Cities and Boroughs, within the same Cities and Boroughs, and Borough-Holders, 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 Officers and Lords have exercised their Offices in this Case, and to punish them whom they find that have not done that which pertained to their Office.

ITEM, Because the Peace cannot be well kept without

I'EM, Because the Peace caonot be well kept without good Ministers, as Sheriffs, Bailiffs, and Hondreders, which ought to do Execution as well of the King's 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 Bailiffs shall be of such People as have Lands in the same Shires or Bailiwicks, shall be observed in all Points after the Form thereof; and that Sheriffs and Bailiffs of Fee shall cause their and that Sheriffs and Bailiffs of Fee shall cause their Counties and Bailiwicks to be kept by such as have

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

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nre Seign' le Roi qure est, en quele est contenuz q les Justices as assises Ondre assignez sils soient lais, facent les delivances; et si lun soit clerc, & lautre lais, q le dit lais, associe a lui un autre du pais, facent la delivance des gaols; p qui acorde est & establi, q tiels Justiceries ne soient mes g'ntees countre la forme du dit estatut, & q les assises, atteintes, & cuincations soient p'ses devant les Justices comunement assignez, q soient bones gentz & loialx & conissantz de la lei, & nemie autres : solone la forme dun autre statut fait en temps meisme le ael; et q les oiers & Pminers ne soient grantces 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, q nul, g'nt ne petit de quele condicion qil soit, sauve les Sjantz 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 lieux 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 chivaucher 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 q Justices le Roi en lour psences, viscountes & autres Ministres le Roi en lour baillies, seign's des fraunchises & lour bailliss 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 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 q a lour office appent.

Et p'ce q 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 dautres choses tochantes le Roi & son poeple, acorde est & establi q lestatut fait en temps le Roi Edward, piere le Roi qure est, a Nicole, contenant q Viscontes, Hundreders & Baillifs soient des gentz eantz Pres en meismes les Countez, ou baillies, soit garde en touz pointz solone la forme dycel, & auxint q les Viscountes & Baillifs de fee, facent garder meismes lour Countez & Baillies p gentz eantz Pres en yceles.

Ensement la ou ordine est, p statut de Westmons? le secund, q ceux q liver volent lour briefs as viscountes, les livent en plein Counte, ou en rerecounte, & q visconte ou southvisconte facent sur ce bille; acorde est & establi q a quele heure ou a queu lieu deinz le Counte home livre a viscountes, ou a southviscontes, briefs, gils les resceivent & facent bille en la forme contenue en le dit estatut, & ce sanz rien pindre; ct sils refuscnt de faire bille, mettent autres lour sealx qi Bront Psentz; et si le Viscounte ou le Southviscounte 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.

V.
The Statute Westminster the Second, 13 Ldw. 1.
chapter 39, concerning the Delivery of Writs to

The Statute of Lincoln, 9 Edw. II.

319

A.D.1351-2.

#### Statutu apud Westm in B'liamento in festo S'ci hillarii anno regni Regis E. t'cii vicesimo qinto tento, f'em.

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.

U plement somonz a Westm, en la feste de Seint A Hiller lan du regne nie Seign' le Roi Edward Denglerre vintisme quint, & de France douzisme, nre l' le Roi del assent des Prelatz, Ducs, Countes, Barons, & de tout la comunalte de son Roialme Denglerre, 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 q tresguntz & tresout geouses damages & grevances sont faites au poeple p les pno's & p'veo's des vitailles p' les hosteux nre & le Roi, ma dame la Roigne, & de lo' enfantz, Si est acorde & assentuz en le dit plement, q les pno's & p'veio's des bledz p' les ditz hosteux les Pignent p mesure rase, selonc ceo q home use pmy le Roialme. Et q touz bledz, feyns, litere & bestaill, & touz aul's vitailles & choses quecuqes, queles sont aprendre p' meismes les hosteux, soient p'sez a la Proie value, p les Conestables & auts bons gentz des villes ou tieles prises se feront, sanz ce q p manaces, ou duresces soient les preisours chacez a mettre autre pris q lour Sement ne voet, & come curt coement en les pscheins marchees: et q entre les Purveours et ceux des queux les biens Bront prises, en la Psence des Conestables & preisours, soient tailles tantost faites, saunz ceo q les gentz des queux les biens gront 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 sront issint prises: et si nul pnour ou P'veour p' les ditz hosteux face p autre mane, soit meintenant arestu p la villee ou la prise sra faite, et mesne a la Pscheine gaole, et si de ceo soit atteint, soit la fait de lui come de laron, si la quantite des biens le demand; solonc ceo qen un estatut fait en temps meisme nie & le Roi lan de son regne quint, & en un autre estatut fait en temps laiel nre Seign' le Roi s' tieles prises, est contenuz plus au plein: et q desore soit contenuz es comissions des tieux P'veours et pnours, lentent et la peine contenuz en cest estatut : et q nule comission soit faite forsq, soulement souz les gent ou prive sealx le Roi; ne q nul home soit tenuz de obeier a autre comis-sion nen autre mane q nest dit en avant; et 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 q divses opinions ount este einz ces heures quu cas, q'nt il avient doit estre dit treson, & en quel cas noun, le Roi a la requeste des Seign's & de la Cõe, ad fait declarissement q ensuit, Cest assavoir; STATUTE THE FIFTH.

A T the Parliament summoned at Westminster in the Feast of St. Hilary, the Year of the Reign of our Lord King Edward the Third [after the Conquest,] of England the Five and twentieth, and of France the Twelfth; our said Lord the King, by the assent of the Prelates, 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 Third underwritten. T the Parliament summoned at Westminster in the hings 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 Parlia-Children; It is accorded and assented in the said Farinament, That the Takers (') of Corn for the said Houses shall take the same by Measure striked according as it is used through the Land. And that such Corn, Hay, Litter, Bestall and all other Victuals and Things, which shall be taken for the said Houses, shall be [taken.'] by the very Value, by the Constable and other good People 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 betwirt the Purveyors and them whose Goods shall be taken in the presence of the Constables and Praisers, 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 shall be so taken; and if any Purveyor or Taker for the said Houses, do in any other Manner, he shall be [maintenant] 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 he be thereof attainted, it shall be done or 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 So-vereign Lord the King that now is, the Fifth Year of his 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 Commissions 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 bound to obey [any such Commissions, other or in what Manner ] than is aforesaid; and that the same Statute take place in all Points against every Taker and Pur-veyor of every Manner of Vidual in every part of the Realm, of what Condition soever 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

be taken by Purveyors by Measure striked

by Purveyo

Tallies of the Goods taken.

5 E. III. c. 3.

Purveyors' Commissions shall be under the Grest or

Declaration what Offences shall be

and Puroeyours

praysed immediately
any other Commyssions, or in other manner MS. Tr. 2.
what case should be adjudged Treason, and what not;

A.D.1351-2.

Compassing the Death of the King, Queen, or their eldest Son; Queen, or their eldest Son; or their eldest Son; or the King's eldest Lorying War; adhering to the King's Enemies; counterfeiting the King's Seals, or Money; importing counterfeit Money; killing the Chancellor, Treasure, or Judges in Execution of their Duty. The King shall have the Offenders' Lands. Petit Treason. For feiture of all the Offenders' Lands. New Questions of Treasons shall be decided in Parliament.

doth compass or imagine the Death of our Lord the King, or of our Lady his [Queen ] or of their eldest Son and Heir; or if a Man do violate the King's King, or of our Lady his Queen '] or of their eldest Son and Heir; or if a Man do violate the King's eldest Son and Heir; or if a Man do violate the King's eldest Daughter unmarried, or the Wife (') the King's eldest Son and Heir; or if a Man do levy War against 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, or elsewhere, and thereof be [probably'] attainted of 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 said 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 determine, being in their Places, doing their Offices: And it is to be understood, that in the Cases above rehearsed, [that'] ought to be judged Treason which extends to our Lord the King, and his Royal Majesty: And of such Treason the Forfeiture of the Escheats pertained to our Sovereign Lord, as well of the Lands and Tenements 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 f) to every Lord of his own Fee: And because that many other like Treason the Escheats ought to pertain of to every Lord of his own Fee: And because that many other like Cases of Treason may happen in Time to come, which a Man cannot think nor declare at this present Time; a 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 Parliament,'] 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 take him, or retain him till he hath made Fine or Ransom for to have his Deliverance, it is not the Mind of the King nor his Council, that in such Case it shall be judged Treason, 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 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 granted in such Case against the Land-tenants, without 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. the King's hands without Delay.

Offences not Treason.

In such Cases already happened, the Chief Lords shall have the Escheats,

Saving the King's Year and Waste,

Scire facias to Terretenants, &cc.

III. Challenge of an Indictor upon an Inquest.

ITEM, It is accorded, That no Indictor shall be put in Inquests upon Deliverance of the Indictees of Felonies or Trespass, if he be challenged for that same caure by him which is so indicted.

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Wife of
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such Manner of Treason giveth Farfeiture of Escheate
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before the King in his Parliament, and it he declared
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Writs the ProteCtion of our Lord the King
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q'nt home fait compasser ou ymaginer la mort nre Seign' le Roi, ma dame sa compaigne, ou de lour fitz primer & heir; ou si home violast la compaigne le Roi, ou leisnesce filt le Roi nient marie, ou la compaigne leisne fitz & heir du Roi; & si höme leve de guerre contre n'e dit Seign' le Roi en son Roialme, ou soit aherdant as enemys nie Seign' le Roi en le Roialme, donant a eux eid ou confort en son Roialme ou p aillours, & de ceo pvablement soit atteint de ovt faite p gentz de lour condicion: et si home contreface [les g'nt ou prive sealx le Roi,'] ou sa monoie, et si home apport faus monoie en ceste Roialme contrefaite a la monoie Dengletre, sicome la monoie appelle [Lucynburgh'] ou autre semblable a la dite monoie Dengletre, sachant la monoie estre faus, p' marchander, ou paiement faire en deceit nre dit Scign' le Roi & son poeple; et si home tuast Chanceller, Tresorer, ou Justice nre Seign' le Roi del un Baunk ou del autre, Justice en Eir & des assises & toutes aufs Justices assignez a oier & Pminer esteiantz en lours places en fesantz lours offices: et fait a entendre qen les cases suisnomez doit estre ajugge treson [q sestent'] a nre Seign' le Roi & a sa roial majeste; et de tiele mane de treson la forfait'e des eschetes apptient a nie Seign' le Roi, si bien des Pres & tenz tenuz des auls, come de lui meismes : et ovesq ceo il yad autre mane de treson, cest assavoir q'nt un Prant tue son meistre, une feme q tue son baron, q'nt home seculer ou de religion tue son Prelat, a qi il doit foi & obedience; & tiele mane de treson donn forfait'e des eschetes a chescun Seign' de son fee ppre: et p' ceo q plusurs auts cases de semblable treson p'ront escheer en temps a venir, queux home ne p'ra penser ne declarer en Psent, assentu est q si autre cas supposee treson q nest especifie p amount aviegne de novel devant ascunes Justices, demoerge la Justice saunz aler au juggement de treson, tanq p devant nre Scign' 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 home de cest Roialme chivach arme descovert ou secrement od gentz armees contre ascun autre, p' lui tuer ou derober, ou p' lui pondre & retenir tanqil face fyn ou raunceon p' sa deliverance avoir, nest pas lentent du Roi & de son conseil q en tiel cas soit ajugge treson, einz soit ajugge felonie ou Pspas solone la lei de la Pre auncienement usee, & solone ceo q le cas demand: et si en tieu cas, ou autre semblable devant ces heures, ascune Justice eit ajugge treson, & p celle cause les Pres & teñz soient devenuz en la main nre Seign' le Roi come forfaitz, eient les chiefs Seign's de fee lours eschetes des tenz de eux tenuz, le quel q les tenz soient en la main nre Seign' le Roi, ou en la main des auts, p donn ou en autre mane; Sauvant totefoitz a nre Seign' le Roi lan & le wast, & aut's forfait'es des chateux q a lui attenent en les cases suisnomez; et q briefs de Scire fac Vs les Pres tenantz soient gentez en tieu cas, saunz autre originale & saunz allower la pteccion nee Seign' le Roi en la dite seute; et q de les Pres q sont en la main le Roi, soit g'nte brief as viscontes des Countees la ou les Pres Bront de ostier la main le Roi saunz outre delaie. Auxint acorde est, q nul enditour soit mys en en-

quest s' la delivance del endite de Pspas ou de felonie, sil soit chalange p tiele cause p celui qest endite.

le grant seal le Roi, Rot, Parl. 25 E.3. P. II. nu. vij. (17.) Lusschurgh Rot. Parl.

d ce estent Rot. Parl.

E Rot. Parl.

A.D.1351-2.

321

Estre ceo, come contenu soit en la g'nt Chre des franchises Dengletre q nul soit pris ne emprisone, ne ouste de son frank teñ ne de ses franchises ne de ses franches custumes, sil ne soit p lei de la Pre; Acorde est, assentu & establi, q nul desore soit pris p peticion ou suggestion faite a nre Seign' le Roi ou a son conseill, sil ne soit p enditement ou psentement des bones & loialx du visnee ou tiele fait se face, & en due mane, ou pees fait sur brief original a la coe lei; ne q nul soit ouste de ses franchises ne de son frakten sil ne soit mesne duement en respons, & forjugge dyceles p voie de lei; et si rien soit fait al encontr soit redresse & tenue p' nul.

Ensement acorde est & establi, 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 Pmer Testatour, en meisme la manie come le pmer testatour avoit sil fæst 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 q les juggementz a cont'ire en temps passe, estoisent en lour force; et q meismes les executours des executours respoignent as auts de tant come ils averont recovi des biens du Pmer testatour, sicome les Pmers executours ferroient sils feussent en pleine vie.

Auxint acorde est & assentu, q nul pnour de buche ou de maerisme al oeps nie Seign' le Roi, p' oveyns ne p' 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, 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, q nul home soit arte de trover gentz darmes, hobellers narchers aut's q ceux q tiegnent p tiele gvice, sil ne soit de coe assent & gent fait en plement. Ensement p'ce q tresgrant damage & desceit est fait au poeple, p tant g plus's marchantz usent dachater & poiser leines & aut's marchandises p une pois qest appelle Aunsell, acorde est & establi, q celle pois appelle Aunsett entre achatour et vendour soit del tout oste, & q chescun vend & achatte p balances, issint q les balances soient owels & les leines & au?s marchandises owelment poisez p droit pois; et q le sak de leine ne poise q vint & sys peres, & chescun pere poisc quatorze livres, & ij 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 ptie come a la seute nre Seign' le Roi.

Auxint come contenue soit en la g'nde Chre q une mesure soit usee pmy tout Engletre, la quele chartre nad mie este tenu bien en ceo point avant ces heures; si est acorde & assentu, q touz les mesures cest asavoir bussel, di bussel, & peck, galon, potel & quart, p toute Englet re deinz franchise & dehors soient acordauntz al estandard nre Seign' le Roi; & contiegne le quart oet busselx p lestandard & nient pluis; & soit chescune mesure de blee rase saunz comble, sauvez les rentes & fermes des Seign's queles soient mesurez p tiele mesure come eles soleient avant ces heures :

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 nor 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 Indictment or Presentment of good and lawful it be by Indictment or Presentment or 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 Freeholds, unless he be duly brought into answer, and forejudged of the same by the Course of the Law; and if any thing be done against the same, it shall be redresseed and holden 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 Statutes Merchants and Recognizances made in Court of Record to the first Testator, in the same Manner as the first Testator should have had if same Manner as the first Testator should have had if as the first 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 as much as they have recovered of the Goods of the first 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, or wood nor of limber 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 Parry of his Treble Dannage, 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

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 Sellers, shall be wholly put out; and that every Person do 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 Wool weigh no more but xxvi Stones, and every Stone to weigh xivl. and that the Beam of the Balance do not bow more to the one part than to the other; and that the Weight be according to the Standard of the Exchequer: And if any Buyer do the contrary, he shall chequer: And if any Buyer do the contrary, he shall be gricyously 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 onater hath obeen well kept all notice 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 nore; 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

he taken upon Suggestion without Presentment ;

nor diefera chised, but by Cours

Purveyors thall not take Trees about the Mansion.

VII. Keepers of Foreste shall not exact Puture, &c. by colour of

VIII.

ıx. A uncel Weight Weight abolished.

Goods shall

Magna Carta, chapter 25, respecting Measures

de mensur & pond.

Justices shall inquire of and punish the Offenders.

Saving of Franchises.

XI. Aid to make the King's Son Knight, or to marry his Daughter.

ITEM, It is assented, 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.

And the Purveyors of the King, of the Queen, and all

other, shall make their Purveyances by the same Mea-

sure 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 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.

XII.
None shall
take Profit
by Exchange
of Gold or
bilver.

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 such Exchange, according to the Ordinance afore made.

XIII. The current Coin shall not be impaired. TTEM, 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. Process against Persons indicted of Felony. 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 them till the Day of the Writ or Precept returned; and if the Sheriff return, that the Body is not found, and the Indictee 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 hinself, 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. The Penalty of Purveyors taking more Sheep before shearing Time than are ITEM, Forasmuch as the Takers and Buyers of the King's Prises, do take Sheep from the People betwixt Easter and the Feast of Saint 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 Oppression 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 suffice till the Time of shearing; and after that Time 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. Exception of Nontenure of ParceL

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 alledged.

XVII.
Process
of Exigent
in Debt,
Detinue, and
Replevin.

ITEM, It is accorded, That such Process shall be made in a Writ of Debt, and Detinue of Chattels, and taking of Beasts, by Writ of Capias, and by Process of Exigend [by 1] the Sheriff's Return, as is used in a Writ of Accompt.

et facent les p'veours le Roi, ma dame la Roigne, & toutz autres, lours p'veances p meismes les mesures rases, & en meisme la mahe; & a toutes les foitz q mestier gra, nre Seign' le Roi assignera cteines Justices en chescune Countee, denqueer & doier & Pminer s' les pointz suisditz, & de faire s' ce due punissement, solone chescun Pspas, si bien a la seute de ptie, come a la seute le Roi; Issint totes foitz q toutes mahes des franchises soient sauvez as Seign's en touz pointz saunz nul emblemissement ent faire en quemq, mahe.

Estre ceo acorde est & assentu q renable eid, p' faire leisne fitz le Roi Chivaler, & sa eisnesce filt marier, soit demande & leve solone la forme del estatut ent fait, & nemie en autre mañe, 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.

Ensement acorde est & establi, q bien lise a chescun home de chaunger or p' argent ou p' or, ou argent p' argent ou p' or, issint q nul home tiegne coe eschaunge, ne rien pigne de phit p' tiel eschaunge faire, s' peine de forfaite de la monoic issint chaungee, forprises les Chaungeours le Roi, les queux pignent phit p' tiele eschaunge solonc lordenance avant faite.

Auxint acorde est & establi, q la monoie dor & dargent qore coert, ne soit mie empire, en pois nen alai; mes au plus tost q home pusse trover bone voie qele soit mys en launcien estat, come en esterling.

Et auxint est acorde & assentu, q aps ceo q ascun home soit endite de felonie devant Justices en lour sessions doier & miner, soit comande au viscont dattach son corps, p brief ou pept qest appelle Capias, & le viscount retourn en le dit brief ou pept q le corps soit mie trovee, meintenant soit autre brief ou pept de Capias fait, retournable as trois symeignes aps; & en meisme le brief ou pept soit compris q le viscount face seisir les chateux & les sauvement garder tanq, a jour de brief ou pept retournable; et si le viscount respoigne q 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 retourn del si'de Capias, adonq's soient les biens & les chateux sauvez.

Ensement p'ce q les achatours & pnours des prises le Roi pnont berbitz du poeple, pentre la Pasch et la fest de Seint Johan od les leines, & les fount preiser a [menc'] pris, & puis les mandent a lours mesons demesne & les fount tounder a lour pfit demesne, en deceit du Roi & g'nt oppèssion du poeple, Si est acorde & assentuz, q nul des tieux Purveours, pnours & achatours ne pègne nules berbitz devant la seisonc du toundeson, forsq, a tantz q p'ront suffire resonablement tantq, au temps du toundison, & ap's cel temps pègne pront suffire resonablement p' le temps avenir; et si nul P'veour, pnour ou achatour du Roialme, face al encontre, & de ceo soit atteint a la seute le Roi ou de ptie, soit fait de lui come de laron ou de robbour, & soit la peine contenue en chescune comission des tieux p'veours,

Auxint acorde est & assentue, q p excepcion de nounten'e de pcell null brief soit abatu forsq, p' la quantite de la nounten'e qest alegge. Ensement acorde est & assentue, q autiele pces soit fait en brief de dette, dețeneu des chateux, & en prises de avers p brief de Capias, & p pces dexigend, p retourii de viscount, sicome est usee en brief dacompt.

de Chivaler Rot. Parl. 25 E. III. P. II. nu. xix. (29.) petit Printed Copies-mesne Rot. Parl. xxxj. (41.)

Omit this Word.

I or for Cold, or Silver for Silver or for Cold,
a common Exchange I upon

A.D.1351-2.

323

Estre ceo acorde est & assentue, q nient contreesteant adjournement faite en Eire p brief de libtate phanda p'chacee en favour des neifs, p' delaier les Seign's de lours accions devs tieux neifs, soient les Seign's receux dalegger excepcions de villenage contre lours vileins en toutz briefs le quel q les ditz briefs de libtate phanda soient p'chacez p deceit ou en autre marre, et q les Seign's pussent seisir les corps de lours vileins, auxi bien come ils p'roient devant q tieux briefs de libtate phanda feurent ordenez & p'chacez.

Auxint come nee Seign' le Roi eit avant ces heures fait preccions as divses gentz q lui estoisent tenuz en ascuñ mane des dettes, qils ne sront mie empledez des dettes queles ils deivent as auts, tanq, ils eussent fait gre a nie Seign' le Roi de ceo q lui estoit due peux p resoun de sa Progative, & issint durantes tieles pteccions nul home ad este osee dempleder tieux dett's; acorde est & assentue, q nient contreesteant tieles pteccions les pties quunt accions a lours dettours, soient respounduz en la Court le Roi p lours dettours, et si juggement soit sur ceo rendu p' le pleintif ou demandant, soit lexecucion de cel juggement mys en suspens tanq, 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 del's lours dettours de dette a eux due, & auxint recovent dels eux tant come ils paieront p' eux au Roi.

Ensement acorde est & assentue, q les Moneours, & aul's gardeins & Ministres de la monoie, receivent plat dor & dargent p pois, & en meisme la mane delivent les monoies q'nt eles gront faitz p pois, & nemie p nombre, saunz nully targer. Estre ce, come avant ces heures les Botillers nie Seign' le Roi & lours deputees soleient Pndr, & pnent de jour en autre, moult plus des vyns, p colour de lour office al oeps nre Seign' le Roi qil ne bosoigneroit, des queux les plus fiebles ils delivent al oeps nie f' le Roi, & les meillours en gent nombre ils retiegnent de le eux a vendre & a faire ent lour pfit, & alafoitz ils relessent as marchantz ceo qils ount pris de eaux, p' fines & donnes qils Pignent de meismes les marchantz p extorsion, en g'nt damage & empovissement des ditz mar-chantz; si est acorde & establi 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 ctein nombre q le Botiller Pindra en chescun port, si q rien soit pris outre cel nombre; et q Meir & Baillifs des ditz portz Etifient les ditz Seneschal & Tresorer le nombre des toneux issint prises p le Botiller ou ses lieutenantz, souz les scals des ditz Meir & Baillifs, & p endenture faite entre eaux & les pnours des ditz vines; et en cas qil soit trove q le Botiller ou ses lieu tenantz Pignent plus ou Pignent lower de nully ou delaie nully p colour de son office, come p 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 ses Justices q'nt lui plerra denquere sur cestes choses; & respoigne le Botiller sibien p' ses deputees come p' lui meismes, la ou ils ne sont mie sufficeantz.

Auxint p' ce q ascuns p'chacent a la Court de Rome pvisions, davoir Abbeies & Priories en Englerre, en destruccion du Roialme & de seinte religion, acorde est & assentue q chescun q p'chace tieles pvisions dabbeie ou de priorie, q lui & ses executours & pouratours q suent & fount execucion de tieles pvisious, soient hors de la preccion nee Seign' le Roi; & q home pusse faire

ITEM, It is accorded and assented, that notwithstand-ITEM, it is accorded and assented, that notwithstanding adjournment made in Eyre, by Writ of Liberate probanda, purchased in favour ofe 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 ordined or that the Writs of Libertate probanda were ordained or

ITEM, Forasmuch as our Lord the King hath made before this Time Protections to divers People, which they 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 Protections, the Parties which have Actions against their Debtors; and if Judgement be thereupon given for the Plaintiff or Demandant, the Execution of the same Undertake for the King's 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 them.

ITEM, It is accorded and assented, That the Moneyors, and other Wardens and Ministers of the Money-ors, and other Wardens and Ministers of the Money, shall receive Plate of Gold and Silver by the Weight; and in the same Manner shall deliver the Money when it shall be made, by Weight, and not by Number, with-

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 thereof their Profit; and sometime they release to Merchants that which they have taken of them, for Fines and Giffer which they take of the control of them. chants 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 Butler 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 Tuns so taken by the Butler 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 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. 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 pur-chaseth such Provisions of Abbies or Priories, that he and his Executors and Procurators, 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 Printed Copies amit these Words.

XVIII.
Villainage
may be
pleaded,
and a Villaine
seized,
pending a
Writ of
Libertate

XX. Plate shall be received at the Mint, and Coin delivered, by Weight.

Regulations therein

25° EDW. III. Stat. 5. c. 22, 23.—Stat. 6.

A.D.1351-2.

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 against all People, and shall never be impeached nor grieved for the same at any Man's Suit.

XXIII. Companies of Lombards answerable for the Debts of their Fellows.

324

ITEM, Whereas much People of the Realm, which have made Contracts with Lombards, that be named of the Companies dwelling in the same Realm, which Lombards after that they have made their Obligations to their Creansours, have suddenly escaped out of the Realm without Agreement made to their said Creansours, in deceit and great damage of the People: it is accorded assented, That if any Merchant of the Company, 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.

Of the proclaiming the Statute. The King to the Sheriff of Kent, Greeting. Certain Statutes passed in our Parliament assembled at Westminster in the Feast of St. Hilary last past, by Ug, the Prelates, Dukes, Earls, Barons, and others of the Commonalty of our Realm of England, summoned to the said Parliament, We do send to you under our Scal; charging you to cause the said Statutes to be read in your full County Court, and the same to be stridly observed, and holden. Witness the King at Westminster, the sixth day of March.

Like Write are directed to all the Sheriffs through England,

Like Writs are directed to all the Sheriffs through England, under the same date.

A like Writ is directed to the Justice of Ireland, changing what ought to be changed, under the same date.

Like Writs are directed to the Persons under-written, under the same date; that is to say:

William de Shareshull and his Companions, Justices assigned to hold Pleas before the King himself: John de Stonore and his Companions, Justices of the Com-

John de Stonore and his Companions, Justices of the Common Bench:

The Treasurer and Barons of the Exchequer.

de lui come de enemy du Roi et du Roialme; ét q' celui q'face contre tiels pvisours en corps ou biens ou en aut's possessions, soit excuse devs touz gentz, & p tant ne soit james greve nempeschee au seute de nully.

Auxint p'ce q plusurs gentz du Roialme, qont fait contractes ove Lumbardz q sont nomez des compaignies demorantz en meisme le Roialme, queux Lombardz aps 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'nt damage du poeple; acorde est & assentuz q si nul marchant de compaignie conue se oblige p la mañe, q la compaignie respoigne de la dette. Issint q autre marchant qi nest mie de la compaignie ne soit p tant grevez nempeschez.

B Vic Kanč, saltın. Quedam statuta, in pliamento nin D' pelamasõe apud Westm in festo sci Hillar pa pitito convocato, p Statuti.

nos Prelatos Duces Comites Barones & alios de coitate regni nii Angt ad dem pliamentum sümonitos, edita, tibi mittim sub pede sigilli nii, mandantes qd statuta pida in pleno Com tuo legi & ea firmii observari & teneri fac. T. R. apud Westm vi. die Marč.

Cons bria dirigunt' singulis vicecomitibs p Angt sub eadem data.

Cons bre dirigit' Justič Hibii mutatis mutand sub eadem data.

Cons bria dirigunt' subscriptis sub eadem data videlt, Wilto de Shareshull & sociis suis Justič ad phita coram rege tenend assign.

Joh de Stonore & sociis suis Justic de ciii Banco. Thes & Baronib3 de scaccio.

Drdinacio p' Clero f'c'a apud Westm, anno r. B. G. t'cii vicesimo quinto.

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.

OUR 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 Scignour le Roi, veues & examinez p bone deliberacion les peticions & articles a lui bailliez en son plement, tenuz a Westmonster en la feste de seint Hillaï lan de son regne Dengleire vintisme quint, & de France duszisme, p Lon'able piere en Dieu Simon Erceveso, de Cantbirs et aufs Evesijs de sa pvince, s' & p' Éteines grevances queles ils disoient estre faites a seinte eglise et a la clergie, encontre les privileges de seinte eglise, & dunk ils prierent q cove-

Statute 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 First of this Year.

A.D.1357

364

to the manifest Destruction and Injury of the said People, and against Justice and the Form of the Statute aforesaid t We will and stedfastly command that our Justice of Ireland for the Time being, in every County and Place through which he shall pass, associating with him a Prelate of the Place, and some Earl or other Nobleman or Knight of that Neighbourhood, concerning the aforesaid Deceits, Extortions, Oppressions, Grievances, and Excesses, and all the Matters abovesaid by those Farmers howsoever committed, and of all their acts and doings in this Behalf, as well at the Suit of Us 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 Excusses. and other the Matters aforesaid shall hear and determine, and the Delinquents and Offenders when they shall be found such, shall punish and chastise, according to the Law and Custom of our Land of Ireland before mentioned; and nevertheless to Us and our Council in England, the Names of those so offending, and the Deceirs, Extortions, Oppressions, and Grievances and other Matters aforesaid, under the Seals of him the said Justice and of the others associated with him, distinctly and openly, from Time to Time, for good Cause shall certify.

In Witness whereof, &c. Witness the King at Westminster, the Twenty-fifth Day of October.

By the King Himself and Council.

Pjudiciū, & ipius populi destruccoem & injuriam manifestas, ac cont' justiciam & formă statuti Pdči : Volum & firmut Pcipim qd Justic në Hibn qui p tempe fuit, in singulis Com & ptib; p quos t'nsierit, associatis sibi Prelato loci, & aliquo Comite seu alio nobili vel Milite eapdem pciù vicinaz, de Pdcis falsitatibs, extorsionibs, oppssionibs, g'vaminibs, & excessibs, & omiby sup deis p ipos firmarios quomodolibet ppertis, & de ipos fcis & gestibs in hac pte, tam ad sectam nram q'm alios quoscuq, inde conqueri volenciu tam de tempe prito q'm futuro inquirat; & Psus cos pcedat, & contemptus, falsitates, extorsiones, oppssiones, g'vamina & excessus, ac alia Pdca audiat & Pminet, necnon delinquentes & culpabiles cum tales inventi fuint castiget & puniat, scam legem & consuetudinem Pre nre Hibn antedcas; & nos & consiliu nrm in Angt de noibs sic culpabiliu, ac de falsitatibs, extorsionibs, oppssionib; & g'vaminib; & aliis pdcis sub sigillis ipius Justic & sibi associator, distincte & apte de tem-pore in tempus nichilomin<sup>9</sup> dissincte ex de causa. [In cujus, &c. T. R. apud Westin xxv. die Octobr.

p ipm Regem & Cons.']

In cujus rei testimoniŭ has tras nras fieri fecimo patentes. Teste me ifio apud Westin vicesimo quinto die Octobr, anno regni nri Angi ricesimo pino, regni vo nri Franc decimo

Nos autem Ordinacces Voluntates & ficepta filea, ac omia Nos autem Ordinacoes Voluntates & peepra putca, ac oma alia & singla in tris pdess cotenta rata hentes & gita, ca p nob & herediby nris quantum in nob est, acceptam? approbamus, ratificam? & constimam?, put lie pdee rationabile secsant. In cuj°, &c. T. R. apd Westin xwy die Junii.

Rot. Pat. 17 Ric. II.

In Margine

#### Anno 34° EDWARDI, III. A.D. 1360-1.

## Statutu fe'm in P'liameto tento apud Westm; anno expilifo.

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-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 (')

f. Who shall be dustices of the Peace. Their Juris-Offenders ; Rioters; Barrators;

Vagabonda;

They may take Surety for good Belaviour;

FIRST, That in every County of England shall be assigned for the keeping of the Peace, one Lord, and 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 Oslenders, Rioters, and all other Barators, and to pursue, arrest, take, and chastise them according their Trespass or Offence; and to cause them to be imprisoned and duly punished according to the Law and Customs of the Realm, and cording to that which to them shall seem best to do by their Discretions and good Advisement; and also to inform them, and to inquire of all those that have been Pillors and Robbers in the Parts beyond the Sea, and be and Robbers in the Parts beyond it. Sea, and be now come again, and go wandering, and will not labour as they were wont in Times past; and to take and arrest all those that they may find by Indictment, or by Suspicion, and to put them in Prison; and to take of all them that be [not <sup>1</sup>] of good Fame, where they shall be found, sufficient Surety and Mainprise of their good

\* All Translations read thus

Ex magno Rot. Stat. in Turr. Lond. m. 10.

TES sont les choses queles nie Seign' le Roi Prelatz ✓ Seign's & la comune ont ordinez en cest p\u00e4sent plement, tenuz a Westmustier le Dymenge Dischein devant la feste de la Convision de Seint Poul, a tenir & publier ovtement pmy le Roialme; Cestassavoir:

Printement q en chescun Countee Denglet re soient assignez, p' la garde de la pees, un Seign', & ovese, lui trois ou quatre des meultz vauez du Countee, ensemblement ove ascuns sages de la ley, & cient poer de restreindre les messesours, rioto's, & touz aut's baretto's, & de les p'suir, arester, p'indre, chastier, sefone leur Espas ou mesprision; & de faire emprisoner, & duement punir selone la ley & custumes du Roialine, & selone ce gils Pront mieltz affaire p lo' discrescions & bon avisement; & auxint de eux enformer & denquere de touz ceux qi ont este pilours & robeours es pties de dela, & sont ore revenuz & vont vagantz, & ne voillent t'vailler come ils solcient avant ces hours; & de Pudre & arester touz ceux gils p'ront trov p enditement, ou p suspecion & les mettre en prisone & de jondre de touz ceux [qi sont '] de bone fame, ou ils sront trovez, souffisant seurcte & meinprise de

qi ne sont Lib. Scace, Westm. IX; MS. Cott. Nero C. I; and the Old Printed Copies.

A.D.1360-1.

365

lo' bon port, del's le Roi & son poeple, & les auts duement punir; au fin q le poeple ne soit p tieux rioto's troble nendamage ne la pees enblemy, ne marchantz naut's passantz p les hautes chemyns du Roialme destourbez ne abaiez du pil q p'ra avenir de tieux meffesours: & auxint doier & Pminer a la suite le Roi, tote mane de felonies & Pspas faites en meisme le Countee, selonc les leys & custumes avantdites; & q briefs doier & Pminer soient gentes selone les estatuz ent faites, mes q les Justices q enserront assignez soient nomez p la Court, & nemie p la ptie. Et le Roi voet q totes geniales enquerres avant ces heures g'ntez deinz seign'ies queconqes p' les meschiefs & oppssions q ont este faites au poeple p tieles enquerres, cessent outriement & soient repellez: Et q fins q sont affaire devant Justices, p' tspas fait p ascune psone, soient resonables & justes, cant regard au q'ntite du l'spas & les causes p' queles eles sont faites.

Item acorde est q prises desore ne soient faites p auts q p les p'veours le Roi, ma Dame la Roine & le Prince lour eisne filtz; & q si Purveours des aurs facent tieu prises soit fait de cux come des gentz qi fount sanz garaunt, & lour fait jugge come chose faite contre la pees & la ley de la tre; & soient tieux qi se fount p'veours en la mane duement puniz.

Item des p'veances faites al oeps la Royne & du Prince, du polailt & dautres menuz choses, soit paiement fait en poigne s' la prise; & des aurs grosses p'reances deinz le Mois ou sis simaignes es Countees ou ils Bront prises; & q le nombre de tieux p'veours soit abregge, en tant come bonement p'ra p' eide & quiete du comune poeple.

Item porce q viscontes & auts ministres sovent arraient lour panels en tote mane denquestes des gentz peurez & pluis lointifs du Countee, qi nont conissance du fet dount lenqueste Bra prise; Acorde est, q ticu paneles soient faites des plus pscheins gentz, qi ne sont pas suspectes, ne peurez; & q les viscontes, Coroners & aut's ministres qi font alencontre soient puniz devant les Justices qu' la dite enqueste Pondra, selone la q'intite de leur Espas, sibien devs le Roi come devs la ptie, p' la q'ntite du damage qil ad suf-fert en tieu mane.

Item est accorde, q ceux qi Pront assignez de garder la pees eient poair denquere des mesures & auxint des pois, selone lestatut ent fait lan du regne n'e Seign' le Roi vint & quint, en quel est contenu la forme q sensuit. Porce q Psg nt damage & desceit est fait au poeple p tant q pluseurs Marchantz usent dachater & poiser leines & auts marchandises p une pois qest appelle Aunselt; Acorde est & establi, q celle pois appelle Aunsell entre achatour & vendour soit de tout ouste, & q chescun vende & achate p balances; issint q les balances soient owels & les leins & aut's marchandises owelement poisez p droit pois, et q le sac de leine ne poise q vint & sis peres, & chescun perc poise quatorze livres, & q lestater de la balance ne encline ne a lune ptie ne al autre, & q 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 nic Seign' le Roi.

Item come contenu soit en la g'ut Chre, q une mesure soit use pmy tut Engletre, la quele Chre nad mie este tenue bien en ce point avant ces heures; si est acorde & assentu, q totes les mesures, cest assavoir bussel demy bussel & Peck, galon potel & quart, p tout Engletre deinz franchise & dehors

Behaviour towards the King and his People, and the other duly to punish; to the Intent that the l'eople be not by such Rioters or Rebels troubled nor endamaged, nor the Peace blemished, nor Merchants nor other passing by the Highways 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 Manner of Felonies and Trespasses done in the same County according to the Laws and Customs aforesaid; and that Writs of Oyer and Determiner be granted according to the Statutes thereof made, and that the cording 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 Seigniories, for the Mischiefs and Oppreswithin any Seignories, for the Nischiers and Oppressions which have been done to the People by such Inquiries, shall cease utterly and be repealed: and that Fines for the Strikes, which are to be made before Justices for a Trespasse some by any Person, be reasonable and just, having Regard to the Quantity of the Trespass, and the Causes for which they may be made. for which they may be made.

ITEM, It is accorded, That [Taking '] shall not be from henceforth made by other than the Purveyors of the King, of the Queen, and of the Prince their eldest 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 to make themselves Purveyors in such Manner such as do make themselves Purveyors in such Manner shall be duly punished.

TTEM, Of Purveyances made to the Use of the Queen, and of the Prince, of Poultry 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 paid for. be taken; and that the Number of such Purveyors be abridged in as much as conveniently may, for the Aid and Quietness of the Common People.

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 Panels of shall be inade 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 lood. 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 Quantity of the Damage which he hath suffered in such Manner.

punished according to the Quantum, against the King as against the Party, 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 to inquire the Peace of Measures, and also of Weights, according to the Statute thereof made the five-and-twentieth Year of the Statute thereof made the five-and-twentieth Year of the Statute thereof is the Statute of Weights, "Whereas great Damage and Detailed in the Statute of th Statute thereof made the five-and-twentieth Year of the Reign of our Lord the King, wherein is contained the Form that followerh; "Whereas great Dainage 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 Sellers, shall be wholly put out; and that every Person do 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 Wool weigh no more but xxvi. Stones, and every Stone to weigh air. I. and that the Beam of the Balance do not bow more to the one Part than to the other; and that the Weight be according to the Standard of the that the Weight be according to the Standard of the Exchequer; 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 be used through the Realm, which Charter bath not been holden well in this Point before Charles half no been made well in this folio before this Time; It is accorded and assented, That all the Measures, that is to say, Bushel, Half Bushel, Peck, Gallon, Pottle, and Quart, through (') England, within

put in fear by peril which might happen Takings of

and may hear and determine

III. When Pur

IV.

Panels of

34

be present, or of the Lords of the Fairs and Markets, and other Places where such Cloths shall be found defective, or of their Stewards or Bailiffs, or of the Constables of the Towns and Places aforesaid, by Indenture betwixt them duly to be made; which Indentures shall be every Year at the Feast of St. Michael delivered into the Exchequer, by them which so shall make the said Delivery, to the Intent there to charge the Aulnegers and Collectors aforesaid, by whom such Defaults ought to have been searched, corrected, 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 Collectors aforesaid, in every County and Place where such Cloths defective shall be found, for the Pain against 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.

XI. The Statutes 5 Ric. II. c. 44 5. and 6 Ric. II. c. 7, 11, 12, concerning Fishmongers, Victuallers. Fishmongers, Victuallers, and Vintners,

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 Victuallers were made, and also of Vint-ners, 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 Request 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 aforesaid, shall be wholly annulled and repealed, and shall lose their Effect 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 [Vintners and '] Victuallers, 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. Stat. 3Ric.II.
c. 3. recited; Westminster, the Third Year of the Reign of our said

Victuallers of London shall be under the Rule of the

and extended to Aliens

by the Assent of the Lords Temporal, it was ordained and assented, and upon a grievous Pain prohibited, that no Subject 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 Licence of our said 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

Lord the King, at the Request of the Commons, and

Wines, and the

soient Paentz ou des l's des feires & marchees, & aul's lieux ou tielx draps defectives gront trovez, ou de lo's Seneschalx & Baillifs ou des Conestables des villes & lieux avantditz p endentures ent entre eux duement affaires; les queles endentures soient chescun an a le feste de Seint Michel livez en leschegir p ceux gensi ferront la dite livee, al effect de charger illoeqs les Alneours & coillours avantditz p queux tielx defautes deussent estre Schez chastiez & amendez & ne sont my einz coement maintenuz ou concelez toutz ptz; pur quele tierce ptie qapptient au Roi come sa forfaiture p force de lestatutz devant ore faitz les alneo' & coillo' avantditz, en chescun Countee & lieu ou tielz draps defectives front trovez p' peine encontre lo's ditz mal fait & concelement, facent gree de lo's ppres deniers a nie dit & le Roi en son Escheqir de la value de celle tierce ptie, issint q sibn de mesme la tierce ptie come del remenant du dit drap nie & le Roi soit entierement responduz a son Eschegir avantdit.

Item est ordeignez & assentuz qassise de Novele Disseisine soit desore gente & faite de rent aderiere, due des teñz esteantz es divses Countees a tenir en la confyne des Countees deinz queux les teñz sont, & sur ce lassise prise & triee p gentz des ditz Countees en mesme la mane come est fait du coe de pasture esteantz en un Countee & appendante as tenz en autre Countee, & ce auxi avant des disseisines faites devant ceste heure, come de disseisines unqure affaire, & q briefs sur ceo a la p'suyte des pleintifs soient desore faitz en la Chauncellerie sanz nulle mane de cont diccion en due forme.

Item combn q nadgairs en divses plementz tenuz a Westm les ans du regne nre dit & le Roi quint & sisme, furent faitz divses ordinances, & estatutz des pessoners de Londres & dauts vitaillers & auxint des vineters & la vente des vins, & sur ce mesmes les ordinances & estatutz ovesq, les peynes en ycelles contenuz furent publiez & pclamez pmy le Roialme sicome en les ditz ordinances & estatutz pluis pleinement purra apparoir; Nientmeyns p' cteins enchesons a la requeste des Coes Denglerre sur ceo especialment faite, est assentuz & accordez q mesmes les ordinances & estatutz des Pessoners Vineters & Vitaillers, faitz en les ans desuisditz, soient de tout anientiz & repellez & pdent lour force & Ptue; Sauvez nientmeins a nre d' le Roi toutz les forfaitures des vins a lui apptenantes p Ptue de mesmes les ordinances & estatutz qantal temps passez. Purveuz toutz foitz q toutz les [vins'] & vitaillers sibn Pessoners come aur's ove leur vitailles venantz a la de Citee de Londres, soient desore desouz le go?naile [& reulle \*] des Meir & Aldermannes de la Citee avandce p' le temps esteantz come auncienement y soleient estre.

Item come nadgairs en plement tenuz a Westm lan du regne nre & le Roi tierce, a la requeste des Cões & p assent des l's temporels, estoit ordeignez & assentuz & sur grevouse peyne defunduz q nutt liege le Roi nautre psone quelconq de quel estat ou condicion qil fuist, Pndroit ne resceivoit delors enavant deinz le Roialme Dengleere pouracie, tre datto'ne, ne ferine, nautre administracion p endenture nen autre mable quelconq, de nulle psone dascun benefice de Seinte Esglise deinz le dit Roialme fors tantsoulement des lieges nre & le Roi de mesme le Roialme sanz especiale g'ee & expsse congie de nie & le Roi sur cicine peine comprise en lestatut avantdit, assentuz est ore & accordez p mesmes les l's q mesme lestatut tiegne ses

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- ' Interlined on the Roll.

M. 18.

zij.

force & Viue en toutz pointz; et outre ceo est auxint assentuz q si ascun alien eit purchacez ou desore purchace ascun benefice de Seinte Esglise Dignite ou autre & en ppre psone pigne possession dicelle ou loccupie de fait, deinz mesme le Roialme, soit il a son oeps ppre, 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 xxvº del regne luy noble Roi E. aiel nre & le Roi qure est, contre ceux qi purchacent pvisions dabbeies ou Priories; et enoutre au fyn q tielx licences ne se facent desorc enavant, le Roi voet & 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 horspris au Cardinal de Naples ou a autre ciale psone a qi le Roi soit p especiale cause tenuz.

Item est ordeignez & assentuz & le Roi defende q desoremes nutt home 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 l' le Roi, sur peine de forfaiture dicelx lancegaies armures & aul's herneys quelconqes es mayns & possession de celluy qi les porta desore deinz mesme le Roialme contre cestz estatut

& ordinances sanz especiale congie de Roi nre &. Item es briefs de Pmunire fac est assentuz & accordez q ceux Vs queux tielx briefs sont portez, & qi sont de Psent hors de Roialme & sont de bone fame & aient faitz lo' genalx atto'nes devant lo' deptir, q le Chaunceller [Dengletre'] pur le temps esteant, p ladvis des Justices purra gentier q mesmes les psones purront apparoir & respondre & faire & resceivre ce q la ley demande, p lo' gentalx atto'nes avantdiz siavant come es autres cas & quereles; et ceux psones qi decy enavant passeront p licence nre ? le Roi & soient auxint de bone fame, q a lo' requeste le dit Chaunceller p ladvis des Justices lour purra g'ntier defaire lo' gehalx atto'nes en la Chancellerie p patent du Roi devant lo' passer, [a respondre'] sibn es ditz briefs de Pmunire fac, come en aurs quereles en quel cas toutes voies soit expsse mencion [faite ] des briefs & quereles de pmunire fac; et celle patente ensi faite, purront des lors les ditz atto'nes en absence de lo' Meistres, respondre p eux & aul's atto'nes desouz eux, devant quelconq, juge du Roialme & faire & resceivre el dit cas, siavant come en nult autre cas nientcontresteant ascun estatut fait a contrie avant ces heures.

Item sur la grevouse pleinte qest faite des meynteno's des quereles & chaumpto's; est ordeignez & assentuz q lestatutz ent faitz en les ans du regne le Roi Edward aiel nie dit ? le Roi primer & quart, et auxint en lan de nie l' le Roi gore est primer, soient tenuz & gardez & duement executz en toutz pointz.

Item est assentuz & le Roi defende estroitement o decy enzvant nulle psone 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 Dengletre as ascunes pties Descoce en prive ne en appt ascune mane darmure de blee de brees ne dautre vitaille ou dautre refressnchement queconq, sur peine de forfaiture de mesmes les vitailles armures & des autres choses avantdites ensemble avec les niefs vesseulx charettes & chivalx qi les portent ou amesnent. ou de la Proie value dicelles, si ensi ne soit q le

111 Interlined on the Roll.

Force and Effect in all Points; and moreover it is who shall sho assented, That if any Alien have purchased, or from the liable to henceforth shall purchase any Benefice of Holy Church, the Penalice of Holy Church, and the purchase any Benefice of Holy Church, and the purchase assented, That if any Alien have purchased, or from henceforth shall purchase any Benefice of Holy Church, Dignity, or other Thing, and in his proper Person take 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 moreover shall incur all Pains and Forfeitures in all Points as is before ordained by another Statute made the Five and twentieth Year of the noble King Edward the Third, Grandfather to our Lord the King that now is, against 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. special Cause.

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 Forfeture 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. special Licence.

ITEM, In Writs of Præmunire 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 begood 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
henceforth shall pass by the King's Licence, and be of
good Fame, that at their Request the Chanelles had 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 Parent before their Bound to the Chancery by the King's their general Atturnes in the Chancery by the King's Patent, before their Passage, to answer as well in the said Writs of Præmunire facias, as in other Writs and Plaints; in which Case express Mention shall be made at all Times of the Writs and Plaints of Præmunire at all times of the Writs and Filants of Framunic from henceforth, in Absence of their Masters, may answer [for them, and make'] other Atturnies under them, before any Judge of the Realm, [to'] do and receive in the said Case as much as in any other Case or Matter, notwithstanding any Statute made to the or Matter, notwithstanding any Statute made to the contrary heretofore.

TIEM, For the grievous Complaint that is made of Maintainers 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 the King that now is, shall be holden that Year of our Lord the King that now is, shall be holden that Year of our Lord the King that now is, shall be holden that Year of our Lord the King that now is, shall be holden that Year of our Lord the King that now is, shall be holden that Year of our Lord the King that now is, shall be holden that Year of our Lord the King that now is, shall be holden that Year of our Lord the King that now is, shall be holden that Year of our Lord the King that now is, shall be holden that Year of our Lord the King that now is, shall be holden that Year of our Lord the King that now is, shall be holden that Year of the Yea

TTEM, 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 Victuals, or any other refreshing,
upon Pain of Forfeiture of the same Victuals, Armours,
and other Things aforesaid, together with the Ships, and other Things aforesaid, together with the Ships, Vessels, Carts, and Horses which shall bring or carry the same, or of the very Value of the same, except so it be

the Statute 2 Edw. III. chapter 3.

XIV. For enabling Parties out of the Realm to appoint Attornies Write of

A.D.1383.

36

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, epy and prove that any hath offended or forfeit in any Point against the Form of this Ordinance, shall have the Third Part of the said Forfeitures wholly to his own Use (').

XVII.
When Mainpernors shall
be liable in
Damages
by Delay.

ITEM, It is assented and accorded, That in Writs of Debt, Trespass, and Account, and in all other Cases where Mainprise and Writs of Supersedeas be grantable, that if the Persons [comprised] come not before the Judges at a Day comprised in the same Mainprise, and by so much the Plaintiff is put to Delay and Loss, the said Mainpernors shall be answerable to the Plaintiffs of a certain Sum of Silver, to be limited by the Discretion and Advice of the said Judges, having Consideration to the Quality and Quantity of the Damages of the Parties, and of the Things in Demand. And this Ordinance of Mainpernors shall endure in Assay till the next Parliament only.

[4 And therefore We command you that as well the said Statute of Winchester, four times in each Year from hence forth, in Manner as above is ordained, as the other Statutes and Ordinances above written, in all the Cities, Boroughs, Market Towns, and other notable laces within your Bailiwick, where it shall seem to you most expedient, within Franchise and without, you do cause to be proclaimed on our behalf, and to be published and duly kept and observed according to the Form and Effect of the same. Given under the Witness of our Great Seal at our Palace of Westminster the Twenty-sixth Day of November, in the Seventh Year of our Reign-?]

Like Commands of the King are directed to the several Sheriffs throughout England, under the same Date.

for his labour mainprised
Former Translations read only thus:

Former Translations read only thus:

And therefore We command you, &c. Dated, &c.

en bone execucion est auxint assentuz q celluy qi aps q proclamacion ent soit faite purra espier & pver qascun eit mespris, ou forfait en ascun point contre la forme de cette ordinance, eit la tierce prie des dites forfaitures en ement a son ppre ocps p' son t'vaille. Item est assentuz & accordez qen briefs de dete trespas & de accompte, & en toutz autres cas ou mayn-

Roi nre l'nent donne sa licence especiale a cont'rie. Et au fyn q ceste ordinance soit duement gardez & mys

Item est assentuz & accordez qen briefs de dette trespas & de accompte, & en toutz autres cas ou maynprise & brief de Supsedeas sont g'ntables, si les psones maunprisez ne viegnent mye devant les Juges au jo' compris en mesme la meynprise, & p tant le pleintif soit mys en delay & pde, soient les ditz meinpnours respognables as pleintifs dune éteine some, (') a limiter p la discrecion & advis des ditz Juges, eiantz consideracion a la qualitee & quantitee des damages du ptie & de la chose en demande. Et si durera ceste ordinance des mainpno's en assaie, tanq, al pchein plement tantsoulement.

Et purce vous mandons q sibn le dit Estatut de Wyncestre quatre soitz chescun an decy enavant p malbe q dessus est ordeignez, come les autres Estatutz & ordinances dessusescritz en toutz les Citees Burghs villes marchees & autres lieux notables deinz vre baillie ou vous verrez q mieutz soit affaire deinz sranchise & dehors, facez pelamer dep nous & publier & duement garder & tenir selone la forme & essel dicelles. Don p tesmoignance de nre g'nt Seal a nre Paleys de Westm avantdit le xxvi our de Novembre lan de nre regne septisme.

Consimilia mandata & dirigunt' singulis Vicecomitib; p Angt sub eadem dat.

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#### Anno 8º RICARDI, II. A.D. 1384.

#### Statutu apud Westm anno octavo editu.

In Margine

#### 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 Profit of the said Realm, and especially for the good and just Governance, and due Execution of the Common Law, in the Form following.

I. Liberties of the Church, and Statutes confirmed. 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 Ordinances heretofore made and not repealed, shall be holden and observed, and put in due Execution according to the Form and Effect of the same.

II.
No Lawyer
shall be a
Judge in his
own Country.

ITEM, It is [ordained and assented,'] That no Man of Law shall be from henceforth Justice of Assises, or of the common Deliverance of Gools in his own Country; and that the Chief Justice of the Common Bench be assigned amongst other to take such Assises, and deliver Gools; 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.

14 accorded and statuted MS. Tr. 2.

Ex Rot. Stat. in Turr. Lond. II. m. 18.

A D honorem dei & requisicoem coitatis regni Angt scam dño Regi in pliamento suo tento apud Westñ in Crastino Sci Martini anno regni sui octavo, idem dñs Rex de assensu Prelato, Magnatü & Coitatis Pdce quoddam statutü in eodem pliamento p coi utilitate dci regni & Psertim p bona & justa gubnacoe ac debita execuçõe cois legis fieri secit in sorma subsequenti:

In primis concordatu est & statutu qd sca ecclia heat omes libitates suas, & qd Magna Carta & Carta de Foresta, Statuta de pvisoribs & laboratoribs & omia alia statuta & ordinacoes ante hec tepora edita & minime revocata teneant' observent' & execucoi debite demandent' juxta formam & effem eoadem.

Item concordată est & statută qu nullus homo de lege sit deceio Justic assisaș vel cois delibacois gaolaș in ppria pria sua et qu capitalis Justic de coi Banco assignet' ini alios ad h<sup>9</sup>i assisas capiend & ad gaolas deliband set quoad capitalem Justic de Banco Regis fiat sicut p majori pte Centu annos px protos fieri consuevic.

A.D.1393-4.

Ward of Farringdon-Within may elect an Alderman, wise, sufficient, and able to govern the said Ward Within, and to be named the Aldermen of the Ward of Farringdon-Within; and that between this and the said Feast of Saint Gregory the People of the Ward of Farringdon-Without may eloft another Alderman, wise, sufficient, and able to govern the said Ward Without; and to be named the Alderman of the Ward of Farringdon-Without; And that the said Two Aldermen so elected may be established and not removed, except for Cause reasonable, as is ordained and granted by our said Lord the King in this Parliament, of the other Aldermen of the said City.

THE King to the Sheriff of Kent, Greeting. A certain Statute, in our last Parliament holden at Westminster, by Us with the Ament of the Great Men and Commons of our Realm of England there assisting Us, made, We do send to you in Form Patent; Commanding that the same Statute and all and singular the Articles in the same contained, in the Cities, Boroughs, Market Towns, and other Places within your Bailiwick, where you shall see it to be most expedient, you do cause to be publicly proclaimed, and as far as in you lieth, to be firmly and inviolably observed. Witness the King at Westminster, the first Day of June.

By the King Himself and Council.

Like Writs are directed to the several Sheriffs throughout England; and to John Duke of Aquitain and Lancaster, or to his Chancellor in the same Duchy of Lancaster, under the same Date.

garde de Farndon dedeins puissent eslire un Alderman sage sufficeant & able p' goviner mesme la garde dedeins, & estre nome laldermañ de la garde de Farndon dedeins; et q pertre cy & le dit fest de Seint Gregoire les gentz de la garde de Farndon dehors puissent eslire un autre Aldirman sage sufficeant & able p' goviner snesme la garde dehors, & estre nomes lalderman de la garde de Farndon dehora. Et q les ditz deux Aldermans issint esluz puissent estre earabliz & nemye remoez si noun p cause resonable, come ordeinez est & g'ntez p nfe dit & le Roi en cest plement des aule Aldermans du dite Citee.

B Vič Kanč, saltm. Quoddam statutum in ultimo D pelamačče stapliamento nio apud Westin tento p nos de assensu tuto, pelamand. Magnatum & Coitatis regni nri Angi nobiscum ibidem tunc assistenciù editù tibi mittim<sup>9</sup> in forma patenti; Mandantes que Statutum illud & omes & singulos articulos in eodem contentos, in Civitanbus Burgis Villis ilicatoriis & aliis locis infra ballivă tuam ubi melius expediri videris, publice polamari & quantum ad te prinet firmit & inviolabilit observari fac. T. B. apud Westra primo die Junii.

p ipm Regem & consilium.

Consimilia biia dirigunt' singulis Vicecomitiby p Angi; ac Johi Duci Aquil & Lancastr vel ejus Cancellario in eodem Ducaru Lancasti sub eadem data.

Anno 20° RICARDI, II. A.D. 1396-7.

#### Statutu be Anno bicerimo.

In Margine Rotuli.

STATUTE OF THE TWENTIETH YEAR.

THE KING at his Parliament holden at Westminster in the Feast of Saint Vincent, the Twentleth-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:

Recital of St.

FIRST, Whereas in a Statute made the Seventh Year 7 R. II. e. 131 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 Statutes and Ordinances, without the King's special Licence:

Ex Rot. Stat. in Turr. Lond. II. m. 4.

E ROY en son parlement tenuz a Westm en la d feste de Seint Vincent lan de son roialme vintisme, del assent des Prelatz l's & Cômunes de son roialme en mesme le parlement, pur quiete & t'inquillite de son poeple ad fait creins estatutz & ordenances gensuient.

Printement, come en un estatut fait lan septisme du regne nëe Seignur le Roy soit ordeignez & assentuz q nutt home chivache deins le Roialme armez contre la fourme de lestatut de Norhamptoñ sur ce fait, ne oveso, lancegaye deins mesme le roialme, et à les ditz lancegayes soient de tout oustez deins le dit Roialme, come chose defendue par le Roy sur peyne de forfaiture dicelles lancegayes armures & aut's hernoys quelconques, es mayus & possession dycelx qui les porla delors deinz mesme le Roialme encontre ycelles estatutz & ordenances sanz espale congie du Roy: Nre Seignur le Roy considerant le g'nt clamour a luy fuit en cest Psent plement de ce q le dit estatut nest mye tenuz, Si ad ordeignez & establiz en mesme le plement q les ditz estatutz soient pleinement tenuz & gardez & duement executz; et q̃ les ditz lancegayes soient tout outment oustez sur la peine contenue en le dit estatut de Northamptoñ & outre de fair fyn & ranceon au Roy. Et outre ce q nuit ?, Chivaler nautre petit ne g'nt aile ne chivache p noet ne jour armez ne porte Palet ne chapett de ferre nautre armure sur la peine susdee; Sauvez & exceptz les office & Ministres du Roy enfaisantz leur offices. Et outre ce le Roy voet & ad ordeignez q 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 q Vadletz appellez Yomen ne nult auf de meindre estat qesquier ne use ne porte nult signe ne livee appelle livee de compaignie dascun l' deins le roialme, sil ne soit menial & fanilier ou officer continuel de son dit l' et 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 q nult f' nautre du pais petit ne g'nt ne soit seant en Bank ovesq, les Justices as assises Pndre en leur sessions es Countees DenglePre sur grief forfaiture Ps le Roy; Et ad chargez ses ditz Justices qils ne soeffrent le contraire estre fait.

Item q come il soit contenuz en un estatut de & Edward nadgairs Roy Denglerre Aiel a nre & le Roy qorest lan de son regne vynt & oetisme, q nulle manle de nief q soit frette dels Englebre ou aillours soit artez de venir a nul port Denglerre ne y dem'er contre le gree des Mestres & Marins dicelle, ou des Marchantz as queux les biens sont, et si tielx niefs veignent de gree ou soient chacez p tempeste ou auf infortune ou meschief a ascun port Denglere & les Meistres & marin's ou Marchantz de mesmes les niefs voillent vendre & deliver ptie de leur michandises p loure bone voluntee, bien lise a chescuny tieles inchandises achatre franchement sanz empeschement en le port ou tieles niefs viendront, tout ne soient les michandises mises a la Pre pur vendre; Et q les Meistres Marins & Marchantz, aps ce qils avont issint venduz ce q lour plerra de leur ditz biens & paie ent la custume, puissent f'unchement deptier & aler ove lour niefs & tout le remenant de lour biis pla ou lour plerra sanz custume ent paier: Nie Seignur le Roy p' la quiete & ease de son poeple voet q le dit estatut soit tenuz & gardez en toutz pointz & duement executez nient contreesteant ascune ordernance ou usage a contrie.

Item pur ce q les Comunes cunt fait compleint q plusours g'ntz meschiefs extorsions & disease sont faitz p divses gentz de mauveis condicion q de leure auctoritee demesne pignont & font p'ndre roialment chivalx & aurs choses & bestes hors de leur charues charettes & mesons, disantz & imaginantz qils sont a chivancher en hastifs messages ou bosoignes, la ou en vite ils ne sont aucunement privez de nulle bosoigne ou message, mes soulement en deceite & subtilite p' Pndre 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 established 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, shall 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 imprisoned, 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 familiar 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 Assises, in their Sessions in the Counties of England, upon great Forfeiture to the King; and hath charged his said Justices, 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, shall be compelled to come to any Port of England, nor there to tarry against the [Agreement 1] 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, 1 to any Port of England, and the Masters or Mariners, or Merchants of the same Shins, will sell or deliver Part of their Merchandizes with their Good-will, it shall be lawful to every Person to buy such Merchandizes freely without Impeachment in the Port where such Ships shall come, albeit the Merchandizes be not [put to Sale to the Land; 1] And the Masters, Mariners, and Merchants, after that they have so sold so much as pleaseth 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 please them, without paying thereof Custom: Our said Lord 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 contrary,

ITEM, Forasinuch 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, saying and devising that they be to ride on hasty Messages and Business, where of Iruth they be in no wise privy of any Business or Message, but only in Deceit and Subtility by such Colour

\* Prite \* Omit this word. \* Badge or Livery \* Will \* or other Misfortune or Mischief, \* put to land, to sell.

Confirmation

No Man shall ride or go

The Statute 1 Ric. II. c.7, touching giving of Liveries, confirmed.

II. Liveries of Companies restrained.

III.
None shall
sit upon the
Bench with
Justices of
Assise.

IV.
Recital of St
28 Edw. III.
chapter #3,
concerning
Merchants
Strangers.

Confirmation thereof.

Penalty for taking Horses, &v. for the King's Service, without Warrant.

486

1409.

#### Membrane 24d-cont.

Jan. 20. To the sheriffs of London. Writ of supersedeas, and order by Westminster. mainprise of William Carneby, John Laweson, William Clifforde and Henry Cotes, each of London 'wever,' to set free Adam 'Jonesservant Boston cooke,' if taken at the several suits of Richard Meryot of London 'goldsmyth' and Thomas Totenham averring threats.

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

Feb. 7. To the sheriff of York. Order upon sight etc. to cause proclamation 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. Deyon.
Suthampton. Cornwall.
Essex. Somerset.
Norffolk and Suffolk. Bristol.

Surrey and Sussex.

Also to the chancellor of the county palatine of Lancastre.

#### MEMBRANE 23d.

- Jan. 25. To the sheriffs of Norwich. Writ of supersedeus, and order by mainprise of John Alderforde, William Champeneys, 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.
- Feb. 4. To the sheriffs of London. Writ of supersedeas, by mainprise of Westminster. 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' averring threats.
- Jan. 30. To the mayor and sheriffs of London. Order upon sight etc. to 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, knights and esquires with a sword, and the king'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 proclamation, 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

CALENDAR OF CLOSE ROLLS.

1409.

#### Membrane 23d-cont.

in such assemblies with hauberks, swords and other arms and 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 troubled by them, their heirs or assigns 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 I January 10 Henry IV. Memorandum of acknowledgment, 6 February.

Henry ate Grene, otherwise 'Leycostre heraude,' to Thomas Fereby clerk and John de Pokelynton, their heirs and assigns. Charter indented with warranty of the three messuages, lands, wood etc. 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 Joan his wife, reserving to the grantor and his assigns during his life, with remainder to the grantees, the chamber on the right hand side just within the gate of one of those messuages wherein his mother lately dwelt, and a stable to that chamber adjacent, also the chamber there between the kitchen and the garden, with free ingress and egress, under a condition for defeasance of this grant if John de Pokelynton, his heirs and assigns, pay not 30% to the grantor or his attorney, namely 10% at Easter next, 10l. at Michaelmas following and 10l. at the Purification following, any clause in this charter and any money paid notwithstanding. Witnesses: Nicholas Schosse bailiff of Hertforde. Master Thomas Ferrour, John Carpenter, Henry Fuller. John Fleecher, William Lythyng. Dated Hertforde, 2 February 1408, 10 Henry IV.

Memorandum of acknowledgment, 7 February.

Westminster. 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, William Ryncelyn and the captain of Normandy of France, and Uter Jonessone banished from Flanders committed and attempted at sea great number of robberies and misdeeds, contrary to the trace between England and France and to the appointment made

> at Lenlyngham by the ambassadors of England and France. whereby war might be like to arise, to arrest those robbers and evildoers, their accomplices and partisans and others of Seint

To the treasurer and the barons of the exchequer. Writ of

## Anno Regni Quarto Gulielmi & Marix.

One Half of the Fines and Fortchures to be unto Their Majesties, and the other Half

10

A N D further it is Enacted by the Authority aforefaid, That all Fines, Penalties, and Forfeitures arifing by force and virtue of this Act, shall be, the one Half to Their Majesties, towards the Support of the Government of this Province, and the other Half to him or them that shall inform and sue for the same to the Informer. in any of Their Majesties Courts of Record within this Province.

Meadurer of Salt, and Cul-ter of Fifth.

BE it further Enacted by the Authority aforelaid, That there be a Measurer of Salt, and Culler of Fish in every Sea-port Town within this Province, to be appointed, as aforefaid, who being likewife fwom for the faithful Discharge of that Office, shall cull all merchantable Fish, and measure all Salt that shall be imported and fold out of any Ship or other Vessel, and shall have Threehalf Pence for every Hogshead of Salt by him so measured to be paid, the one Half by the Buyer, the other Half by the Seller; and One Peny per Quintal for every Quintal of merchantable Fish by him culled to be paid, one Half by the Buyer, and the other Half by the Seller.

## 

Dº 6. Confirmed. 22 Aug. 1695.

## An AEt for the Punishing of Criminal Offenders.

Cluffing and

Sacating.

I computer.

TE it Enacted and Ordained by the Governor, Council, and Representatives, in General Court Assembled, and by the Authority of the same, That if any Person or Persons shall prophanely Swear or Curse in the hearing of any Justice of the Peace, or shall be thereof convicted by the Oaths of Two Witnesses, or Confession of the Party, before any Justice or Justices of the Peace, every such Offender shall forfeit and pay unto the Use of the Poor of the Town where the Offence shall 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 Person shall utter more prophane Oaths or Curles at the same time, and in hearing of the same Person or Persons, he shall forfeit and pay to the Use aforesaid, the Sum of Twelve Pence for every Oath or Curse after the first, or be set in the Stocks Three Hours.

PROVIDED, That every Offence against this Law shall be complained of. and proved, as aforefaid, within Thirty Days next after the Offence com-

Deungennefe.

FURTHER it is Enacted by the Authority aforefaid, That every Person convicted of Drunkenness by View of any Justice of Peace, Confession of the Party, or Oaths of Two Witnesses, such Person so convicted, shall forfeit and pay unto the Use of the Poor of the Town where such Offence is committed, the Sum of Five Shillings for every such Offence; and if the Offender be unable to pay the faid Sum, to be fet in the Stocks, not exceeding Three Hours, at the Differentian of the Justice or Justices before when the Conviction shall be: And upon a fecond Conviction of Drunkenness, every such Offender, over and above the Penalty aforesaid, shall be bound with Two Surecies in the Sum of Ten Pounds, with Condition for the good Behaviour; and for want of fuch Sureties, shall be sent to the Common Goal until he find the same.

PROVIDED, That no Person shall be impeached or molested for any Offence against this Act, unless he shall be thereof Presented, Indicted, or Convicted, within Six Months after the Offence committed; and the Justice or Justices before whom Conviction of any of the aforefaid Offences shall be, are hereby impowered and authorized to restrain or commit the Offender, until the Fine imposed for such Offence be satisfied; or to cause the same to be levied by Distress and Sale of the Offender's Goods, by Warrant directed to the Constable,

> returning Add. 19

## Anno Regni Quarto Gulielmi & Maria.

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 Use of the Poor, as aforesaid.

It is further Enacted and Ordained by the Authority aforefaid, That who then soever shall steal or pursoin any Money, Goods, or Chattels, being thereof convicted by Confession, or sufficient Witness upon Oath, every such Offender shall forfeit treble the Value of the Money, Goods, or Chattels so stoln or purloined, unto the Owner or Owners thereof; and be further punished, by Fine or Whipping, at the Discretion of the Court or Justices that have Cognizance of such Offence, not exceeding the Sum of Five Pounds, or Twenty Stripes: And if any such Offender be unable to make Restitution, or pay such Threefold Damages, such Offunder shall be enjoyeed to make Satisfaction by Service; and the Profecutor shall be, and hereby is impowered to dispose of the faid Offender in Service to any of Their Majesties Subjects, for such Term as shall be assigned by the Court or Justices before whom the Prosecution was. And every Justice of the Peace in the County where such Offence is committed, or where the Thief shall be apprehended, is hereby authorized to hear and determine all Offences against this Law: Provided, that the Damage excoed not the Sum of Forty Shillings. And if any Perfon thall commit Burglary Burglary and by breaking up any Dwelling-house, Ware-house, Shop, Mill, Malt-house, Barn, Out-house, or any Ship or other Vessel lying within the Body of the County, or shall rob any Person in the Field or High-ways, every Person so offending shall, upon Conviction, be branded on the Forehead with the Letter B; and upon a second Conviction, shall be set upon the Gallows for the space of One Hour, with a Rope about his Neck, and one End thereof cast over the Gallows, and be severely Whipt, not exceeding Thirty nine Stripes; and upon a third Conviction of the like Offence, shall suffer the Pains of Death, as being Incorrigible, and shall likewise, upon the first and second Convictions, pay

treble Damages to the Party injured, as is provided in case of Thest. And it is further Enacted by the Authority aforefaid, That if any Man Formication commit Fornication with any lingle Woman, upon due Conviction thereof, they shall be fined unto Their Majesties, not exceeding the Sum of Five Pounds; or be corporally punished by Whipping, not exceeding Ten Stripes apiece, at the Discretion of the Sessions of the Peace, who shall have Cognizance of the Offence. And he that is accused by any Woman to be the Fasher of a Bastard Report 1 Fig. Child, begotten of her Body, the continuing constant in such Accusation, being there that the best of examined upon Oath, and put upon the Discovery of the Truth in the time of her Travail, shall be adjudged the Reputed Father of such Child, notwithstanding his Denial, and stand charged with the Maintenance thereof, with the Athitance of the Mother, as the Justices in the Quarter-Sessions shall order; and give Security to perform the faid Order, and to fave the Town or Place where such Child is born, free from Charge for its Maintenance; and may be committed to Prilon until he find Sureties for the same, unless the Pleas and Proofs made and produced on the behalf of the Man accused, and other Circumflances, be fuch as the Justices shall see reason to judge him innocent, and acquit him thereof, and otherwise dispose of the Child: And every Justice of the Peace, upon his Discretion, may bind to the next Quarter-Sessions him that is charged or suspected to have begotten a Bastard Child; and if the Woman be not then delivered, the Sessions may order the Continuance or Renewal of his Bond, that he may be forth-coming when the Child is

FURTHER it is Enacted by the Authority aforefaid, That every Justice of Power of the the Peace in the County where the Offence is committed, may cause to be suffice of staid and arrested all Astrayers, Rioters, Disturbers, or Breakers of the Peace, and such as shall ride or go armed Offensively before any of Their Majestics Justices, or other Their Officers or Ministers doing their Office, or elsewhere,

#### Anno Regni Quarto Gulielmi & Marix.

by Night or by Day, in Fear or Affray of Their Majesties Liege People; and

fuch others as shall utter any Menaces or Threatning Speeches; and upon View of fuch Juffice or Juffices, Confession of the Party, or other legal Conviction of any fuch Offence, shall commit the Offender to Prison, until he find Sureties for the Peace and good Behaviour, and feize and take away his Armour or Weapons, and shall cause them to be apprized and answered to the King as forfeited: And may further punish the Breach of the Peace, in any Person that shall smite or strike another, by Fine to the King, not exceeding Twenty Shillings, and require Bond with Sureties for the Peace, or bind the Offender over to answer it at the next Sessions of the Peace, as the Nature or Foreible Force Circumstance of the Offence may be; and may make Enquiry of forcible En-

and Detain i. try and Detainer, and cause the same to be removed, and make our Hue and

Cries after Runaway Servants, Thieves, and other Criminals.

belling.

12

Breach of the Prace.

AND it is further Enacted by the Authority aforefaid, That if any Person or Perfons of the Age of Difcretion (which is accounted Fourteen Years, or upwards) shall wittingly and willingly make or publish any Lye or Libel, tending to the Defamation or Damage of any particular Person, make or spread any falle News or Reports, with Intent to abuse and deceive others, every fuch Person or Persons offending in any of the Particulars before mentioned, and being duly convicted thereof before One or more Justices of the Peace, shall be fined according to the Degree of such Offence, not exceeding the Sum of Twenty Shillings for the first Conviction, and find Sureties for the good Behaviour: And if the Party be unable to pay the faid Fine, then to be fet in the Stocks, not exceeding Three Hours, or be corporally punished by Whipping, at the Difcretion of the Justice or Justices before whom the Conviction shall be, according as the Circumstances or Nature of the Offence shall be; and the faid Justice or Justices may restrain and commit the Offender until he pay the faid Fine, and find Sureties for the good Behaviour, or may cause the Fine to be levied by Diffress and Sale of the Offender's Goods; and the Party or Parties grieved or injured by reason of any of the Offences asoresaid, shall or may take his or their Suit against any such Offender or Offenders in any Court of Record.

Forgery.

It is further Enacted by the Authority aforefaid, That if any Person or Perfons, upon his or their own Head or Imagination, or by false Conspiracy and Fraud with others, shall wittingly, subtilly, and fallely forge or make, or subtilly cause, or wittingly affent to be forged or made, any false Deed, Conveyance, or Writing fealed, or the Will of any Person or Persons in Writing, to the Intent that the Estate of Free-hold or Inheritance, Right, Title, or Interest of any Person or Persons, of, in, or to any Lands, Tenements, or Hereditaments, shall or may be molested, troubled, defeated, recovered, or charged, or shall, as is aforefaid, forge, make, or cause or assent to be made or forged, any Obligation, or Bill Obligatory, Letter of Attorney, or any Acquittance, Release, or other Discharge of any Debt, Account, Action, Suit, Demand, or other Thing Personal; or if any Person or Persons shall pronounce, publish, or shew forth in Evidence, any such false and forged Deed, Conveyance, Writing, Obligation, Bill Obligatory, Letter of Attorney, Acquittance, Releafe, or Discharge, as true, knowing the same to be false and forged, as is aforesaid, to the Intent above remembred, and shall be thereof convicted, either upon Action or Actions of Forger of falle Deeds to be founded upon this Act at the Suit of the Party grieved, or otherwise according to the Order and due Course of Law, or upon Bill or Information, that then every fuch Offender shall pay unto the Party grieved his double Costs and Damages, to be found and affessed in such Court where the said Conviction shall be; and also shall be set upon the Pillory in fome Market-Town, or other open Place, and there to have One of his Ears cut off, and also shall have and suffer Imprisonment by the Space of One whole Year without Bail or Mainprize; and the Party or Parties grieved by

## LAWS OF NEW HAMPSHIRE.

AN ACT FOR ESTABLISHING AND REGULATING COURTS OF PUBLIC 11th of W. 3. JUSTICE WITHIN THIS PROVINCE. - PASS'D LITH OF WM. 3. WITH ADDITIONAL PARAGRAPHS OF OTHER ACTS RELATIVE THERETO.

Whereas the establishing and regulating courts of justice, doth very much tend to the honour and dignity of the crown, and to the ease and benefit of the Subject:

Be it therefore Enacted by the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same:

That every justice of the peace in this province, is hereby authorized and impower'd, to take cognizance of, hear, try, and determine, any criminal offence against any penal law not exceeding paragraph of an
the sum of forty shillings, and to issue all necessary process, and
award execution thereon with legal cost; as well as in all other
mean process,
cases where he is, or shall be so authorized by particular laws.

But any person against whom such sentence shall be given by one But any person against whom such sentence shall be given, by one or more justices of the peace, out of the court of general sessions of the peace, may appeal from the same, to the next court of Appeal granted general sessions of the peace, to be held in and for said province; the appellant recognizing with sureties, in a reasonable sum, not exceeding five pounds, for his appearance at the court appealed to, and prosecuting his appeal there with effect, and for performing and abiding the order or sentence of said court thereon, which shall be final; and in the mean time to be of the good behaviour. The appellant in such cases is to observe the same rules in bringing forward the appeal, as is hereafter directed in civil cases, and to pay the same fee for entering such appeal; and to the jury, if it shall be tried by them, as is paid for cases so tried at the inferior court - Provided such liberty of appealing shall not be construed Proviso. to extend to such cases as by the particular laws aforesaid, are otherwise order'd

And every justice of the peace within this province, may cause Justices power to be stayed and arrested, all affrayers, rioters, disturbers or break-rioters &c. and ers of the peace, or any other who shall go armed offensively, or to punish the put his Majesty's subjects in fear, by menaces or threatning peace; by virtue of a paragraph speeches: And upon view of such justice, confession of the in an act past

#### LAWS OF THE PROVINCE

13th of W. 3d, for punishing criminal offend-ers.

2

offender, or legal proof of any such offence, the justice may commit the offender to prison, until he or she find such sureties for the peace and good behaviour, as is required, according to the aggravations of the offence; and cause the arms or weapons so used by the offender, to be taken away, which shall be forfeited and sold for his Majesty's use. And may also punish the breach of the peace in any person, who shall smite, or strike another, by fine to the King, not exceeding twenty shillings; and require bond with sureties for the peace, till the next court of general sessions of the peace, or may bind the offender over to answer for said offence at said court, as the nature and circumstances of the offence may

An act of 13th of W. 3d, for giving aid to sheriffs, &c.

That any of said justices, for the preservation of the peace, upon view of the breach thereof, or of any other transgression of the law proper to his cognizance, done, or committed by any person, or persons whatsoever, shall, and hereby is, impowered, in the absence of a sheriff, under-sheriff, or constable, to require any person, or persons, to apprehend and to bring before him, such offender or offenders: And every person, or persons that shall neglect, or refuse to obey any justice, or justices, in apprehending such offender, or offenders, being thereunto required as aforesaid, shall incur and suffer the like pains and penalties as is provided for refusing or neglecting to assist any sheriff, under-sheriff, or constable, in the execution of his office.

Justices power in civil cases by virtue of the act for establishing courts of justice in this province, past the 11th of W. 3d.

And every justice of the peace in this province, in the town or parish where he dwells, shall be, and hereby is, authorized and impowered to take cognizance of, hear, try, and determine, any civil action, wherein the demand is for any sum not exceeding forty shillings, arising within this province, in which the title of land, or any real estate is not concerned. And to give judgment for the debt, or damage, according to the nature of the action, with the legal cost, and grant execution thereon — And for that purpose to issue all necessary processes, which with the execution Direction of writs by 4th of G. r. prescribed by law. All writs issued writs by 4th of G. by any justice of the peace, shall be directed to the sheriff of forms. To be served 7 days be said province, his under-sheriff or deputy, or to any constable of fore the time of the town or parish where the person, on whom any such writ is to trial. be served, resides; and shall be executed seven days before the day therein appointed for the trial, and return'd to the justice who Pleas in abate issued the same, at or before the time of trial. And all pleas in ment and bar to be first made. abatement, and bar, in any such action, shall be made and enter'd, before any issuable plea is given.

And in case any person, on whom any writ issued by a justice Judgment may And in case any person, on whom any writ issued by a justice be given on detail of appear of the peace, has been duly serv'd and return'd, shall not appear at the time of trial, either by himself or attorney, the justice may enter judgment, in the absence of such party, according to the nature of the action and evidence produced by the plaintiff — And may also give judgment, where any Plaintiff shall become non-suit, or discontinue his suit for the defendant, for his legal cost - Provided, nevertheless, that any party aggrieved at the judgment or sentence of any justice of the peace, in any of the cases aforesaid, may appeal from the same, to the next inferior

Liberty of ap-

#### OF NEW HAMPSHIRE.

court of common pleas, to be held in and for said province; the party appealing, giving security before said justice, in a reasonable sum, to the appellee, to prosecute his appeal with effect, and to answer and pay such cost and damage, as shall be awarded against the appellant thereon, at the said court. And the party so appeal- How the appeal ing, shall observe the same rule in bringing forward his appeal, as forward, &c. is prescribed in this act, to appellants from judgments of the in-

ferior court, and have the same advantage.

And be it further Enacted, That there shall be held and kept, by court of general the justices of the peace within this province, or so many of them sessions of the peace by virtue as shall be limited by the commission of the peace, to make a of the said act of quorum, a court of general sessions of the peace at Portsmouth in said. The time said province, quarterly, every year; to begin on the second Tuestoff the act of the days of March, June, September, and December: Who are hereby into the continues for holding impower'd to hear and determine all matters relating to the continues for holding the several courts. servation of the peace, and punishment of offenders, appeals from of justice, &c. the sentences of justices in the criminal cases triable by them as aforesaid, and whatsoever is by said court cognizable according to law; and to give judgment and award execution therein.

And any person aggrieved at the sentence of the justices, in the Liberty to appeal And any person aggreed at the sentence of the justices, in the Liberty to appeal court of general sessions of the peace, may appeal from such sentence, the matter being originally heard and tried in the said court, of a pragraph in unto the next court of assize and general goal delivery, in said G. is, relating province there to be finally issued.—Provided that no appeal to sureties upon province, there to be finally issued. — Provided that no appeal mean process, shall be granted, unless it be claimed at the time of declaring the sentence, and the appellant enter into recognizance, with two sureties within the space of two hours next after, in a reasonable sum time and conditions of granting for his personal appearance at the court appealed to, and prosecu-said appeal. tion of his appeal there with effect, and to perform and abide by the order or sentence of the said court thereon, and to be of good behaviour in the mean time. And the party appealing is to remain in the hands or custody of an officer, until he or she shall have given such security, and the officer not to be allowed above twelve pence an hour for his time and attendance.

And such appellant shall, at his or her own cost, take out and How the appellant shall bring present unto the court appealed to, an attested copy of the sen-forward his aptence, and of all the evidences, upon which the same was grounded: peal. and the appellant shall pay the like fee, for the entry of his appeal in the court appealed to, as is by law required for entry of a civil action, and the like fee to the jury that shall try the same.

And be it further Enacted, That there shall be held and kept at Inferior court established by the said Portsmouth, at four terms, an inferior court of common pleas, sa by four justices, to be appointed and commissionated thereto, by 11th of W. 3d. the Governor or Commander in chief for the time being, any Time of the bethree of whom to make a quorum: The said terms to begin on ginning of each the first Tuesdays of March, June, September, and December, 31st of G. 2. annually. Which said inferior court shall have cognizance of, Actions of 405. hear, try, and determine, all civil actions, matters, and causes, value and under, to be commenced triable at the common law, of what nature, kind, or quality soever, of land excepted, appeals from judgments of justices of the peace in civil actions, by virtue of the act for regulating triable by them as aforesaid — Excepting that no action for the triable in civil actions, and the court of t value of forty shillings, and under, shall be commenced at the said conses, past 13th of W. 3.

3

Add. 24

#### LAWS OF THE PROVINCE

inferior court, unless the title of land, or any real estate, is concern'd.

Appeal granted by virtue of the act of 18th of W. Court of common pleas (the matter being originally heard and tried trials in civil there) may appeal from such judgment, to the next superior court there) may appeal from such judgment, to the next superior court of judicature, to be held within and for this province. The appellant entering into a recognizance with sufficient sureties, to prosecute his appeal there with effect, and to answer and pay all intervening damages occasion'd to the appellee by such appeal, with Execution stayed additional costs, in case the judgment shall be affirmed. And no execution shall be awarded or issued, on any judgment, from which an appeal is granted. The said recognizance shall be taken before the said inferior court of common pleas whilst sitting, or before one or more of the justices of the same, with the clerk, out of The time when it court, at any time within seven days, next after the judgment given, if the appeal is claimed in court. But if the security for In default there- prosecuting such appeal, shall not be so given, the clerk of said issue.

The default there- prosecuting such appeal, shall not be so given, the clerk of said issue.

Security to be given to prose-cute, &c.

Appellant to pro-duce a copy of the case.

And the appellant shall produce and give into the court where such appeal is to be tried, attested copies of the writ, judgment, and all the evidence filed in the inferior court of common pleas. And each party shall be allow'd the benefit of any new and farther plea or argument, in the trial on the appeal, and also any new evidence.

What shall be done if the ap-pellant shall not produce it.

And in default of producing such copies, in manner and form aforesaid, the appellant shall be non-suited, and judgment shall be enter'd for the appellee, upon his producing the copies and evidence necessary for that purpose, according to the nature of the

Superior court of judicature, court of assize, &c. so called by several acts viz. 10th stated by the said act of 31st of Geo. 2.

And be it further Enacted, That there shall be held and kept at Portsmouth aforesaid, at two terms in every year, a superior court of judicature, court of assize and general goal delivery, by one chief justice, and three other justices, to be appointed and comacts viz. 10th
Ann against forging the bills of credit; the
forging the bills of credit; the
first feating to sureties, &c. another of the time being, any three of whom to make a quorum. The one
ties, &c. another of said terms to begin on the third Tuesday of May, and the
office & duty of a
corone, &c. The
beginning of
each term now
the court shall have cognizance of all pleas, real, personal, or mixt, or
beginning of
each term now
any civil action or cause, as well between his Majesty and any of
stated bythe
size of the bills
of credit; the
missionated thereto by the Governor or Commander in chief for
the time being, any three of whom to make a quorum. The one
ties, &c. another
of said terms to begin on the third Tuesday of May, and the
court shall have cognizance of all pleas, real, personal, or mixt, or
each term now
the property of the court of the court of the court shall have cognizance of all pleas, real, personal, or mixt, or
each term now
the property of the court of the time being, any three of the duty of the court o his subjects as between one subject and another; whether the same do concern the realty, and relate to any right of freehold and inheritance, or whether the same do concern the personalty, and relate to matter of debt, contract, damage, or personal injury. And all mixt actions, which concern both realty and personalty, which shall be brought before them, by appeal, review, writ of error, certiorari, or in any legal way whatsoever. And all pleas of the crown, criminal actions, and causes, and whatsoever relates to the conservation of the peace, and punishment of offenders, whether the same be brought into said court by appeal, or any The power of the original process, according to law. And generally all other mat-King's Bench, ters, as fully and amply to all intents and purposes whatsoever, as

#### OF NEW HAMPSHIRE.

the courts of King's Bench, common pleas and exchequer, within his Majesty's kingdom of England have, or ought to have. And are hereby impowered to give judgment therein, and award execution thereupon.

And any party, aggrieved at the judgment given in the said Liberty of appeal superior court, in any civil action, may appeal from the same, and Council as a unto the Governor and Council, as a court of appeals, to hear and court of appeals for £100 sterling. determine such cases - Provided the value appealed for, or matter in controversy, exceed the sum of one hundred pounds sterling. And that sufficient security be given by recognizance or otherways, before the said superior court, to prosecute the said appeal with effect, and to pay all intervening damages as aforesaid, in case the judgment appealed from, shall be affirmed, with additional costs.

And in civil actions tried at the said superior court, if the mat-Liberty to appeal ter in controversy exceeds the true value of the sum of three court to the King hundred pounds sterling, either party to the suit, may appeal from in council for the judgment of said court, to his Majesty in council, whether the said judgment be given on the appeal, or review at said court. And such appeals may be made at any time within fourteen days after sentence or judgment is given, sufficient security being security to be given by the appellant, as the court shall direct, to the appellee, given to answer such cost and damage as shall be sustain'd by the appeal, in case the judgment appealed from shall be affirm'd.

And be it further Enacted, That all original writs, or writs of Original writs review, for bringing any civil actions or suits to trial, in the said what sort to be. inferior court of common pleas, or superior court of judicature, shall be summons, capias or attachment, and shall be issued in writs how issued the form directed in and by an act of this province, entituled "An Pass'd 4th of act prescribing forms of writs in civil causes"; and shall be under G. I. the seal, and signed by the clerk, of the court, to which it shall be returnable, and shall be executed by the officer to whom it is directed, fourteen days at least before the day of the sitting of the court to which it is to be returned.

And the justices of the several courts aforesaid, are hereby Courts power to authorized to make necessary rules, for the more orderly practice, make rules, ath W. 3. and management of the business of said courts respectively: Provided such rules are not repugnant to the laws of this province, nor to the rules of common law in use here.

And also as often as they shall judge it necessary and proper, And to chuse to chuse and appoint a clerk, to officiate in such court, and to do 13th W. 3. all things belonging to that office, who shall be under oath, well and truly to execute and discharge the same.

And be it further Enacted, That in all cases that are or shall courts power of be brought for trial in the said superior court of judicature, or inferior court of common pleas, where the forfeiture of the penalty of any obligation, with a condition, or penalty annexed to any articles, agreement, covenant, contract, charter-party or other specialty: or the forfeiture of any estate granted on condition, executed by deed of mortgage, or bargain and sale with defeazance, shall be found by verdict of a jury, or by default or confession of the obligor, mortgager, or vender, the justices of

Add. 26

5

#### LAWS OF THE PROVINCE

the said courts respectively where the trial is had, are hereby impowered, and authorized, to moderate the rigour of the law, and in consideration of such cases, according to equity and good conscience, to chancer such forfeiture, and to enter up judgment for the just debt and damages, and to award execution accordingly. Only in real actions, upon mortgage, or bargain and sale with defeazance, the judgment to be conditional; that the mortgager or vender, his heirs, executors, administrators, or assigns, pay to the plaintiff, such sum as the court shall determine to be justly due thereon, within two months, to be computed from the date of the judgment in such case. And in default thereof that the plaintiff recover possession of the estate sued for, and have execution for the same accordingly.

Justices of each court to be sworn.

And each of the justices of the superior court of judicature, court of assize and general goal delivery, and each of the justices of the inferior court of common pleas, shall, before their entering upon the execution of their respective offices, take the following oath, to be administred by the Governor or Commander in chief for the time being, or such as shall be by him thereunto

Oath.

6

poor and rich, according to the laws in force within this province, and usage within the same; and in such cases as the law doth specially provide to be relieved in equity, and good conscience, without having regard to any person whomsoever. So help you God.

Pass'd 13th of W. 3.

AN ACT FOR REGULATING OF TRIALS IN CIVIL CASES.

Be it Enacted by the Lieutenant Governor, Council, and Representatives, convened in general assembly, and by the authority of the same:

Actions for more than 40s. to be commenced at the inferior court; shillings value, as also titles of land, shall be demand above forty shillings value, as also titles of land, shall be the inferior court; excepting causes wherein the King is concern'd, which may be at either the inferior court of common pleas, (excepting only actions or causes relating to the Crown, which may be tried at either the inferior court of common pleas, or the superior either into or support. All process to be in English. Not to abate for circumstantial errors.

And that all writs, processes, declarations, indictments, pleas, answers, replications, and entries, in the several courts of justice within this province, shall be in the English tongue, and no other. And that no summons, process, writ. indement. or other proceedings in court, or course of justice, writ, judgment, or other proceedings in court, or course of justice, shall be abated, or arrested, or reversed for any kind of circumstantial errors, or mistakes, where the person and case may be rightly understood and intended by the court, nor through defect or want of form only; and the justices on motion made in court may order amendment thereof.

Costs to be grant-

And it is further Enacted by the Authority aforesaid, That if any person shall cause process to be served upon another on pre-

Add. 27

terpolition disarmed of her natural weapons, free argument and debate, errors ceasing to be langerous when it is permitted freely to contradict them:

1786.

II. BE it enacted by the General Affembly, That no man shall be compelled to frequent No man comor support any religious worship, place, or Ministry whatsoever, nor shall be enforced, restrained, mosested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by All men free argument to maintain, their opinions in matters of religion, and that the first state of religion and that the first state of religion and that the first state of the first state argument to maintain, their opinions in matters of religion, and that the same shall in no wife diminish, enlarge, or affect their civil capacities.

to profess, and by argument to maintain

III. AND though we well know that this Affembly elected by the people for the ordinary purposes of legislation only, have no power to restrain the Acts of succeeding Assemblies, 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 irrevocable, would be of no effect in law; yet we are free to declare, and do declare, that the rights of mankind, and that if any Act shall the rights of mankind, and that if any Act shall kind. be hereafter passed to repeal the present, or to narrow its operation, such Act will be an infringement of natural right.



General Assembly, 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.

#### XXÍ. C H A P.

An Act forbidding and punishing Affrays.

[Passed the 27th of November, 1786.]

E it enacted by the General Assembly, That no man, great nor small, of what condition foever he be, except the Ministers of Justice in executing the precepts of the Courts of Justice, or in executing of their office, and such as be in their company assisting them, be so hardy to come before the Justices of any Court, or other of their Ministers of Justice, or the Commonwealth, and their bodies to prison, at the pleasure of a Court; nor go nor ride armed by might nor by day, in fairs or markets, or in other places, in terror of the Country, upon pain of the Country arrested and committed to prison by any Justice on his own view, or proof by others of being arrested and committed to prison by any Justice on his own view, or proof by others, there to abide for fo long a time as a Jury, to be fivorn for that purpose by the said Justice, shall direct, and in like manner to forfeit his armour to the Commonwealth; but no person shall be imprisoned for such offence by a longer space of time than one month.

#### C H A P. XXII

An AEt against Conspirators.

[Passed the 27th of November, 1786.]

E it declared and enacted by the General Affembly, That Conspirators be they that do confederate and bind themselves by oath, covenant, or other alliance, that every of them
spirators. shall aid and bear the other falfely and maliciously, to move or cause to be moved any indictment or information against another on the part of the Commonwealth, and those who are convicted thereof at the fuit of the Commonwealth, shall be punished by imprisonment and amercement, at the diferetion of a Jury.

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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# COLLECTIO

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# STATUTES

OF THE PARLIAMENT O.

ENGLAND.

IN FORCE IN THE STATE OF ...

# NORTH-CAROLINA.

By FRANCOIS-XAVIER MAKEN, Esq.
COUNSELLOF LAW.

NEWBERN:

1792.

(60)

### C H A P. VIII.

## Nothing Shali be taken for Beaupleader.

TEM, Whereas some of the realm have grievously complained, that they be grieved by Sherists, naming themselves the King's approvers, which take money by extortion for Beaupleader, the King will, that the statute of Marlebridge shall be observed and kept in this point.

### C H A P. XIV.

## None Shall commit Maintenance.

ITEM, Because the King desireth that common right be administered to all persons, as well poor as rich, he commandeth and desendeth, that none of his Countellors, nor of his house, nor none other of his Ministers, nor no great man of the realm by himself, nor by other, by sending of letters, nor otherwise, nor none other in this land, great nor small, shall take upon them to maintain quarrels nor parties in the country, to the let and disturbance of the common law.

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

#### CHAP. I.

A Confirmation of the Great Charter and the Charter of the Forest.

[Unnecessary to be inserted.]

#### C H A P. III,

No Man shall come before the Justices, or go or ride armed.

TEM, It is enacted, that no man great nor finall, of what condition forver he be, except the King's fervants in his prefence, 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 such acts happen, be so hardy to come before the King's Justices, or other of the King's

## (61)

Ministers doing their office with force and arms, nor bring no force in an astray of peace, nor to go nor ride armed by night nor by day, in fairs, markets, nor in the presence of the King's Justices, or other ministers, nor in no part elsewhere, upon pain to forseit their armed to the King, and their bodies to prison at the King's pleasure. And that the King's Justices in their presence, Sheriffs and other ministers, in their bailiwicks, Lords of Franchises, and their bailiffs in the same, and Mayors and Bailiffs of cities and boroughs, within the same etties and boroughs, and borough-holders, 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 officers and lords have exercised their offices in this case, and to punish them whom they find that have not done that which pertain to their office.

### C H. A P. V.

## The Manner how Writs shall be delivered to the Sheriff to be enecuted.

TEM where it was ordained by the statute of Westminster the second, that they which will deliver their writs to the Sheriff shall deliver them in the sull county, or in the rere county, and that the Sheriff or Under-Sheriff shall thereupon make a bill: it is accorded and established, 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 shall receive the same writs, and make a bill after the form contained in the same statute, without taking any thing therefore. And if they resule to make a bill, others that be present shall set to their seals, and if the Sheriff or Under-Sheriff do not return the said writs, they shall be punished after the form contained in the said statute. And also the Justices of Assize shall have power to enquire thereof at every man's complaint, and to award damages, as having respect to the delay, and to the loss and peril that might happen.

#### C H A P. VI.

Justices shall have Power to punish Breakers of the Peace.

ITEM, as to the keeping of the peace in time to come, it is ordained and enacted that the statutes made in time past, with the statute of Winchester, shall be observed and kept in every point: and where it is contained in the end of said statute of Winchester, that the Justices assigned shall 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 seen, the same Justices shall have power to punish the offenders and disobeyers.

## In the Year of our LORD, 1795.

436

#### Criminal Offenders.

on faid fence, till it comes to the land improved by George Summer; then through faid land nearly the fame course, till it coines to the fouth-west corner of said George Sumner's home meadow, so called ; then turning and running casterly in said meadow, as the ditch which forms the fence is made, till it comes to the fouth end of Benjamin Hawes's meadow; then in the line between faid Hawes's meadow, and the land of William Richards; then in the line between faid Richards's home lot, and the meadow lots, till it comes to Cumming'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 westerly on said river, till it comes to Trapbole brook; thence on faid brook, till it comes to the bounds first mentioned-shall be considered as one Common and General Field; and that the proprietors of faid lands, their heirs and fuccessors be, and they hereby are incorporated and invested with all the powers and privileges which the proprietors of Common and General Fields by Law are invested with.

[This Act passed January 22, 1795.]

#### C H A P. II.

An Act for repealing an Act, made and passed in the year of our Lord, one Thousand six Hundred and Ninety-two, entitled, "An Act for punishing Criminal Offenders," and for re-enacting certain Provisions therein.

Aft repealed.

E it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the said Act be, and hereby is repealed, and made wholly null and void.

Juffices of the Peace empowcred. Act be, and hereby is repealed, and made wholly null and void.

And be it further enacted by the authority aforefaid, That every Juftice of the Peace, within the county for which he may be commiffiened, may cause to be staid and arrested, all assrayers, 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 Commonwealth, 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 sind furctics for his keeping the Peace, and being of the good behaviour; and in want thereof, to commit him to prison until he shall comply with such requisition: And may further punish the breach of the Peace in any person that shall assault or strike another, by sine to the Commonwealth, not exceeding twenty shillings, and require sureties, as aforesaid, or bind the offender, to appear and answer for his offence, at the next Court of General Sessions of the Peace, as the nature or circumstances of the case may require.

[This Act passed January 29, 1795.]

C H A P.

1801. co unty, shall proceed against such offender, in the same man-

ner as is heretofore prescribed for vagrants.

Keepers of ing tables deemed vagrants. 1811,

3. Be it enacted, That all and every keeper or keepers, excertain gam- hibitor or exhibitors, of either of the gaming tables commonly 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 c. 112, s. 1, 2, 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 grants. April

4. Be it enacted, That it shall not be lawful for any house harboring va- keeper to harbor any idle person of the character aforesaid, 1784, c. 34, s. for any longer time than is heretofore specified, under the penalty of twenty dollars for every such offence, to be recovered by warrant before any justice of the peace of the county

where the offence is committed.

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

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 agreeable to this act: And provided, he 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.

Penalty for failing.

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 Proceedings carry any dirk, large knife, pistol or any other dangerous weapon, to the fear or terror of any person, it shall be the sons going ar- 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 he 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.

against permed contrary to this act.

Felony to s. 13.

7. Be it enacted, That if any person or persons shall unlawmaim or disfi- fully cut out or disable the tongue, put out an eye, slit a nose, son, &c. Dec. bite or cut off a nose, ear or lip, or cut off or disable any 1754, ch. 15. limb or member, or stab any person whatsoever, in doing so, 1807, ch. 73, 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 hereby declared to be felons, and shall suffer as in case of felony: Provided nevertheless, he or they shall be entitled to benefit of clergy, and be further liable to an action of damages to the party injured. Add. 34

## CHAPTER LXXVI.

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

BE it enacted by the Senate, and House of Repre-general jurissentatives, in Legislature assembled, That it shall be within diction of Justice of the power, and be the duty of every Justice of the Peace Prace, and their duty in crimin. within his county, to punish by fine not exceeding five dol-al cases, in arrange lars, all assaults and batteries that are not of a high and ag-recognizing and gravated nature, and to examine into all homicides, mur-tenders. 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 offences 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 all fines and forseitures bye-laws of accruing for the breach of any bye-law, in any town within towns may be prosecuted bethis State, may be prosecuted for, and recovered before any fore laws of the Peaces of the Peaces. Justice of the Peace in the town or county where the offence the Peace. shall be committed, by complaint or information, in the same way and manner other criminal offences are prosecuted be-

fore the Justices of the Peace within this State.

SEC. 3. Be it further enacted, That any person aggrieved Persons aggreed may at the sentence given against him, by any justice of the Peace, appeal to the may appeal therefrom to the next Circuit Court of Common Com. Pleas. Pleas to be held within the same county, and shall, before his appeal is granted, recognize to the State in such reasonable with sureties, sum, not less than twenty dollars, as the Justice shall order, with sufficient surety or sureties for his prosecuting his appeal; and shall be held to produce the copy of the whole process, and produce and all writings filed before the Justice, at the Court appeal- at C. C. Com-

ecute his ap-peal, his de-fault to be entered.

Court may order such case to be laid be-

Justices may command assistance of sheriff, deputies and conaffrays, &c.

Justices may, on their own view, (in abquire any pear ton to appre-hend offenders.

fusing to obey such Justice.

If the Justice be known or declared-plea his office not admissible.

Justices may grant subpœ-

But not on behalf of the State without consent of Attorney Gener-Attorney, except before himself.

Justices to account annually all fines, &c.

Penalty for negleci.

Failing to prose ed to. And if he shall not there prosecute his appeal, and 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 fore Grand Ju- cause him thereby to be brought before them, and when he ry, or arrest appellant, and is so in Court, shall affirm the sentence of the Justice against affirm sentence, him, with all additional costs.

Sec. 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 atables at riots, 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 for the preservation thereof, or upon view of the breach theredeputies or con- of, 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-Penalty for re- fenders. And every person so required, who shall refuse or 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 declared-plea 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 nas for witnes, within their respective counties, be, and they are hereby auses in criminal thorized and empowered to grant subpœnas 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 subpoenas 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.

Sec. 7. Be it further enacted, That the Justices of the to state, coun-Peace shall account annually with the Treasurer of the State, ty and Town Treasurer of their respective counties, and the town Treasurers for the Treasurer of their respective counties. surer, 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.

Be it further enacted, That all civil actions, where-diction in civil in the debt or damage does not exceed twenty dollars, (and action in civil where wherein the title of real estate is not in question, and special-tate is not in ly pleaded by the defendant,) shall, and may be heard, tried, question,) to extend to 20 adjudged and determined by any Justice of the Peace within dollars. his county; and the Justices are severally empowered to grant Justices mey issummons, capias and attachment, at the request of any per-capias, attach-son applying for the same, directed to some proper officer ment, &c. within the same county, empowered by law to execute the same. And such summons or capias and attachment shall be served days her 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 proceedings beduly served, the party sued, after being duly called, shall not 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 Judgment, &c. give judgment against him for such damages as he shall find it plaintiff prothe 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 Damager not to to have sustained: Provided, That no more damages than the exceed 20 dol-sum of twenty dollars shall be awarded in any action origin-lars. ally brought or tried before a Justice of the Peace; but if the Judgment in 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 Executions 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 Justice to have or several sums, specified, expressed or supposed to be de-jurisdiction manded by the plaintiff in his declaration, shall not be con-damam does not exceed 20 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 aggrieved at the judgment of any Justice of the Peace, in a civil action, to C. C. Comwhere 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 —Must recognize to proseallowed, recognize with a surety or sureties, in such reasonatute. ble 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 at C. 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 that Court. if the cause had been originally commenced there. And no No further apother appeal shall be had on such action after one trial at the real. Circuit Court of Common Pleas. And the Circuit Court of Defendant in Circuit Court of Common Pleas, when any person recognized as before menticed bring for-

#### POWER OF JUSTICES.

ward the ac-

ing to proseplaint judgment may be affirmed.

In action of trespass when defendant fileads title to real estate mode of pro-ceeding before Justice.

in such cases Pleas to S. J. Court.

General issue nony be plead in all actions where title to real estate is fendant.

Justices may grant subpænas in all civil actions.

May adjourn their Courts by

No Justice to be of counsel in any snit before himself.

tioned to bring forward an action of trespass, doth neglect to tion according to it, upon complaint thereof made in writing by the plaintiff, nizance. Plain 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 full-the Circuit Court of Common Pleas shall, when any appellant cute, on com- 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 complaint, and award such additional damages as shall have arisen in consequence of the said appeal, and

Sec. 11. Be it further enacted. That when an action of trespass 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 Appeal allowed he had refused to make answer to the same suit. And either party in such cause, shall be allowed to appeal from the judgment 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 tresbefore Justices pass wherein the defendant means to avail himself, by pleadand special matter given in ing the title of himself or any other person under whom he evidence except 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 notwithstand-

Sec. 13. Be it further enacted, That each Justice of the Peace may grant subpoens 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 proclamation: 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.

SEC. 14. Be it further enacted, That when an executor or In case of administrator shall be guilty of committing waste, whereby utor or administrator shall be guilty of committing waste, whereby utor or administrator, Justice is rendered unable to pay the judgment recovered before may proceed as any Justice of the Peace, against the goods and estate of the C. C. C. Pleas deceased in his hands, out of the same the Justice may are cases. deceased in his hands, out of the same, the Justice may pro- cases. 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 Justice to keep Peace shall keep a fair record of all his proceedings; and record of his when any Justice of the Peace shall die before a judgment proceedings. given by him is paid and satisfied, it shall be in the power of shall die before any Justice of the Peace in the same county to grant a scire in judgment facias upon the same judgment, to the party against whom satisfied 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 always, 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 Justice to whom have complaint made to him, that a judgment given by a Jus- complaint is tice of the same county then deceased, remains unsatisfied, cases may sumshall issue his summons to the person in whose possession the possessing the record of the same judgment is, directing him to bring and to record to proproduce to him the same record; and if such person shall con-

may punish the contempt by imprisonment, until he shall pro-

SEC. 16. Be it further enacted, That all Justices of the Justices, whose Peace before whom actions may be commenced under for expire before mer commissions, and such commissions shall expire before satisfaction, judgment shall be rendered thereon, or judgment being ren-under a new dered, the same remains in whole or in part unsatisfied, such commission, Justices of the Peace who shall hereafter have their said pointed to render the rendered thereof the rendered the rendered thereof the rendered thereof the rendered commissions seasonably renewed, and being duly qualified &c. 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-

tice, shall be allowed in evidence in all cases, where an au-

thenticated copy of the original might be received.

temptuously refuse to produce the same record, or shall refuse Punishment for to be examined respecting the same, upon oath, the Justice

duce 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 the record is shall transcribe the same upon his own book of records, be-produced, to transcribe it fore he shall issue his scire facias; and shall deliver the originate his own records. into his own records. into his own records. It and copy of such transcript to be a copy of such transcription, attested by the transcribing Jus- evidence.

#### RECOVERY OF DEBTS.

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.]

-:00:--

# CHAPTER LXXVII.

An Act providing a speedy Method of recovering Debts, and for pre-... venting unnecessary costs attending the same.

Sec. 1. DE it enacted by the Senate and House of Representatake recogniz. tives, in Legislature assembled, That every Justice of the Peace ances for debts. 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:—

nizance.

Know all men, that I, A. B. of , in the County of , to be paid to the Form of reeog- do owe unto C. D. of , the sum of day of ; and if I shall fail of said C. D. on the 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 Witness, my hand and seal Lord

ss. Acknowledged the day and year last abovesaid.

Before E. F. Justice of the Peace.

To be recorded by the Justice.

Sec. 2. Be it further enacted, That every Justice of the Peace 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 may the Conusec; and upon the Conusee's lodging the same with within 3 years, the 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, Greeting.

Form of execu-

, in the County of , on the Because A. B. of , in the year of our Lord before E. F. Esq. 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 remains unpaid as it is said day of , and

: 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 value

# TITLE FIFTEENTH.

# Of Justices of the Peace.

- CHAPTER 97. General powers, duties and jurisdiction of justices in criminal cases.
  - Jurisdiction in bastardy cases. 98.
  - 99. Justices' jurisdiction in civil cases of debt.
  - 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 JURISDICTION OF JUSTICES IN CRIMINAL CASES,

Sec. 1. Number in the several counties.

- Power to issue process.
   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 KEEP THE PEACE.
- 8. Power to punish assaults and batteries. Form of binding to answer charge. Binding witnesses to appear.
- To permit parties to settle cases of assault 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. To cause arrests of peace breakers, &c.,
- &c.
  14. To fine drunkards and swearers.
  15. To punish those who resist authority.
  16. Mode of proceeding in criminal cases.
- 17. After arrest.
- 18. The examination, 19. The commitment or binding to appear. Binding witnesses.
- 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
    - 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, &c.
    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. by slaves.

  - 35. Duty to attend elections; penalty.

# Number.

2003 Number.

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.

New Cas

Kent. Sussex.

# General powers and duties.

2004 May issue process.

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 on Aid God 1

Forms

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 goods.

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 subpocuas before himself, and in all civil cases pending before any magistrates, referees, arbitrators, or other persons authorized to examine witnesses.

SEC. 5. He may administer oaths in all cases where an oath is caths.

required by law.

SEC. 6. Every justice of the peace may punish such disorderly power to conduct as shall interrupt any judicial proceedings before him, or possist conbefore referees appointed by him, or which shall be a contempt of tempts. 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 Power to acpeace, upon view of any affray, riot, assault, or battery, within his rest without 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:

Commit-

 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 into 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 outh by G. H. with (here state the oflence), 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 there safely keep until he be thence delivered by due course of law.

 $\{\widetilde{LS}\}$  Given under my hand and seal this — day of — J. J. P.

Binding to keep the peace and for appearance at court may be in Binding 100 this form: 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 con-DITION, 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

Add. 42

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—.

Power to punish assaults and batteries.

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.

2014 Binding to ANSWER CHARGE.

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 — 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 county aforesaid, there to answer such matters and things as shall be objected against 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.

Tuken, signed and acknowledged before E. F., a justice of the peace

2015 Binding a witness to appear.

2016

Parties may

settle assaults and

batteries.

2017 Not to re-

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.

Sec. 9. In every case of assault and battery the justice may permit the parties to settle the matter; and either discontinue the pro-

ceedings or annul any recognizance, on payment of costs.

Sec. 10. He shall, in no case, receive a fine, or costs, imposed by ceive fines. him; but upon imposing any fine, he shall charge a constable present with the defendant, and enter 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 To certify of accounts, by mall, on the first Tuesday of April and October in anes to and ditor. each 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; renalty 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 injure him in person, or estate, shall, on proof of such threats, be-bind over fore a justice of the peace, either by the oath of the party threat for THREATS ened, or otherwise, and on affidavit, by the said 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.

SEC. 13. Any justice of the peace may also cause to be arrested 2020 To cause arand bind to surety of the peace all affrayers, rioters, breakers and rests. disturbers of the peace, and all who go armed offensively to the ter-

for of the people, or are otherwise disorderly and dangerous. SEC. 14. He may also cause to be arrested any drunken person, prinkards; or any person who, in his hearing, shall profanely swear by the name swearers 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 2022 court of justice, magistrate, or justice of the peace, shall use abusive, mose who 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, al- 2023 leging that an offence has been committed, the justice shall carefully was in coexamine the complainant on oath, or affirmation, and if he considers complaint. there is probable ground for the accusation, he shall issue his warrant.

A warrant of arrest may be in this form:

2021 Warrant of

The State of Delaware, County, ss. To any constable of said county, greeting:

—— hath upon oath (or affirmation) before me, Whereas G. H. of a justice of the peace of said county declared that on the - day of (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 hereby commanded to take the said

Add. 44

43

Case: 18-55717, 11/27/2018, ID: 11100861, DktEntry: 39-2, Page 48 of 210

LAWS OF THE

334

C. D. and bring him before me, or some other justice of the peace of the county, forthwith, to answer said charge.

E.S. Witness the hand and seal of the said justice, the - A. D. 18-.

2025 How die rected. 2026

Proceeding

on arrest.

2027 Examina-

ting.

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.

Suc. 18. He shall examine the party accused, taking his voluntary declarations, without threats, or promises, and shall also ex-

Voluntary declarations amine the witnesses in the presence of the accused.

2028 If the offence is a felony, he shall reduce the examination of the In felonies to be in wri- 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.

2031

witnesses.

2022 [2014, &c.]

Fee.

2020

Testimony

in writing.

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.

He shall also bind material witnesses for their appearance, withllinding the out surety, unless he believes the witness will not appear, and that 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 re-

cognizance, as provided in section 8.

SEC. 20. Each justice of the peace shall deliver every recogni-2033 recognizan zance, 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 receive one dollar from the county if the service be rendered ten days before the court.

2034 SEC. 21. He shall indorse on the recognizance the names of the witnesses to material witnesses, and the clerk shall issue subpoenas for their ap-

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- Daty to arplaint, all persons found within his county charged with any offence; rest persons and all persons who, after committing any offence in such county, against.

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 where exeofficer, having it in hand, may command aid as in his own county; 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 pearance directed, and security for the appearance of a witness, shall be given how taken by recognizance. Each judge of the Superior Court, and every jus- By whom. tice 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 commit security, 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 than the charged

such person to be brought before him for that purpose.

SEC. 26. A capital offence shall not be bailable; but the Court capital of General Sessions of the Peace and Jail Delivery, when in session, cases. 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 how appears that there is good ground to doubt the truth of the accusa- inken tion. On such inquiry, the justice, or officer who committed the accused, shall be summoned, and care shall be taken to hear the proper witnesses.

SEC. 27. When a person arrested by virtue of process issued upon an indictment, or presentment, except for a capital crime, and ex-Bail months 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 How deter 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-by shorio 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.

Add. 46

# LAWS OF THE

Search warand how to be issued.

Sec. 29. Any justice of the peace, or other magistrate authorized rants, when 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:

2043 Complaint in writing.

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.

2044 How directed.

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 night.

A search warrant shall not authorize the person executing it to may be exe 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.

2046 Power to try offences by SLAVES.

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 tor costs.

SEC. 31. Any two justices of the peace for the county shall have two institutes 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

2047 Power of to try offences by SLAVES.

> 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 provided in chapter 80.

2048 Order on master to pay costs,

[1577.]

They shall indorse on any process for the arrest of a slave under 2049 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, To be veriuntil 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 Duty of exorffice, and the appointment of another, it shall be the duty of such ecutors of a justice, or his executors, or administrators, to deliver all his dockets respect to and records, within three months, to his successor in office, if appointed 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 Duty of justice of the legal fee, to make and certify, undice to give der his hand and seal, a true transcript of all the docket entries TRANSCRIPT. 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 on appeals.

Dpon a certification, the justice shall make a on certification.

full copy of the entire record and proceedings.

If any justice of the peace shall, upon such request and payment, Penalties 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, Originals

require the production of the original record.

SEC. 35. Every justice of the peace shall attend, at the place of quired.
election in his hundred, on the day of every general election, or put 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 duty, or to obey the lawful commands of the inspector of such election, he shall be deemed guilty of a misdemeanor and shall be fined

one hundred dollars,

Add. 48

#### LAWS OF NEW MEXICO.

Challenges.

SEC. 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.

Panel how completed.

SEC. 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.

Sec. 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 otherwise.

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

Carrying weapons prohibited. 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.

First conviction fine.

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, shall 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 conviction, the party convicted shall be imprisoned in the county jail for a term of not less than three months, nor for more than one year, also at the discretion of the court trying the cause.

Second conviction. imprisonment.

#### LEYES DE NUEVO MÉJICO.

son dispuestos antes. En los condados de San Miguel, Rio Arriba, y Bernalillo, el primer lúnes 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- Recusas. visiones de este acto, cada una de las partes tendrán derecho de desechar perentoriamente tres jurados y no mas.

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

95

SEC. 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 ó de otra manera.

Decrétese por la Asamblea Legislativa del Territorio de Nuevo Méjico:

Secoron 1a. Que desde y despues del pasaje de este acto no Porte de armas 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, ó cualesquiera otra arma mortífera 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 Primera conportare sobre su persona, ya sea oculta o de otra manera, cualesquiera arma mortífera de la clase y descripcion mencionada en la seccion anterior, la persona o personas que así 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 la corte

viccion, multa.

#### LAWS OF NEW MEXICO.

Penalty for discharging or drawing weapons. 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.

Penalty for cutting or wounding in assemblies. 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 degree.

In case of death, to be deemed murder

Duty of sheriffs and constables to arrest. SEC. 5. Be it further enacted: That it shall be the duty of the sheriffs, their 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 examined; 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 county, the sheriffs and their deputies 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.

Sheriffs and constables to take oath.

Officers excus-

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 execution 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 travellers, to carry any deadly weapons, as mentioned

Travellers excused.

#### LEYES DE NUEVO MÉJICO.

que conozca la causa en la primera conviccion bajo esta ley; y por la segunda conviccion, la parte convicta será encarcelada en la cárcel del condado por un término que no baje de tres meses ni pase de un año, tambien á la discrecion de la corte que conozca en la causa.

Segunda conviccion, encar-celarmiento.

97

- SEC. 3. Decrétese ademas: Que si cualesquiera persona Disparando disparare ó sacare cualquier arma mortífera, de la clase ó descripcion citada en la primera seccion de este acto, en cualesquiera baile ó fandango, ó en cualesquiera otra reunion pública, de la clase que sea, la persona que así 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. Decrétese ademas: Que si cualesquiera persona en Hiriendo en realgun baile ó fandango, ó en otra concurrencia pública de la uniones públicas, pena de. clase y descripcion que sea, disparare ó descargare alguna arma de fuego de la clase mencionada en la seccion primera de este acto, ó que cortare ó hiriere á alguna persona con cualesquiera descripcion de armas mortiferas mencionadas en la primera seccion de este acto, en algun baile ó fandango, ú otra concurrencia pública, y resultare alguna muerte de la tal herida ó cortada así dada, la persona que así hiriere ó cortare, sobre conviecion, será considerada culpada de muerte en el primer Muerte en prigrado, y sufrirá la pena de muerte en dicho primer grado.

mer grado.

SEC. 5. Decrétese ademas: Que será el deber de los algua- Deberes de los ciles mayores, sus diputados, ó condestables, de arrestar y tomar toda persona que sea hallada con armas mortiferas, de dar flanzas. la clase y descripcion mencionadas en la primera seccion de este acto, y presentar lasá algun juez de paz, ú 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 mayores y sus diputados presten juramento que ellos bien y fielmente cumplirán con las provisiones de este acto, y arrestarán en todo tiempo á todas las personas que violaren cualesquiera de las provisiones de este acto.

SEC. 6. Decrétese ademas: Que ninguno de los provisos de Viajeros, &a., este acto serán aplicables al alguacil mayor, sus diputados, ó

#### LAWS OF NEW MEXICO.

in the first section of this act, on their persons, after they shall have arrived at the town or settlement.

Judges to give this act in charge. SEC. 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.

Repealing clause.

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.

To be published.

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 people.

[Translation.]

# An Act regulating Mercantile Copartnerships.

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

Who may enter into.

SECTION 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.

Good faith to be observed. 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.

Articles what to contain and before whom made. 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-

# Laws passed in 1686.

289

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 every town, village, hamlet, or neighbourhood, for preventing all harms by swine, in town, meadows, pastures and gardens, in any respect, and to impose penalties according to their best discretions.

# Chap. VIII.

# An Act appointing some new Commissioners of the Highways.

WHEREAS there was an act made in the year 1682, for the county of Monmouth, to enable Col. Lewis Morris, John Bound, and Joseph Parker, to lay out highways, passages, ferry's, and making bridges and such like; there being three of those persons disenabled for the true performance of the said services, be it therefore enacted by the Governor, Council and Deputies now met and assembled, and by the authority of the same, that John Frogmerton, John Slocame, and Nicholas Brown, in the stead and room of Col. Lewis Morris, John Bound, and Joseph Parker, be made capable and hereby 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 said acts.

# Chap. IX.

# An Act against wearing Swords, &c.

WHEREAS there hath been great complaint by the inhabitants of this Province, that several persons wearing swords, daggers, pistols, dirks, stilladoes, skeines, or any other unusual or unlawful weapons, by reason of which several persons in this Province, receive great abuses, and put in great fear and quarrels, and challenges made, to the great abuse of the inhabitants of this Province. Be it therefore enacted by the Governor, and Council, and Deputies now met in General Assembly, and by authority of the same, that no person or persons within this Province, presume to send any challenge in writing, by word of mouth,

# Laws passed in 1686.

or message, to any person to fight, upon pain of being imprisoned during the space of six months, without bail or mainprize, and forfeit ten pounds; and whosoever shall except of such challenge, and not discover the same to the Governor, or some publick officer of the peace, shall forfeit the sum of ten pounds; the one moiety of the said forfeiture to be paid unto the Treasurer for the time being, for the public use of the Province, and the other moiety to such person or persons as shall discover the same, and make proof thereof in any court of record within this Province, to be recovered by the usual action of debt, in any of the said courts. And he if further enacted by the authority aforesaid, that no person or persons after publication hereof, shall presume privately to wear any pocket pistol, skeines, stilladers, daggers or dirks, or other unusual or unlawful weapons within this Province, upon penalty for the first offence five pounds, and to be committed by any justice of the peace, his warrant before whom proof thereof shall be made, who is hereby authorized to enquire of and proceed in the same, and keep in custody till he hath paid the said five pounds, one half to the public treasury for the use of this Province, and the other half to the informer: And if such person shall again offend against this law, he shall be in like manner committed supon proof thereof before any justice of the peaces to the common gaol, there to remain till the next sessions, and upon conviction thereof by verdict of twelve men, shall receive judgment to be in prison six month, and pay ten pounds for the use aforesaid. And be it furthere muched by the authority aforesaid, that no planter shall ride or go armed with sword, pistol, or dagger, upon the penalty of five pounds, to be levied as aforesaid, excepting all officers, civil and military, and soldiers while in actual service, as also all strangers, travelling upon their lawful occasions thro' this Province, behaving themselves peaceably. Снар. 134. Sect. 1.

PART IV.

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 abolished, 1784, 56 & 69.

748

SECT. 15. The plea of benefit of clergy, and the distinction between murder and petit treason, are abolished, and the last named offence shall be prosecuted and punished as murder.

# TITLE II.

# Of proceedings in criminal cases.

CHAPTER 15	4. Of proceedings to prevent the commission of crimes.
CHAPTER 18	<ol><li>Of the arrest and examination of offenders, commitment for trial, and taking bail.</li></ol>
CHAPTER 13	6. Of indictments and proceedings before trial.
CHAPTER 18	7. Of trials in criminal cases.
CHAPTER 1S	3. Of appeals, new trials, and exceptions, in criminal cases.
CHAPTER 15	<ol><li>Of judgments in criminal cases, and the execution thereof.</li></ol>
CHAPTER 14	O. Of coroners inquests.
CHAPTER 14	<ol> <li>Of the taxation, allowance and payment of costs in crim- inal prosecutions.</li> </ol>
CHAPTER 14	2. General provisions concerning proceedings in crimina

# CHAPTER 134.

#### OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIMES.

#### SECTION

1. Officers, authorized to keep the peace.

cases.

- 2. Complaint, how made.
- 3. Arrest.
- 4. Trial-Recognizance to keep the peace.
- 5. Party, when to be discharged.
- 6. Refusing to recognize, to be committed.
- 7. Complainant, when to pay costs.
- 3. Payment of costs in other cases.
- 9. Appeal allowed.
- 10. On appeal, witnesses to recognize.
- 11. Proceedings upon an appeal.
- 12. Recognizance, when to remain in force.

#### SECTION

- 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.
- Court may remit part of penalty forfeited.
- Surety may surrender his principal, who may recognize anew.

Officers' author- Section 1. The justices of the supreme judicial court, the justiced to keep the tices of the court of common pleas, justices of police courts, in vacapeace.

#### Снар. 134. Sect. 2-9. TITLE II.

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 beha-

vior, 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 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 to keep the the magistrate shall direct, to keep the peace towards all the people 4 Mass. 497. of this Commonwealth, and especially towards the person requiring \$\frac{8 \text{ Mass. 78.}}{2 \text{ B. & A. 278.}} such security, for such term as the magistrate may order, not exceed- 1833, 63, 55 1, ing six months, but shall not be bound over to the next court, unless & 2, 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 Refusing to reneglect to comply with such order, the magistrate shall commit him committed. to the county jail, house of correction, or house of industry, during 1833, 63, § 1 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.

SECT. 7. If, upon examination, it shall not appear that there is Complainant just cause to fear that any such offence will be committed by the par- costs. ty 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. S. 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 cases. before justices in criminal prosecutions; but in all cases, where a per- 1824, 128, § 2. son is required to give security for the peace, or for his good be- 1834, 151, § 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.

Any person aggrieved by the order of any justice of Appeal allow-SECT. 9. the peace, or of a police court, requiring him to recognize as afore- 1833, 63, 61.

749

said, may, on giving the security required, appeal to the court of common pleas, next to be held in the same county, or, in the city of Boston, to the municipal court.

On appeal, witnesses to recognize.

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.

Proceedings on appeal.

The court, before which such appeal is prosecuted, SECT. 11. 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.

Recognizance, when to remain in force.

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.

Persons committed for not

Any person, committed for not finding sureties, or re-SECT. 13. fusing to recognize, as required by the court or magistrate, may be recognizing, how discharged discharged by any judge or justice of the peace, on giving such se-

curity as was required.

Recognizances to be transmitted to the court.

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.

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

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.

Persons who go armed may be required to find sureties for the peace, &c. 1794, 26, § 2.

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 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.

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

Sect. 17. Whenever, upon 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 circumstances of the case shall render just and reasonable.

Surety may surrender his

SECT. 18. Any surety in a recognizance to keep the peace, or for good behavior, or both, shall have the same authority and right

CHAP. 135. SECT. 1-2. TITLE II.

751

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 ex-may recognize empt 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
- 2. Complaints, warrants, and summouses for witnesses.
- 3. In what counties warrants may be executed.
- 4. Prisoners, when to be brought before magistrate, on arrest, &c.
- 5. Magistrate, if he 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.
- 9. Magistrate may adjourn the examination, &ce.
- 10. In case of default, magistrate to certify recognizance to C. C. Pleas.
- Proceedings, when the party fails to recognize.
- 12, 13, 14. Manner of conducting the ex-

#### SECTION

- 15. Testimony may be reduced to writing.
- Prisoner, when to be discharged.
- when to be bailed, or committed.
- 18. Witnesses to recognize.
- 19. Witnesses, when to recognize with
- 20. Recognizances of married women and
- 21. Witnesses, refusing to recognize, to be
- 22. Prisoners, by whom let to bail.
- 23. Examining magistrate may have as-
- 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 of- Officers, em-fences, the justices of the supreme judicial court, justices of the court under this chapof 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 summonses for complainant, and any witnesses produced by him, and shall reduce witnesses. 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 shall 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 appel-

§ 13. Any person committed for not finding sureties, or refusing Not recogto recognize as required by the court or magistrate, may be discharged discharged. 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 zances transmitted to for the county on or before the first day of the next term, and shall court.

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 view of record, make an affray, or threaten to kill or beat another, or to com-court, &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 go-tol or pistols, or other offensive and dangerous weapon, without rea-give securisonable 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 ted. such portion of the penalty on the petition of any defendant, as the

circumstances of the case shall render just and reasonable.

§ 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 Accessory any offence, which shall be a felony either at common law or by any fore the fact, statute now made, or which shall be hereafter made, or who shall be how punishaccessory 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 punishment of the principal felon.

Add. 60

TITLE XILI

JUSTICES OF THE PEACE.

709

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 may be taken security, as was required.

after commit-

SECT. 14. Every recognizance, taken pursuant to the foregoing ment. provisions, shall be transmitted to the district court, on or before recognizance. the first day of the next ensuing term, and shall there be filed by the clerk, as of record.

Secr. 15. Whoever, in the presence of any magistrate, men- When magistioned in the second section of this chapter, or before any court of trate may rerecord, shall make any affray or threaten to kill or beat another, or without a forcommit any violence against his person or property, or shall con- mal complaint, 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 armed, 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, § 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 Power of court, case, if a forfeiture is found or confessed, the court, on petition, penalty of a remay remit the penalty, or such part of it as they may think proper, 1821, 50, 64. on such terms as they may think right.

Sect. 18. Any surety in a recognizance may surrender the Sureties on reprincipal in the same manner, as if he had been his bail in a civil may surrender 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 princi-tions. pal 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.

- without a warrant.
  - 2. Their jurisdiction.
  - 3. When a justice shall issue his war-
  - 4. Examination, on trial, of the party accused.
  - 5. Of commitment or binding over to a higher court.
- SECT. 1. Justices may require aid, on view, SECT. 6. Duty of justices, as to arrests, and 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.

PREVENTION OF CRIME.



# TITLE XXXI.

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.

OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIME.

Officers authorized to keep the peace. 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.

Complaint, how

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.

Arrest.

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.

Trial, recognizance.
4 Mass., 497.
8 do., 73.
2 B. & A., 278.

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

# PREVENTION OF CRIME,

this state, and especially towards the person requiring such security, TITLE XXXI. 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.

691

SEC. 5. Upon complying with the order of the magistrate, the par-Porty, when discharged of shall be discharged.

ty complained of shall be discharged.

Sec. 6. If the person so ordered to recognize, shall refuse or neg-Refusing to relect to comply with such order, the magistrate shall commit him to committed. 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 se-

curity was required.

SEC. 7. If, upon examination, it shall not appear that there is just Complainant, cause to fear that any such offence will be committed by the party com- when to pay plained of, he shall be forthwith discharged; and if the magistrate shall costs. deem the complaint unfounded, frivolous 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 Appeal allowed. 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 to rerequire such witnesses as he may think necessary to support the com- cognize. 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 affirm affirm the order of the justice, or discharge the appellant, or may re- or discharge apquire 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, Recognizance, his recognizance shall remain in full force and effect, as to any breach when to remain in force. 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. ed by any judge, circuit court commissioner or justice of the peace,

on giving such security as was required.

Sec. 14. Every recognizance, taken pursuant to the foregoing probe transmitted to visions, shall be transmitted by the magistrate to the clerk of the circlerk 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.

#### ARREST &c. OF OFFENDERS.

TITLE XXXI. CHAPTER 163.

692

in presence of magistrate, &c.

Sec. 15. Every person who shall, in the presence of any magistrate mentioned in the first section of this chapter, or before any court Breach of peace 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.

Person going Sec. 16. If any person shan go armed to find supplied pistol, or other offensive and dangerous weapon, without reasonable positive for the Sec. 16. If any person shall go armed with a dirk, dagger, sword, 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.

Court may remit part of penalty. 7 Mass., 397.

Sec. 17. Whenever upon a suit brought on any recognizance entered 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-render his principal, effect of surrender.

SEC. 18. Any surety in a recognizance to keep the peace, shall 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 163.

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

What officers may issue pro-

Section 1. For the apprehension of persons charged with offences, excepting such offences as are cognizable by justices of the peace, the cess for the arrest 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.

Complainant, &c. to be examined.

Sec. 2. Whenever complaint shall be made to any such magistrate, 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.

Proceedings if it appear that an offence has been committed.

Sec. 3. If it shall appear from such examination, that any criminal 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 CRIMINAL CASES.

- CHAP. 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 juries.
  - 20. Of indictments, presentments and informations, and process thereon.
  - 21. Of trial and its incidents.
  - 22. Of exceptions, writs of error and execution of judgment.
  - 23. Of taxation and allowance of costs.
  - 24. Of contempts of court.
  - 25. Of general provisions concerning proceedings in criminal
  - 26. Of criminal proceedings against slaves, free negroes and mulattoes.

#### CHAP. XIV.

#### OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIMES.

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

#### SECTION

- 12. Recognizance, when to remain in force.
- 13. Persons committed for not 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 armed may be required to find surcties 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 officers author general court throughout the commonwealth, all justices of the peace rized 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 require quire persons to give security to keep the peace, or for their good be-security for behahaviour, or both, in the manner hereinafter provided.

2. Whenever complaint shall be made to any 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 witnesses 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.

# Prevention of Crimes.

Trial.

Recognizance to

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 magis. trate 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.

Party when discharged.

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

Rofusing to rocognize, to be committed.

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.

Defendant when discharged.

Complainant when to pay costs.

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 the prosecution, and thereupon award execution against him for the same.

Payment of costs in other cases.

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 inagistrate 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.

Append against 9. Any person aggrieved by the order to recognize 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.

On appeal, witnesses to recognize.

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.

Procoedings on appeal.

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.

Costs.

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 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.

Recognizance to be valid unless appeal prosecu-

13. Any person committed for not finding securities, or refusing to ted for not recog-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.

Persons commitnizing, how discharged.

> 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.

Recognizances returned to court.

15. Every person who shall, in the presence of any magistrate, accognizances mentioned in the first section of this act, or before any court of re-funces in precord, make an affray, or threaten to kill or beat another, or to com-sence of magismit 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 Persons armed, weapon, without reasonable cause to fear an assault or other injury, sureties. or violence to his person, or to his family or property, he may be required to find surcties for keeping the peace for a term net exceeding twelve months, with the right of appealing as before provided.

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-good fame to give ing twelve months, as the magistrate requiring it may order.

Appeal allowed.

#### CHAP. XV.

#### OF ARREST AND COMMITMENT.

1. Officers empowered to act. 2. Complaints, warrants and sum- 18. When prisoner to be discharged. 18. When to be bailed or committed
2. Complaints, warrants and sum- 18. When to be bailed or committed
monses. 19. If party entitled to examination
3. Offence committed in another &c.
county. 20. If not so entitled, and triable or
4. In what county warrant may be indictment, &c.
executed. 21. If party charged be free negro, &c
5. Prisoner, when to be brought be- 22. Duty of magistrate, &c.
fore magistrate on arrest. 23. Witnesses to recognize.
G. Magistrate, if he take bail, to re- 24. Witnesses, when to recognize with
turn recognizance, &c. sureties.
7. Officer, how to proceed if prisoner   25. Recognizances of minors, &c.
not bailed. 26. Witnesses refusing to recognize.
8. Prisoner, when to be carried to 27. Magistrate may associate others.
county whence warrant issued. 28. Prisoner by whom let to bail.
9. Same subject. 29. Recognizances, &c. to be returned
10. Magistrate may adjourn examina- 30. Commitments, &c. when to b
tion. discharged.
11. In case of default, recognizance to 31. Orders therefor, how to be filed &c
be certified. 32.
12. Proceedings when party fails to 33. (Proceedings on forfeited recogni
recognize. 34. zances.
13.) 17
13. Manner of conducting examina- 35. 36. Right of surety to surrender prin
15. \ tion. cipal.
16. Testimony to be reduced to wri- 37. To whom to be surrendered.
ting. 38. When to the court.

1. For the apprehension of persons charged with offences, the Process to arrest judges of the general court, and all justices of the peace in vacation whom issued. 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 Examination on offence has been committed, he shall examine on oath the complain-complaint. ant 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-

# PROCEEDINGS TO PREVENT CRIMES.

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.

When person charged to give recognizance.

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 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.

When to be com-

Forfeiture of recognizance,

When discharged.

May be delivered on warrantor executive, &c.

Complainant liable for costs, &c. 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

- What officers to cause public peace to be kept.
- Proceedings when complaint is made to magistrate.

SECTION

- 3. Magistrate when to issue warrant.
- Proceedings upon examination, before manistrate.
- b. Defendant may have counsel.

Add. 68

#### PROCEEDINGS TO PREVENT CRIMES.

SECTION

6. Defendant when to enter late recognizance.

7. Defendant when to be discharged,

S. Defendant when to be committed.

9. Defendant when to be discharged.

10. Costs by whom paid.

11. Appeal when allowed,

 When magistrate may require witnesses to recognize.

13. District court how to proceed upon such appeal.

 When appealant fails to presente appeals recognizance to be in force.

SECTION

15. After commitment, now defendant may be discharged.

16. Recognizance to be transmitted to district courts.

 When person may be ordered to recognize without warrant.

 Persons carrying offensive weapons, how punished,

19. Suit brought on recognizance,

 Surery may take and surrender principal 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 par-

ty 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

Defendant when to enter into recogni-

Defendant when to be discharged.

Defendant when to be committed.

Defendant when to be discharged,

Add. 69

527

528

### PROCEEDINGS TO PREVENT CRIME.

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

Costs by whom paid

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.

Appeal when silowed. 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.

When magistrate may require witness to recognize. 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.

District court how to proceed upon such appeal. Sec. 13. 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 he may deem just and reasonable.

When appellant fails to presecute appeal, recognizance to be in force. 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.

After commitment, how defendant may be discharged, 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.

Recognizance to be transmitted to district court. 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.

When person may be ordered to recognize without warrant.

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.

Persons corrying offensive weapons how punished.

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 Add. 70

Sail brought on re-

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, zance. 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.

Surety may take and surrender principal in recogni-

# CHAPTER 113.

#### OF ARRESTS.

- 1. Arrest defined.
- 2. Arrest how and by whom made.
- 3. Every person must aid officer in making ar-
- 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.
- S. Officer may use necessary force.
- 9. Officer may break onter door to make arrest.
- 10. Officer may break outer door to make ar-
- 11. When officer may arrest person without warrant.

- 12. Officer may break open door.
- 13. Arrest may be made at night.
- 14. Officer must inform person of the cause of arrest.
- 15. Person breaking peace to be taken before Justice.
- 16. Offences 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
- 20. Person arrested must be taken before magistrate.
- 21. Defendant 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 Arrest defined. 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 war- Every person must rant, 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 Arrest for felony or 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 how and by whom made.

king arrest.

misdemeapor how

Arrest for felony or misdemeanor how made.

Defendant how to

Add. 71

218

PROCEEDINGS TO PREVENT COMMISSION OF CRIMES.

CHAP, 16.

## CHAPTER XVI.

### PROCEEDINGS TO PREVENT COMMISSION OF CRIMES.

Sec. 1. Certain officers conservators of the public peaco.

2. Proceedings when complaint is made to magistrate.

3. Magistrate when to issue warrant.

4. Proceedings on examination before magistrate.

5. Privilege of defendant.

6. Recognizance, when 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. Proceedings on appeal by district court.13. Consequence of appellant failing to prosecute appeal.

14. After commitment, defendant may be discharged on giving security.

15. Recognizance to be transmitted to district court.

16. When person may be ordered to recognize without warrant.

17. Armed persons, when required to find sureties.

18. Suit on recognizance.

19. Surety may surrender principal.

Keeping the

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 magistles may be trate, that any person has threatened to commit an offence against Wen. 181; 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 sub-

scribed by the complainant.

Warrant to issue.

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.

Examination

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 defendant.

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.

Recogniz ance wherequired, when

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

219

complained of, he shall be required to enter into recognizance with CHAP, 16. 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, 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. 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 Wen. 639. 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 complainant just cause to fear that any such offence will be committed by the costs, 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 dis-

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

SEC. 11. The magistrate, from whose order an appeal is to be Witnesses taken, shall require such witnesses as he may deem necessary to cognize. 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, Failing his recognizance shall remain in full force and effect, as to any appeal. 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

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-mitted.

220 ARRESTS.

CHAP. 17. charged by any judge or justice of the peace, on giving such security as was required.

Recognizanmitted.

Sec. 15. Every recognizance taken in pursuance of the foretrans- going 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 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.

sons, when required to find suretics.

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 pro-

Suit on recognizance.

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 circumstances of the case shall render just and reasonable.

Surety may surrender principal.

Sec. 19. 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 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.

Sec. 1. Arrest defined.

2. Arrest, how and by whom made.

3. Every person must aid officer in making arrest, if required. 4. Arrest for felony and misdemeanor, when may be made.

5. As to what constitutes arrest.

- 6. Officer may pursue fugitive into other counties.
- When an officer or private person may arrest without warrant.
- 8. Arrest, how made in such case.
- 9. Escape and capture of prisoner.

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

588 PART 4. INDICTABLE OFFENCES.

TITLE 1,

Factor appropriating

§ 3266. Any factor, commission merchant, or agent, havpropriating ing 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.

§ 3267. Any person who mixes any foreign matter or 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.

§ 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.

Signing bills for circulation.

§ 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 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.

Psssing bills under five dollars.

§ 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.

Indictment

§ 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.

Concealed weapons.

§ 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.

§ 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 hunAdd. 75 dred 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; Excuse. and the excuse must be made out by the defendant, to the

satisfaction of the jury.

§ 3276. Any person, who in any newspaper, handbill, or Publishing other advertisement, written or printed, publishes or pro- coward, &c. 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.

§ 3277. The publisher or printer of any such newspaper, Printer to or handbill, or other publication, may be required to testify give evidence. against any defendant indicted under the preceding section; and refusing to give evidence, must be fined five hundred renalty for dollars, and imprisoned until such fine is paid, and also im- refusing. prisoned until he shall testify.

§ 3278. Any person who sells and delivers any poisonous selling poisubstance, without having the word "poison" written or labels. 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 selling poiunder ten years of age, any drug, poisonous in its nature, or children. 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.

§ 3280. Any licensed retailer or other person, keeping fer-selling or mented, vinous or spirituous liquors for sale, who sells, gives giving liquor or delivery to any students, or delivers to any student of any college, or pupil of any &c. 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.

§ 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- LicenAdd. 76 vit prescribed in section 1057, knowingly sells any vinous tailer trad-

Case: 18-55717, 11/27/2018, ID: 11100861, DktEntry: 39-2, Page 80 of 210 PART 4. 590 INDICTABLE OFFENCES. TITLE 1.

ing with slaves.

or spirituous liquors to any slave; or knowingly sells to or 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.

Selling or giving liquor to slaves.

§ 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.

The same.

§ 3284. The provisions of the above section apply to

licensed retailers as well as other persons.

Trading with 19 Ala., 19.

§ 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

§ 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.

Employing slave or free negro to draw off or sell.

§ 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.

Duty of magistrate in re-

§ 3288. Any justice or magistrate, whenever he has good lation to laws reason to believe, or upon information on oath that any of the laws of this state against retailing or trading with slaves trading with 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.

Permitting slave or free negro to sample cotton.

§ 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.

Owner may.

§ 3290. In indictments under the preceding section, the defendant may show in defence he was the owner of the

Prosecuting suits in the name of an-

§ 3291. Any person who prosecutes a suit in any of the Add. 77 courts in this state, in the name of another person, without

his consent, must, on conviction, be fined not less than five other. Exceptions. hundred dollars.

§ 3292. The provisions of the preceding section do not Refusing to apply to a person having the beneficial interest using the mons of offiname of the person having the legal right, in cases where he

cannot bring the action in his own name.

§ 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 officer. 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.

§ 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.

SEC. 3295. Causing death of by whipping, is murder in the first degree.

3296. Causing death by whipping, &c., without intention to kill, murder in the second degree.

3297. Inflicting or allowing cruel punishment, &c., failing to provide food, raiment, attention in sick-

SEC.

3298. Indictments under preceding section.

3299. Defendant entitled to a jury twothirds of whom are slave hold-

3300. Assaults by any other person than the master.

§ 3295. Any person who with malice aforethought causes Death of a the death of a slave, by cruel whipping or beating, or by any slave by whipping, &c. inhuman treatment, or by the use of any weapon in its nature 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 cruel punslave in that relation, who inflicts, or allows another to inflict ishments; not feeding on him any cruel punishment, or fails to provide him with a or clothing, 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.

§ 3298. In indictments under the preceding section, it is Indictments. sufficient to charge that the defendant did inflict on a slave

Add. 78

### PT. 4.—TIT. 1.—PENAL CODE.

Division 9.—Offences against the Public Peace and Tranquility.

be made; And provided, also, that the only questions to be sub-ritte net ex mitted to and determined by the jury in trials for forcible entry, 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 deadly wear-pistol, (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, Other offences not provided for in this Code, shall be prosecuted and indicted lie 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.

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

SECTION.	SECTION.
4415. Bigamy.	4435. Vograms
4416. Punishment on married person.	4436, Common rogues.
4417. On unmarried person.	4437. Nuisances.
4418. Incest.	4438. Disinterring bodies.
4419. Adultery.	4429. Bastardy.
4420. Lewdness.	4440. Retailing without license.
4421. Lewd houses.	4441. Illegal marrying.
4422. Disorderly houses.	4442. Illegal voting.
4423. Gaming houses.	4443. Buying or selling votes.
4424. Gaming tables.	4444, Minor voting.
4425. Gambling.	4445. Adultery with negro.
4426. Gaming with minors.	4446. Whipping wife.
4427. Gaming with clerks and bank offr's.	4447. Interfering with religious worship.
4428. Players—witnesses.	4448, Retailing near church.
4429, Judge's charge.	4449. Working slaves on Sabbath.
4430. Suspected houses.	4450. Ranning freight trains on Sunday.
4431. Unwholesome provisions.	4451. Violating Sabbath.
4432. Unwholesome bread, &c.	4452. Fines from Sabbath-breakers.
4433. Spreading small pox.	4453. Bonds in case of vagrancy.
4434. Violating quarantine.	4454. Att'y or Sol'r-duty in such case,

§ 4415. Sec. 1. Polygamy, or bigamy, shall consist in know-Polygamy ingly having a plurality of husbands, or wives, at the same time.

Acts of an strictly pur-

192. In all cases where a remedy is provided, or duty enjoined, or anything directed sembly to be 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 common law in such cases, further than shall be necessary for carrying such act or acts into effect.(a)

Meaning of general terms.

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)

# Oriminal Procedure.

- A. PROCEEDINGS TO DETECT THE COMMISSION OF CRIMES.

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

#### B. INDICTMENTS AND PLEADINGS.

10. Grand jurors authorized to administer onthe.

- 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, amendable.

  13. Immaterial variances between indictment and proof
- amendable.
- 14. Manner of laying the ownership of property in cases of partners and joint owners.
- 15. Manner of charging frauds against partners and joint 16. Manner of laying property of counties, cities, townships,
- &c.
  17. Forms of indictment in cases of forging, stealing and

- 18. Forms in other cases,
  49. 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 which the injury was indicted need not be specified.
- 21. Requisites of an indictment for perjury Requisites of an indictment for subornation of perjury.
   Requisites of an indictment for subornation of perjury.
   Indictment for duelling.
   Counts for receiving and stealing may be joined.
   Insue 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
- indictment. 29. Nolle prosequi.
  - 30. Pleas of autrefois convict or autrefois acquit.
    - C. COURTS OF CRIMINAL JURISDICTION.
- 31. Courts of over and terminer. Quarter sessions. When causes to be certified to the over and terminer. Powers of the courts,
  - 33. Writs of error and certiorari.

- Persons under bail not to be placed in the criminal bar.
   Persons indicted for treason to have a copy of the indict-
- 36. Peremptory challenges.

- Challenges by the commonwealth.
   How challenges are to be conducted. 39. How challenges are to be determined.
- 40. Of the trial of persons jointly indicted, and joint cnal-

- 41. How tales may be awarded and juries summoned,
  42. Of juries do medictate linguae,
  43. Of the place of trial of treason,
  44. Of the place of trial of accessories before the fact,
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  40. Of the place of trial of accessories 46. Of felonious striking or poisoning in one county, and death in another
- 47. Of felonious striking or poisoning in the state, and death out of the state.
- 48. Proof of offences committed near county lines.
  49. Proof of offences committed during journeys.
  50. Party indicted for felony or misdemeanor may be found guilty of attempt to commit the same.
- 51. Persons tried for mislemeanor not to be acquitted if the offence turn out to be felony.
  52. Witnesses entitled to restitution to be competent.
  53. Cure of defects in jury process by verdict.
  54. Of the trial of prisoners committed.

- 55. Witnesses in forgeries.
  56. Witnesses not to be imprisoned except in certain cases.
  57. Bills of exceptions and writs of error ullowed.

- Written opinions to be filed.
   Granting of writs of error regulated.
   From whence writ of error shall issue.
- 61. 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. Insane prisoners. Jury to find the fact of insanity. De-
- fendant 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 scennity being given.

  70. How expenses to be paid in such cases.

  71. Civil actions against felons.

- Executions upon sentences of restitutions
   Outlawry.
- 74. Sentences of separate or solitary confinement. Sentences of separate or solitory confinement of less than one year, and simple imprisonment.

- 76. Executions in capital cases. 77. Limitation of prosecutions. 78. Fines to be decreed to be paid to the state for the use of the county.

#### A. PROCEEDINGS TO DETECT THE COMMISSION OF CRIMES.

1. The judges of the supreme court, of the court of over and terminer and jail Warrants of delivery, of the courts of quarter sessions, or any of them, shall and may direct their arrest, &c. 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. before them, who may dwell, remove or he received into another county; and it shall Subpospas. and may be lawful to and for the said judges, or any of them, to issue subpænas into any county of the commonwealth, for summoning and bringing any person to give evidence in any matter or cause before them, or any of them, and to compel obedience to such writs, precepts or subpoenas, by attachment or otherwise, and under such pains and

192. Act 31 March 1860, § 183. P. L. 426.

193, Ibid. § 184.

1. Act 31 March 1860, § 1. P.A.d. 80

 6 S. & R. 259. 11 S. & R. 345. Bright, R. 69. 13 S. & R. 426.
 1 R. 457. 5 R. 64. 1 Ash. 46. 7 Am. L. R. 620.
 (b) This section explains the meanings of general terms which have been used for the sake of brevity. Report on the Parest Code 39. Penal Code 39.

system by the 13th section of the act of 22d April 1794, 3 Sm. 190; it will also be found in the punishments provided by the act of 23d April 1829, 10 Sm. 430. Report on the Penal

(a) This section is taken from the 13th section of the act of

penalties as other writs or subposnas 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, subpæna or attachments, to be executed by the sheriff of the county in which the same is awarded, which said writ, precept, summons or subposna, 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 Expenses. such process, when issued on behalf of the commonwealth, shall be paid out of the funds 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 the 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 charged 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 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 con-

3. In case any person against whom a warrant may be issued by any judge or Backing waralderman of any city, or justice of the peace of any county in this commonwealth, for rante 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 handwriting 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 aforesaid, and to apprehend and carry such offender before the alderman, justice or justices who indorsed such warrant, or some other alderman, justice or justices of such other city and county where such warrant was indorsed. And in case the offence Bath 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 ball for his appearance at the next court of general juil 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 be 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 war-

rant.(e) 5. When any person shall be accused before a magistrate, upon oath or affirma-Disposition 4. Ibid 1 4. 5. Ibid. § 5. 2, Act 31 March 1860, § 2. P. L. 429.

(a) This section is composed of the 8th section of the act of 22d May 1722. 1 Sm. 138; of the 14th section of the act of 23d September 1791. 3 Sm. 43; and of the 2d section of the act of 25d April 1840, P. L. 406. It is not proposed to repeat all the 8th section of the act of 1722, because part of it equally applies to civil as well as criminal processings. Report on the Penal Code 39. The county is not liable for the expenses inverted in an unsuccessful attempt to arrest a fugitive from justice, who has taken refuge in another state. 8 C. 540.

(b) This does not extend to misdemennors; a fugitive charged with having committed a misdemeanor in another county can

# Case: 18-55717, 11/27/2018, ID: 11100861, DktEntry: 39-2, Page 85 of 210

supposed to tion, of the crime of burglary, robbery or larceny, and the said magistrate shall have be stolen, issued his warrant to apprehend such person or persons, or to search for such goods as found in the possession of have been described, on oath or affirmation, to have been stolen goods, if any shall be one accused 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

Inventory.

Notice.

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 the same at the time of his or her trial. And the said magistrate shall forthwith cause 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 charged Restitution, 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, then, at the expiration of three months, such 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 no 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 full 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, or 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 claim 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 to When to be 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 original 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

delivered to

Disposition of proceeds.

Surety of the

commissioners, or by them paid into the treasury of this commonwealth.(a) 6. If any person shall threaten the person of another to wound, kill or destroy him, or to do him any harm in person or estate, (b) and the person threatened shall appear 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 afore-

Bail.

 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

B. Act 31 March 1860, § 6. P. L. 432.

7. Ibid. 5 7.

(a) This section is taken from the 10th section of the act 23d September 1741, 3 Sm. 42. Report on the Penal Code 39.
(b) Surety of the peace is demandable of right by any individual who will make the necessary oath. 1 B, 102, n. See 1. Ash. 48. 2 P, 458.

(c) A committing magistrate has no authority to bind a per-son 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 acquitted of a prisoner, in such sum, and for such length of time, as the public safety requires. 2 Y 437. 10 Barr

339. 2 Hayw. 73-4. See 12 Eng. L. & Eq. 452.

(c) 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 all obvious necessity, arising from duly experience and observation. Report on the Penal Code 39.

(a) A justice may take bail after commitment for trial. 6 W & S. 314. 2 P. 458. And see 7 W. 454. 5 B. 512. 1 Sm. 57. n A recognisance taken by a justice to answer the charges for edge is coram non judice, and void. Com. v. Philips, 2003. LG2 Mag. 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.(u)

8. All sureties, mainpernors, and bail in oriminal cases, whether bound in recogni-Surrouce 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 have 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 cases. complaining, and not charged 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 authorized and Grand jurors empowered to administer the requisite oaths or affirmations to any witness whose name may administer to a later oaths.

may be marked by the district attorney on the bill of indistment. (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 ob-Every 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 demurrer, forthwith amended in such particular, by the clerk or other officer of the court, and &c. thereupon the trial shall proceed as if no such defect appeared.(g)

Act 31 March 1860, § 8 P. L. 432.

10. Ibid. § 10.

11. Told: § 17.

(a) This section is a consolidation of the first clause of the act of 1705. 1 Sm. 50; and the first section of the act of 30th April 1832. P. L. 388. Report 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 10th April 1848. P. L. 449. Report on the Penal Code 40.

(d) This section is an extension of the existing law of the 17th March 1806, 4 Sm. 318. Report on the Penal Code 40.

(e) This is taken from the 1st section of the act 5th April 1820. 9 Sm. 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 pleadable in bar; at most, it is only ground for a motion to quash. Tillard v. Com., 13 Leg. Int. 132.

(g) Sections 11 to 22 are all new, and are certainly not the least important in the proposed amendments of our penal system. The history of criminal administration abounds with instances in which the gollty bave escaped, by reason of the apparently unreasonable nicety required in indictments. Lord Hale, one of the best, and most humane of English judges, long since remarked, that such niceties were "grown to be a blemish and an inconvenience in the law, and the aliministration thereof, that more offenders escaped by the easy car given to exceptions to indictments, than by the manifestations of their innocence, and that the grossest crimes bad gone unpunished, by reason of these unseemly niceties." The reason for recognising these subtilities by the common law, no doubt aross from the humanity of the judges, who, in administering a system in which the punishment of death followed almost every conviction of felony, were naturally disposed, in favor of life, to hold the crown to the strictest rules. Since, however, a system in which the punishment of death followed almost every conviction of felony, were naturally disposed, in favor of life, to held the crown to the strictest rules. Since, however, the reform of the penal laws, and the just apportionment of runtshment to crimes according to their intrinsic atrocity and danger, the reason which led to the adoption of these technical interies has ceased, and with the cassation of the reason, the technicalities themselves should be expunsed from our system. The 11th section of this act proposes what the com-

missioners believe will be an effective remedy to this reproach instructions 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 accusation, or take issue on the merits of the charge; if he electrice 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 promptly corrected. The 12th and 13th sections are intended to meet 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 therain. By the law as it now stands, where written instruments enter into the gist of the offence, as in forgery, passing counterful money, selling lottery tickets, sending threatening letters, &c., they are required to be set out in words and figures; the omission of a figure in an indictment for forgery is fatal. In the case of Com. a. Gillespie, 7.8. & R. 469, a mistake in spelling the name of "Borrall," which in the indictment was spelled "Burrill," was adjudged fatal after verdict. So, a variance between 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 between the allegata and the probata. The proposed sections authorize the courts to amend such verbal errors, if objected to; and thus terminate a class of technical niceties, which are a repreach to the rational administration of justice. The 14th and 15th sections avoid the existing necessity of setting forth, in indictments, and can do no possible injury to the defendant, who cannot be interested in the fact, whether one person is, or one hundred persons are the owners of property indestroyed; it will serve to reduce the volumi of the common law, without depriving the accused of any proper privilege; it leaves him, at the outset of his trial, to

Variances between written inatraments as produced and laid in indictment amendable.

Immaterial variances Indictment and proof umaudable.

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 officed 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 originally been in the same form in which it was after such amendment was made.

Manner of joint own-

14. In order to remove the difficulty of describing the ownership of property, in aying the 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 secases of part curity or effects belonging to or in the possession of any partners or joint owners, it shall be ners and sufficient to even that the next 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. Act 31 March 1860, § 12. P. L. 433.

13. Ibid. § 13.

which he is charged with having committed a felony or misdemeanor. The lith 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 criminal pleader to simplify hereafter the forms of indictments in torgery, and facilitate him in averring instruments necessary to be recited in any other indictment. The 12th and 13th sections contemplate the amendment of indictments, framed according to the plate the amendment 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 avoiding the necessity of specifically describing the parties intended 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 faits preferces (the crimes contemplated by the section), the gist of the offence is, that 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 committed with an intent to defrand; 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 defranded; a mistake in whom would arquit the accused, although the jury should be convinced that he had forged or uttered false money, or had been pullty of cheating by false pretences, with intent to defrand. The 20th section, providing for indictments for murder and manuslaughter, from the untere and causequences of these offences, require that a sorowbat detailed 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 by which it was effected; if a person be indicted for one species of killing, as by poisoning, be curnot be convivted by evidence of a different species of death, as by cheeding, starving or strangling. A few cases will serve to illustrate how for this rinciple has been carried. In Rax v. Kolly, I Mood. Cro. Cas. 113, decided in 1825, the indictment charged that the prisoner struck 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 clause of the from the blow upon a piece of brick, and that the fall on the brick was the rates of the death; it was unanimously held by the twelve judges of England, on a case reserved, that the vause of the

death had not been truly stated, and the prisoner was discharged. So, in Rex v. Martin, 5 C. & P. 128, where the indictment charged the wound to have been inflicted by a blow with a hammer, held in the prisoner's hand, and it appeared that the injury might have been occasioned by a fall against the lock or key of a door, it was held, that if the injury was occasioned by a fall against the lock or key of a door, produced by the act of the defendant, the indictment was not sufficient. In Rex e Hughos, 5 C. & P. 126, desided in 1832, the prisoner was indicted for an attempt to murder, by shooting the injured party with a pistol loaded with a leaden bullet; on the trul, no evidence was produced to actually prove that the pistol was loaded with a leaden bullet, none having been found either in the wound, or in the room where the wound was indicted; the surgeon, examined in the case, testified that the wadding, if raihmed light, might have produced the effect without any if rabmed light, night have produced the effect without any ball; in this state of the evidence, the court ruled that the narctment was not sufficiently proved, and the defendant was acquitted. It is true, that the courts have drawn a distinction, which rendered their rulings in indictments for homicide, as to the manner and cause of the death, more reconcilable with reason, to wit: that where the instrument laid in the indictment, and the instrument proved, are of the same nature and character, there is no variance, as if the wanted is charged to have been indicted with a dagger or knife, proof is sufficient which establishes the wanted to have been indicted with a indictment was not sufficiently proved, and the defendant was character, there is no variance, as if the wanth is charged to have been inflicted with a dagger or knife, proof is sufficient which establishes the wound to have been inflicted with a sword, spear or the like; so, if the inflictment allege a death by one kind of poison, proof of death by another kind of poison will support it. The section under consideration proposes to go one step in advance of this doctrine, by declaring that it shall hereafter be sufficient, in an indictment for murder, to charge that the defendant did foloniously, wilfully, and of his malice aforethought, kill and murder the deceased; without going into the details of the cause and manuer of the death, which the cases cited show only tends to create unnecessary difficulties on the trial, and often results in the complete defeat of justice. The 21st and 22d sections are intended to simplify indictments for perjury and subornation of perjury, which are now extremely voluminous and technical; these characteristics of indictments for these crimes, are so familiar to all criminal lawyers, as to render it unnecessary to enter into any details on the subject. The sections recommended for adoption will remedy these evils, and place indictments for these crimes, are so familiar to all criminal lawyers, as to rander in unnecessary to enter into any details on the subject. The sections recommended for adoption will remedy these evils, and place indictments for these crimes, and place indictments for these cites and place indictments for these cites are so familiar to all criminal features. The sections recommended for adoption respect 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 indictment, 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 same of sufficient in any indictment for any felony or misdemeanor committed with intent to charging defraud any partners or joint owners, to allege that the act was committed with intent against part to defraud any one or more of the partners or joint owners named in the indictment, hers and and other persons being partners or joint owners with him or them, without stating any lotations.

of 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 prowith respect to any goods, chattels, furniture, provisions, clothes, tools, utensils, mate-counties, crials or things whatsoever, which have been or at any time shall be provided for or at these townthe expense of any county, city, township or district, to be used in any court, jail, house whips, &c. 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 incealing, or obtaining by false pretences, any instrument, it shall be sufficient to describe dictment in such instrument by any name or designation by which the same may be usually known, ing, stealing or by the purport thereof, without setting out any copy or fac-simile thereof, or otherwise embezzling,

describing the same or the value thereof.

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 de of, or putting off any 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 be alperson; and on the trial of any of the offences in this section mentioned, it shall not be regular cornecessary to prove any intent on the part of the defendant to defrand any particular him 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 Indictments 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 indictment for murder, to charge that the defendant slaughter. 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 defend-

ant did feloniously kill and slay the deceased. (a)

21. In every indictment 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, everying such court or person or body to have connectent or person. or affirmation was taken, averring such court or person or body to have competent 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 setting forth the commission or authority of the court, or person, or body before whom the perjury was committed.

 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 indictment forth 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-Jurysion 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 upon 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. Act 31 March 1860, § 15. P. L. 634, 16. Thid. § 16. 17. Ibid. § 17.

21. 10id. 21. 22. Thid. 22. 23. 10id. 23.

(a) An indictment drawn in conformity with the provisions of this section is not in conflict with the constitutional provisio, that an all crimical processions, the accused shall have a right to be informed of the instart and cause of the accusation

ngainst him." 1 Wr. 109.
(b) This section is taken from the 3d section of the art Add. 85 Murch 1806, 4 Sm. 354. Report on the Penul C. de 4.

# Case: 18-55717, 11/27/2018, ID: 111100861, DktEntry: 39-2, Page 89 of 210

stealing and receiving, may be joined.

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 have been stolen; and in any indictment for feloniously receiving property, knowing it to have been stolen, it shall he 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

Issue and trial in cri-

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)

Prisoners standing mate.

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 jurous 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)

Prosecutor's name to be Indorsed on Indictment.

27. No person shall be required to answer to any indictment for any offence whatsoever, unless the prosecutor's name, if any there be, is indersed 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 ment may be ment.

28. It shall be lawful in cases of embezzlement by clerks, servants or other persons in of embezzle 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 been committed same indict- 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 embezzlement 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. (9)

Nolle prose-

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 autreacquit.

30. In any plea of autrefois acquit, or autrefois convict, it shall be sufficient for any fois convict, defendant to state, that he has been lawfully convicted or acquitted, as the case may be, of the offence charged in the indictment.(i)

24. Act 31 March 1860, § 24. P. L. 436, 25. Ibid. § 25.

26. Ibid. \ 26. 27 Ibid. \ 77.

30, Ibid. § 30,

(a) This section is new, and is intended to remedy difficulthes arising from the common law do-trines in relation to the joinder of offences and joint offenders. At common law, a felony and a misdemession, such as burglary and receiving 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 practice 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. 237, it was decided to be erroueous. In Pounsylvania, the uniform practice has been to unite counts for larceny and receiving, but in no other kind of felonious taking has such joinder been permitted. So, at common law, if two persons are charged with jointly receiving stolen goods, a joint act 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 those technical difficulties, as it permits a count for receiving to be joined with all indictments for felonious taking, and authorizes the conviction of one or more of several persons, jointly indicted, for felonious 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 usuless forms which prevail to 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 those is a trial and

judgment, he cannot subsequently assign for error any matters

judgment, he cannot subsequently assign for error any matters appertaining to the precept, renire, drawing, summoning and returning of jurors, 40.7 such case is within the 53d section of this act. 5 Wh. 67.78.

(d) This section is taken from the 5th section of the act of 23d September 1791, 3 Sm. 40. Report on the Penal Code 44.

(e) This section is taken from one of the clauses of the act of 1705, 1 Sm. 55. The old law has been so smended as to enable the court to determine 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. Report on the Penal Code 44. If there be no proof of a prosecutor, the defendant must plead without such independent, 1 D. 5.

(g) The provisions of this section are 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 particularly by the 107th section thereof (tit. "Crimes" 107), against such embezzlement by clerks, servants and other persons in the employ of others.

(h) This section is taken from the proviso to the 1st section of the Penal Code 44.

Report on the Penal Code 44.

(A) This section is taken from the provise to the 1st section of the act of 3d May 1800, P. L. 654. Report on the Penal Code 44. See tit. "District Attorneys," 10, note a.

(i) This section proposes 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 Penal Code 44. new Report on the Penal Coda 44 Add. 86

# Criminal Procedure.

C. COURTS OF CRIMINAL JURISDICTION. 31. The courts of over and terminer and general juil 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 over and the crimes 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 necording 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, aiders 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.()

(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 power within Quarte 🗻

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 over 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 causes or offence not triable therein, it shall be the duty of said court to certify the same into to be certifi-the court of over 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 over 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 sheriffs the courts, or other officers of any of the counties, cities, boroughs or towns corporate of this commonwealth, to arrest and bring before 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 p) wer 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

32. Ibi i. 4 32.

31. Act 31 March 1860, § 31. P. L. 437.

(a) The 31st and 32d sections are transcripts from the 14th, 15th, 16th, 17th, 18th, 20th, 21st and 22d sections of the act of 16th June 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, (b) see 8 Pittsburgh Leg. J. 290.

# Case: 18-55717, 11/27/2018, ID: 11100861, DktEntry: 39-2, Page 91 of 210

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 subpoena, 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 commonwealth.

Writs of error and certiorari.

33. Every person indicted in any court of quarter sessions, or in any county court of over 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(u) 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 un-der bail not nal bar.

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 to be placed to the crimi 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)

Persons indicted for treason to indictment.

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, have copy of mentioning the names and places of abode of such jurors and witnesses, delivered to him three whole days before the trial (g)

Peremptory challenges.

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 maining 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)

Challenges by the commonwealth.

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 made.

How chalbe conduct-

38. All challenges in criminal proceedings shall be conducted as follows, to wit: the lenges are to 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.

How to be

ed.

39. When a challenge for a cause assigned shall be made in any criminal proceeding, determined the truth of such cause shall be inquired of and determined by the court (k)

Trial of per-

40. In all cases in which two or more persons are jointly indicted for any offence, it sons jointly shall be in the discretion of the court to try them jointly or severally, except that in indicted, and cases of felonious homicide, the parties charged shall have the right to demand separate trials; (1) and in all cases of joint trials, the accused shall have the right to the same

33. Ace of March 1860, § 33. P. L. 439, 34. Ibid. § 34.

35. Ibid. 7 35. 36. Ibid. 7 36. 37. Ibid. § 37. 38. Ibid. § 38:

(a) A writ of evror issued without a special allocatur will be quashed. 2 S. & R. 453. 2 Wh. 113. So, also, if the allocatur be obtained before sentence. 16 S. & R. 319.
(b) It is never granted on mere technical matters, not going to the merits. 2 Bare 244. 3 S. & R. 199. 3 Y. 29. 6 B. 493. 4 B. 424. 1 Wh. 525. There must be strong ground to believe that if the case be not removed, some important principle of law, or the plain institute in the case. will be violated. 4 Pitts. law, or the plain justice of the case, will be violated. burgh Leg. J. 668.

burgh Leg. J. 668.

(c) This section is taken from the 7th section of the act of 13th April 1791, 3 Sm. 30; and the 9th section of the act of 16th June 1836, P. L. 787. Report on the Penal Code 44.

(d) This section is taken from the net of 28th March 1808, 4 Sm. 529. Report on the Penal Code 45.

(e) The caption is a perform of the indictment, and a copy of it must be formished to the prisoner. 2 D. 342.

(g) The word "trial" here means the trying of the cause by the jury, and not the arraienment and pleading preparatory to such trial by the jury. 4 Mas. 232. This section is taken from the 29th section of the act of congress of 30th April 1790. Brightly's U. S. Dig. 221.

(h) The 36th, 37th, 38th and 39th sections are intended to

Brightly's U. S. Dig. 221.

(h) The 36th, 37th, 38th and 39th sections are intended to supply the 1524, 1534, 154th, 155th and 156th sections of the act of 14th April 1824, P. L. 368. The changes therein, in reference to challenges, are, that by the 36th section of this act the number of challenges allowed the accused in treason, is twenty, whereas by the 152d section of the act of 1834, thirty-five challenges are allowed; and that by the 154th section of the act of 1834, the commonwealth is interdicted from challenging, without range, in any case of fellowy, whereas by the 37th section of the present act, the commonwealth is only interdicted from challenging peremptority in the cases enumerated in the 36th feeting, to with treason, misorizing of treason, murder, many rection, to wit: treason, misprision of treason, number, man-slaughter, concenting the death of a baltard child, raps, rolburghay, sodomy, malicious maining and arson; and in all other febraies and reledemennors, is allowed the same num-

ber of challenges as the defendant to wit; four. The object of thus extending to the commonwealth the right of challenging, in the minor felonics, the same number of juvers as the defendant mises from the fact, that by the present code a large number of offences, which were misdemensors at common law, are now made felonics; hence, the extending of the commonwealth from the right of challenge in any felony, is almost totally to deprive her of the right of challenge. In the practical administration of criminal justice, the right of the deepest importance; it is not an uncommon thing to find in a panel of juvers, one or more persons pladged to the defendant by personal or social sympathies, or influenced in his favor by worse motives; the right to peremptorily challenge four juvors, is the security of the public against such contingencies. The 39th section of the present act assigns to the court the authority of determining upon the truth and sufficiency of challenges for cause. Report on the Veval Cale 45.

(1) This provision is not in conflict with the clause in the constitution, which provides "that trial by jury shall be as hereotofore, and the right thereof shall remain inviolate." I Wr.

45.

(b) The power to challenge for cause may be exercised at any time before the eath 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 evidence in the cause. 14 S. & R. 292. See 2 W. & S. 292. 1 Crauch C. C. 452. Or that the juror has been supposted as a witness by the prisoner. 7 W. 585. Or that he is a tonat of one of the purios. S. W. 304. Or that he had grossly miste-baved bimself on a former occasion, decision that he had tried to act of 17 My 805. One the judge desired to have convicted; and that he had a will any 80 one the judge desired to have convicted; and that he had a will alway 80 on the fibbe." It II. 14.

(b) See 12 C. 305

number of peremptory challenges to which either would be entitled if separately tried,

and no more.(a)

41. All courts of criminal jurisdiction of this commonwealth shall be and are hereby How tales authorized and required, when occasion shall render the same necessary, (h) to order a may be tales de circumstantibus, either for the grand or petit jury, (c) and all talesmen shall be and jurius liable to the same challenges, fines and penalties as the principal jurors: Provided, summoned. That nothing herein contained shall repeal or alter the provisions of an act passed the 20th 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)

42. No alien shall, in any criminal case whatsoever, be entitled to a jury de medictate or juries de

lingue, or partly of strangers.(e)

43. The trial of all treason against the commonwealth, committed out of the jurisdic. Haguse, tion of the state, shall be in the county where the offender is apprehended, or into which for treason, for treason, he shall first be brought.(g)

44. If any person shall become an accessory before the fact, to any felony, whether of accessor the 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, convicted and punished the fact.

in all respects as if he were a principal felon.(h)

45. If any person shall become an accessory after the fact, to any felony, whether the of accessosame be a felony at common law, or by virtue of any act of assembly now in force, or ries that may be hereafter in force, he may be indicted and convicted as an accessory after 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

41. Act 31 March 1560, § 41. P. L. 140.

45. Ibid. 5 43.

45, Ibld. 5 45.

(a) This section is new, and is introduced to settle a question in criminal practice, which has produced difficulty. At common law, upon a joint trial, each prisoner may rhallenge his full number, and overy juror challenged as to one is withdrawn from the panel as to all the prisoners on trial and thus, in effect, the prisoners in such a rate possess the power of peremptory challenge to the aggregate of the numbers to which they are respectively entitled. The embarrassments from defect of jurors, resulting from the exercise of this right by numerous defendants jointly indicted, led the courts, at a very early period, to determine that they had the power, against the will of the prisoners, to sever the panel, and try them severally. If they insisted upon their right of several challenges. This sattled the question that prisoners, jointly indicted, could, against their wishes, he tried separately: but whether prisoners, jointly indicted, could, against their wishes, he tried separately: but whether prisoners, jointly indicted, could demand a separate trial, presented another question; some insisting that they possess such a right; others contending that such severance is a matter of sound discretion, to be exercised by the court, with that dus 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 accused the positive right to demand separate trials; in cases of joint trials, it is also proposed to limit the number of the challenges of all the prisoners, to the number each would be antitled to if separately tried, and no more. As prisoners jointly indicted for felonious homicide have, by this section, the right to sever in their crials, persons so circumstanced will not be affected by this latter provision. In cases of joint trial, as their being so tried is a matter resti (a) This section is now, and is introduced to settle aquestion

(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 same reason. Report on the Penul Code 46.

(c) This section is new and measure in the event of trials of treason activet the state beauty trying a property.

of treason against the state hereafter taking place. Report on

the Penal Code 46.

the Penal Code 46.

(b) The principle of this section, which prescribes the same publishment against ar assories before the fact in felony, under the various synonymes of aiders, abettors, counsellors, comforters, &c. as against principals, is familiar to our criminal legislation; it is found in the 7th section of the act of 1718, 1 Sm. 143; in the 24 section of the act of 5th March 1780, 1 Sm. 499; in the 2d, 3d and 5th sections of the act of 5th April 1790, 2 Sm. 531; and in the 4th sections of the act of 23d April 1829, 10 Sm. 431. There is, therefore, nothing new in the principle of this section, which is founded on the theory of the moral guilt of the accessory before the fact being equal to that of the principal offender. The new principle in this section is that which makes the agreesory before the fact, guilty of a substantive offence, and which subjects him to punishment for his crime, without postponing it until the conviction of the actual nerpetrator; or more precisely speaking, which abolishes in felonies the rechnical distinction now existing between accessory.

ries before the fact and principal offenders. This was always the law as regards misdemeanors in which there are no accessories, all being regarded by law as principals; in felony, however, except in certain cases about to be noticed, an accessory ever, except in certain cases about to be noticed, an accessory cannot be tried before the conviction or outlawry of his principal, unless tried with him. In felonies 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 persons harboring, concealing or receiving robbers, burglars, felious or thieves, or receiving or buying any goods or chattels that should have been feloniously taken or stolen by any such robbers. &c., knowing the same to be stolen, might be proceeded against as a therein directed; and that if any such principal felon could not be taken 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 stolen by that nevertheless it shall be lawful to prosecute and punish every such person buying or receiving any goods stolen by such principal felon, knowing the same to be stolen, although the principal felon should not be convicted of the felony. This, however, embraced only one class of accessories, to wit, receivers of stolen goods, in cases where the principal was not amenable to justine; afterwards, by the act of 23d September 1731, 3.5m. 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 imprisonment, 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 case the

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 case the principal felon, robber or burglar shall afterwards be taken and convicted. This act extended only to accessories after the fact. In cases in which the principals could not be taken.

The act of 11th April 1825, 8 Sm. 438, was passed to avoid a difficulty which afterwards arose in the prosecutions of recovers of stolen goods, in cases in which the principals were amenable to justice. The act of 1718 was taken from the 4th section of 4th 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 costody 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 prosecuted, although the principal be not before convicted, and whother he is amenable to justice or not.

It will thus he seen, that all our legislation with regard to the trial of accessories to felonies, before the conviction of their principals, applies only to accessories after the fact, a close of ollanders who have had no primary connection with the original crime, and whose guilt only consists in baving given comfort and succon to the actual offender after its perpetration; except in cases of receivers of stolen goots, this offence is often almost vaniel, consisting frequently in parents and friends, influence by the fires of blood, or the impulses of affection, giving aid and comfort to an offender whose crime they abominate and deplore. It

the principal felon shall or shall not have been previously convicted, or shall or shall not be amonable 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, howsvever 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)

Felonious striking or poisoning in

46. 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 one county, death in another county, then an indicated 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)

Felonious poisoning in the state.

47. If any person shall be feloniously stricken, poisoned or receive other cause of death within the jurisdiction of this state, and shall die of such stroke, poisoning or other poisoning in the state and cause of death at any place out of the jurisdiction of this state, an indictment therefor death out of 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)

Proof of of fences com-

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 mitted near the boundaries of counties, in any indictment for felony or misdemeanor committed on county lines, 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 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 county within which the same shall be so alleged to have been committed, in the same

Proof of ofmitted dur-

manner as if it had been actually committed therein. (d)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 lagjourneys, 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-

46. Act 31 March 1860, § 46. P. L. 441.

47. Ibid. § 47. 48. Thid: 6 48.

(a) This section is only an extension of the existing laws, which, as will be seen from the proceding remarks, subjected accessories after the fact, and receivers, to punishment before the conviction or attainder of their principals. It embraces 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 principals, 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 after the fact in one county to a felony committed in another; giving jurisdiction over the crime of such acressory to the courts of the county having jurisdiction over the crime of the principal offender. This provision supplies the 22d and 23d sections of the act of 1718, I 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 Penal Code 48.

(b) This section has been introduced to remove a difficulty

(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 Pleus 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 in another, it seems to have been the more general optaion that, regularly, the homicide was indictable in neither of them, because the offence was not complete in either, and no grand jury could inquire of what happened out of their county." This inconvenience was remedied by 2d & 3d Edward VI., chap. 24, by which it was enacted, (b) This section has been introduced to remove a difficulty

that in such cases the trial should take place in the county where the death happened. This statute is among those reported by the judges of the Supreme Court, as being in force in Penssylvania; hence the expediency of this section to meet such a case, should it hereafter arise. Report on the Penal Code 49.

(a) 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 meintained in either; Hawkins, book 1, chap. 31, \$\frac{1}{2}\$ 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 perpetrated 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 be complete. Report on the Penal Code 49.

(d) The 48th and 49th 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 has been committed during journeys or voyages by land or water, in carriages or vessels of any kind, which have passed through various counties in the journey or voyage during which the crime has been committed. Report on the Penal Code 49.

Add. 90

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, ear or other carriage shall have passed in the course of the journey during which such felony or misdemeanor shall have been committed; and in any indictment for any folony 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 voyage 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 follony 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 voyage 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 misdemeaner, it shall party indictappear to the jury upon the evidence, that the defendant did not complete the offence ed for follow charged, but was guilty only of an attempt to commit the same, such person shall not by memor may reason thereof be entitled to be acquitted, but the jury shall be at liberty to return, as be found their verdict, that the defendant is not guilty of the felony or misdemeanor charged, but compt to is guilty of an attempt to commit the same; and thereupon such person shall be liable commit the 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 misdemennor 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 misdemeanor for which he was so tried.(a)

51, If upon the trial of any person for any misdemeanor, it shall appear that the Persons tried facts given in evidence amount in law to a felony, such person shall not by reason for mista-thereof be entitled to be acquitted of such misdemeanor; and no person tried for such meanor not to be acquit misdemeanor 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 long. 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 misdemennor.

52. No person shall be deemed and adjudged an incompetent witness on the trial of witnesses any indictment, for or by reason of such person being entitled, in the event of the con-catitude viction of the defendant, to a restitution of his property feloniously taken, or the value to be compethereof, or if fraudulently obtained, to a pecuniary remuneration or compensation there teat 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 feets in jury from any court, or in the venire issued for the summoning and returning of jurors, or redict. 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

50. Act 31 March 1860, § 50. P. L. 412. 51. Ibid. 3 51. 52. Ibid. § 52.

(a) The both and bist sections are new, and intended to facilitate the conviction 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 folony, it appears that some circumstance is wanted to establish the complete technical offence, the prisoner must be acquitted, although the proofs are perfect of an attempt to commit the crime; and on the other hand, where the indictment charges an attempt to commit a crime, and the proof establishes that the crime has actually been committed, the American courts have generally held that the prisoner must be acquitted, is because the misdemeanor charged, is merged in the felony proved. The operation of the first of these doctrines is best exemplified by decided cases. Lord Hale, in his Pleas of the Crown, vol. 1, p. 508, thus recites one of these cases: "A, hath is his keys tied to the strings of his purse: 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 hanged 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 limit, opil non asportavit. 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 were tied to the counter by a cord; upon being tried for stealing, it was held that the property never was either completely severed from the possession of the owner, nor completely in the possession of the prisoner, and he was acquitted." Sleigh's Criminal Law 29. In regard to the other doctrine sought 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 most be acquitted. Wharton's American Criminal Law § 564, 2294. In Eachard, however, this doctrine has been shaken, if not repudiated by the cases of Rex v. Nesle, 1 Denoison's Cro. Cas. 36, and Rex v. Eutton, 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 sense. Report on the Penal Code 50. Penal Code 50.

(b) This section is taken from the act of 29th March 1809, 5 Sm. 48; and the 31st section of the act of 31st May 1718, 1 Sm 123. Report on the Fenal Code 51. (c) Sec 2 S. & 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 verdict was rendered. 10 H 94. If a person, by whom the verdict was rendered. 10 H. 94. If a person, not on the panel, is called, and permitted to sit, the irregularity 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. r. Spring, 10 Leg. Int. 54-6. 1 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. See 2 Ach. 90.

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 bried some time in the next term, session of over 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 hereby required on the last day of the term, sessions or court, to set at liberty 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 then be 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 executive power of such state, nor any person guilty of, or charged with a breach or violation of the laws of nations.(g)

Witnesses in forgeries.

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 164th, 165th, 166th and 167th 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)

Witnesses prisoned ex-

56. No witness in any case who enters his or her recognisance, in such sum as the not to be im-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)

Bills of exception and writs of error

57. Upon the trial of any indictment for murder or voluntary manslaughter, (1) 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.(0)

54. Act 31 March 1860, § 54. P. L. 443.

65. Told. 4 55.

56. Ibid. § 56.

57. Ioid. § 57

(a) This section is a transcript of the act of 21st Fobruary 1814, 5 Sm. 111. The original act has been left uprepealed, and has been introduced here in order to give relative completeness to the code of criminal procedure. Report on the Fenal Code 51.

to the code of criminal procedure. Report on the Penal Code 51.

(b) The application must be made to the court in which the prisoners were indicted. 2 Wh 502. 3 Y. 294. 7 W. & S. 116.

(c) This section only applies where there has been wilful delay on the part of the commonwealth. 16 S. & R. 305. 7 W. 366. Not where the trial is delayed by the prisoner. 3 Y. 266. 16 S. & R. 304. 2 Wh. 601. 7 W. 366. 1 D. 9.

(d) A prisoner can only claim his discharge on the last day of the second term after his arrest, whee there has been a competent and regularly constituted rourt, before whom he could have been indicted and trial. 5 C. 129.

(c) The act was designed to prevent wrongful restraints of

competent and regularly constituted court before whom he could have been indicted and tried. 6 C. 129.

(c) The act was designed to prevent wrongful restraints of liberty growing out of the malice and procrastituation of the prosecutor; but not to shield a prisoner, in any case, from the consequences of any delay made necessary by the law itself; and, therefore, where the array of grand jurors 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 discharge. 5 C. 129.

(g) This section is a transcript of the 3d section of the act of 18th February 1785, 2 Sm. 277. The words, "or other indictable offence," after the word "fisiony," have been introduced in order to harmonize the language of the law with the actual practice under it which has been to extend the provisions of the 3d section of the habeas corpus act, not only to commitment for treason or felony, but to commitments for all criminal offences. Ex parte Walton, 2 Wh 501. The only change in the provise of this section is the substitution of the words, "the constitution of the United States." for the words, "the constitution of the United States." for the words, "the constitution of the United States." for the words, "the constitution into this act is judicious, composing, as it dues, to important an element in our criminal juri-prudence. Report on the Ponal Code 51.

(m) See Ut. "Crimes," pl. 173-6.

(m. See tit. "Crimes," pl. 173-6.

(i) This section is framed from the 3d section of the act of 4th May 1852, P. L. 574; and the 13th section of the act 25th March 1824, 8 Sm. 238. Report on the Penal Code 52.
(k) This section is taken from the act of 22d April 1856, P. L. 506. Report on the Penal Code 59.

March 1824, 8 Sm. 2:8. Report on the Penal Code 52.

(k) This section is taken from the act of 22d April 1856, P. L.
500. Report on the Penal Code 52.

(k) A bill of exceptions to the admission or rejection of cridence, on the trial of one charged by indictment with a criminal offence, other than murder or voluntary manslaughter, is not the subject of consideration on a writ of error, although the bill may have been scaled by the court below. 2 W. 285.

(m) The prisoner must show that a substantial error was committed on the trial, in the admission or rejection of evidence, by which he has been injured; it is not sufficient that an abstract or technical error has taken place. 5 C. 429.

(m) The supreme court is limited to a review of the points so noted and filed of record by the court below. 5 C. 429. I Wr. 108. The act does not authorize an exception to the charge of the court. Com. n. Jacoby, 6 Pittsburgh Leg. J. 178.

(a) Sections 57 to 61 are taken from the 1st, 2d, 3d, 4th and 5th sections of the act of 6th November 1856, P. L. 795. The charges made therein, consist in striking out the whole of the provise to the 1st section, and so much of the 4th section as provides for the oath or affirmation required, being filed in the prothoundary's office of the proper district. The effect of the propected amendment will be, to supersede the necessity of a party convicted of murder or mansian ther, making an oath that his application for a writ of error is out for the purpose of delay, and to correct the manifest meanistency in the proving in authorizing a defendant, convicted of voluntary manishing the root of the proper district. The effect of the court, when by the previous part of the section, no writ of arror can issue until after conviction and santence. The commissioners believe that the oath demanded will stop few, fany, persons convicted of murder or voluntary manslanghter, from sulpsy out a writ of error, to obtain a reversal of their condennations; they think that such a temptation to perjuny should not nations; they think that such a temptation to perjury should not be placed in the way of a party so situated. Experience shows that even in civil proceedings, such oaths have but little influence in preventing litigation; how much less part less and the control of the control

58. If during the trial upon any indictment for murder or voluntary manslaughter, written outthe court shall be required by the defendant or defendants to give an opinion upon any mons to be point submitted and stated in writing, it shall be the duty of the court to answer the 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 draning of cause shown within thirty days after sentence pronounced; and if the supreme court be wits of error sitting in bane 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 bane 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; wit of whore 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 offer affirmcourt may make any further order requisite for carrying the same into effect; and if the ruce of resupreme court shall reverse any judgment, they shall remand the record, with their judgment 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 (b) 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 prosecutor, 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 (h) dant's costs. the defendant's bill for his subpoenas, 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 costs genethe costs of prosecution accruing on hills of indictment charging a party with feliny, shall, if such party be acquitted by the petit jury on the traverse of the same, be paid by

58. Act 31 March 1860, § 58. P. L. 444. 59. Ibid. \$ 59.

62. Ibid. \ 62.

bave in a criminal proceeding, where the matter in issue is life or liberty! The privilege given in the proviso, in rease of voluntary manshaughter, of entering bail to appear to abide by the sentence of the court, is afterly irreconcilable 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 the proviso and the section can be reconciled, would be to suppose that the legislature intended, in case of conviction and sentence for voloutary manslaughter, to permit the defendant, suing out a writ of error, to go at large on bail until the final judgment of the court of errors; such a feature is entirely new in a system of criminal jurisprudence, based apon the common law. If such a privilege is to be given to a convicted common law. If such a privilege is to be given to a convicted felon, there seems no good reason that it should be exclusively extended to felonious homicide; as has been heretofore remarked, the line between murder and voluntary manufaughter marked, the line between murder and voluntary manslaughter is often so nicely characterized. But it requires much technical acumen to discriminate the differences between theme, surely in a community in which law ought to protect life by every possible means a party convinced by the verdict of a jury of his peers, of voluntary and folonious homicide, should not be permitted to go at large, while the sentence against him remains unreversed and unrepealed. We ought not, in our anxiety to guard the rights of the offender, to forget those of the community, an error which seems gradually instinuating itself into penal legislation and administration; the reasoning on this subject might be extended, but the commissioners think they have said enough to recommend their proposed modification 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, 6 Pittsburgh Leg. J. 178.

(b) If the act be charged to have been done feloniously, the jury have no power over the costs. 6 W. 530. Nor where on

aside a verdict of acquittal, so far as it imposes costs on the prosecutor. 2 Gr. 66.

(c) If the jury acquit the defendant, and say nothing as to the costs, the county is not liable. 3 P. R. 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 sentenced to pay costs as prosecutor, unless named by the jury. 7 W. 485. But where the grand jury ignored a bill for assault and battery, and directed the person upon whom it was alleged to have been committed to pay the costs, it was held sufficient, although they omitted to designate him as prosecutor. Com. e. Carr. Quarter Sessions, Phila. 23 October 1847. Ms. The act does not apply to persons concerned in prosecutions in their official capacity; 2 Am. L. R. 243: 11 Leg. Int. 58; and hence, in a prosecution for keeping a disorderly house, the jury cannot impose the costs on the crustable who made the return. Com. p. Barr, Quarter Sessions,

disorderly house, the jury cannot impose the costs on the constable who made the return. Com. v. Barr, Quarter Sessions, Lancaster, January 1848. MS.

(g) See 2 P. R. 240. 13 S. & R. 303. This section is taken from the 1st and 2d sections of the act of 8th December 1804. 18 Sm. 304; and the act of 12th April 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 given to the dependent who, although acquitted, is ordered to pay the costs, as is given to the Ponal Code in the Ponal Code 53.

(D) If the jury acquit the defendant, and direct the costs of

(h) If the jury acquit the defendant, and direct the costs of prosecution to be paid by the county, the latter is not liable for the attendance of the defendant's witnesses. 12 C. 317.

(i) This section is taken from the act of 9th February 1820, 7 Sm. 242. Report on the Penal Code 53.

### Criminal Procedure.

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)

65. In all cases where two or more persons have committed an indictable offence, the separate bills 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)

#### F. GENERAL PROVISIONS.

Insane prianuity.

be detained

Where defound insane raignment.

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 Jury to find commission of such offence, and he shall be acquitted, the jury shall be required to find the fact of in-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 Defendant to 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 arraignment, be found to be a lunatic, by a jury lawfully impanuelled 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.

Whors prisoner brought up to be discharged ap-

insane.

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 defriends, &c.

69. If the kindred or friends of any person who may have been acquitted as aforesaid formant to be on 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 Iunatic 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.

How expenses to be paid in such

70. The estate and effects of every such lunatic shall, in all cases, be liable to the county for the reimbursement of all costs and expenses paid by such county in pursuance of such order; but if any person acquitted on the grounds of insanity, shall have no estate 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.

Civil actions against fu-lons.

 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 upun sentitution.

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

65. Act 31 March 1860, § 65. P. L. 445. 66, Ibid. § 66.

67. Ibid. 5 67. 68. Ibid. 5 68.

71. Ibid. § 71.

(a) Sec 10 C. 440.

(a) Sec 10 C. 440.

(b) This includes convictions for drunkenness and vagrancy.

4 C. 173. 5 C. 38. Provided the defendants be sentenced to hard labor, and the commitments follow the sentences as recorded. 12 C. 340. The case of a prosecutor on a bill returned ignoramus, is not within the acts nor that of a defendant acquitted, but ordered to pay the costs by the petit jury; nor where the prosecutor is ordered to pay costs on an acquittal, 4 S. & R. 541. Nor where the case is determined by nollo prosequi 12 S. & R. 94. 6 H. 493. Or the indictment is quashed.

3 it. 487. But it extends to cases where the party may be discharged under the insolvent laws; or where judgment has been arrested, or reversed on error. 12 S. & R. 95. Or where the defendant has been pardoned after conviction. 4 S. & R. 440.

(v) This does not include costs of an attachment against a

witness, for contampt. 2 S. & R. 292.

(d) Unless the discharge be a legal one, the county is not limble. 6 P. L. J. 237.

linble. 6 F. L. J. 237.

(a) This section is a consolidation of the 11th and 15th sections of the act of 23d September 1791. 3 Sm. 43-4; and the 13th section of the act of 28th March 1814. 6 Sm. 229; and the 18t section of the act of 20th March 1814. 6 Sm. 229; and the 18t section of the act of 20th March 1797. 3 Sm 281; and embraces the cases provided for by them. Report on the Penal Code 53.

(a) This section is taken from the act of 28th March 1805, 4 Sm. 235. Report on the Penal Code 54.

(b) Sections 66 to 70 are taken from the 58th, 59th, 60th, 61st and 62d sections of the act of 13th June 1835, PAL 603. Report on the Penal Code 54. See 6 C 522. 10 C. 184 ACC.

(c) This section is new; its object is sufficiently manifest without further explanation. Report on the Penal Code 54.

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 Capian. 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 sheriffs 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 inhebit or be 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 Proclama he cannot be found in his or their bailiwicks, then to cause public proclamation to be tion made on three several days(s) 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, Advertise to 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 eaid 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 said person indicted as

73. Ac. 31 March 1880, § 73, P. L. 447.

<sup>(</sup>a) A conveyance made to clude the provisions of this section, would be fraudulent and void at common law. 5 B. 114.
(b) This section is taken from the 30th section of the act of 31st May 1718. 1 Sm. 122. Report on the Penal Code 54.
(c) See 1 D. 88, 92.

<sup>(</sup>d) 1 D. 88, 92, (e) 1 D. 88, 92, (g) 2 D. 92, (h) 2 D. 92, 1 D. 60,

Case: 18-55717, 11/27/2018, ID: 11100861, DktEntry: 39-2, Page 99 of 210

Sentence.

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 aforesaid; the said supreme court to pronounce the judgment of outlawry against the principal 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 offences, 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 Effect of out-shall have the legal effect of a judgment upon verdict or confession against the person 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.

lawry.

How execuawarded.

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: Procided, 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 indictment 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.

When outlawry may be reversed.

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 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 solitary confinement.

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 fifteenth 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 opinion of the court pronouncing the sentence, suitable prisons have been erected for reisonment 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

74. Act 31 March 1860, 5 74, P. L. 419.

75. Ibid. § 75.

(a) 1 D. 87, 91.

(b) This section is taken from the 1st, 2d and 3d sections of the act of 23d September 1791, 3 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 skillfully and ably drawn, as to require no amendment of importance. Although precentings in outlawry have hear rarely resorted to

though proceedings in outhwry have been rarely resorted to in our state, yet they are indispensably necessary in every com-plete system of criminal jurisprudence. Report on the Penal Code 54.

(c) Whilst the 74th and 75th sections, except the provise to the 74th section, are new in form, no material alteration is made in the law as it now stands. The 74th section requires that sentences of imprisonment at labor by separate or solitary confinement for a period of time not less than one year, shall 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 77th rection prohibits sentences of imprisonment at labor by separate or solitons of the property of the rate or solitary confinement for a less period of time than one year, except in the counties where suitable prisons have been or shall hereafter be erected for such confinement and labor.

This section also provides that in all cases where the sentence is for simple imprisonment only, the offender shall be confined in the county where the conviction shall take place. The sections taken together require: I. That all persons sentenced to simple imprisonment, shall be confined in the county where the offender is convicted. 2. That no person shall be sentenced to imprisonment at labor by separate or solitary confinement for a less period than one year, except in the counties where, in the opinion of the court passing the sontence, prisons are provided suitable for such confinement and labor. 3. That all imprisonment at labor by separate or solitary confinement, where the sentences exceed one year, shall be in the state penitentiary for the proper district, except in the counties in whose prisons convicts of a like description are authorized to be imprisoned, and in those counties, such convicts may be sont to the county prisons as heretofore. The provision contained in the last proviso to the 74th section, is copied from the 1st section of the act of 18th February 1847. P. L. 128. Report on the Penal Code 54. In New York, a similar law to that contained in this provision was held to be merely directory, and a failure Accept 16.

# Eriminal Procedure.

imprisonment shall be substituted in all cases for the separate and solitary confinement at labor required by the "Act to consolidate, revise and amend the penal laws of this commonwealth."

70. 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 over 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:(r) Provided 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 misdemennors 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 be decreed to be paid to the commonwealth; but the same shall be collected and received, decreed to be paid to the commonwealth; but the same shall have been imposed as paid to the for the use of the respective counties in which such fines shall have been imposed as state, for the aforesaid, as is now directed by law.(e) county.

76. Act 31 March 1860, & 76. P. L. 450.

77. Told. 5 77.

78. Ibid. § 78.

(a) 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. I Cranch C. C. 485. Nor

will a former indictment, on which a nolle prosequi was entered. 3 McLean, 469.

3 McLean, 460.

(c) The limitation used not be specially pleaded; it may be taken advantage of on the general issue. 4 C. 259. See 3 Crauch C. C. 442. 5 Crauch C. C. 38, 60, 368.

(d) This section considerably extends the existing laws relating to the 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 officers, the limitations in the latter cases being six years; the present section extends the principle to all crimes murder and voluntary mustlaughter 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 slayery, to which no human being kept in a state of moral slavery, to which no human being should be subjected; it is true, that stale prosecutions are

looked upon with an unfavorable eye by courts and juries, but the very existence of this feeling in criminal tribunals is a strong argument in itself in favor of reasonable limitations in criminal prosecutions. In the more serious clars of felonies and misdemeanors, the limitation has been extended to five years; in those of lees malignity, the limitation of two years has been adopted. The existing laws on this subject are the lat section of the act of 10th April 1848, P. L. 428; the 7th section of the act of 10th April 1849, P. L. 64; the 36th section of the act of 25th April 1850, P. L. 575; the act of 10th March 1852, P. L. 124; and the act 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 repeated 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 misdemeanors 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.

265

Add. 97

# Cumberland Road.

 Road accepted from the United States.
 Appointment of superintendents. Term. Vacancies, how led. Oath of office. Bond. filled.

3. Superintendent in Fayette and Somerset counties.

4. Powers of the superintendents.
5. Compensation. Accounts.
6. Toll-gates to be erected. Tolls. May be commuted. Certain parties not to be charged toll.
7. When tolls may be increased. How payment may be en-

8. Rates of toll increased. Exemptions.
9. Suits for collection of tolls. Plea of non-joinder nut to be received. Vehicles may be detained till tolls be paid.
10. Drivers to report number of passengers. Penalty for ne-

glect.

11. Book of entries to be evidence of unpaid tolls.

12. Estimates to be made of tolls, not reported. Commutations. Evidence.

13. Penalty for fraudulent evasion of toll.

14. Commissioners to establish rules. Subject to approval of

the courts.

15. Tolls to be collected although no gates be passed. To be collected by action

16. Location of gates may be changed. Rates of toll may be raised in certain cases

Toll-gatherers to be appointed; who shall account quarterly. Commissioners to render about accounts, on oath.
 Tolls to be applied to preservation of road. Limitation

of power to increase tolls.

19. Directors to be set up. Penalty for violation.

20. Penalty for delaying travellers, or demanding excessive tolls

21. Penalty for injuring or obstructing road.

Toll-gatherers to keep accounts.

22. Toll-gatherers to keep accounts.
23. How penalties recoverable.
24. Penalty for driving rough-locked, &c.
25. Culverts to be constructed along the road.
26. Payment of salaries and expenses. Repairs of road.
27. When proceeds may be applied to payment of creditors.

Road accept 1. The surrender by the United States of So Indea by this state; and the commissed from U.S. within the state of Pennsylvania, is hereby accepted by this state; and the commissed from U.S. within the state of Pennsylvania, is hereby accepted by this state; and the commission of the state of Pennsylvania, is hereby accepted by this state; and the commission of the state of Pennsylvania, is hereby accepted by this state; and the commission of the state of Pennsylvania, is hereby accepted by this state; and the commission of the state of Pennsylvania, is hereby accepted by this state; and the commission of the state of Pennsylvania, is hereby accepted by this state; and the commission of the state of Pennsylvania, is hereby accepted by this state; and the commission of the state of Pennsylvania, is hereby accepted by this state; and the commission of the state of Pennsylvania, is hereby accepted by this state; and the commission of the state of Pennsylvania, is hereby accepted by this state; and the commission of the state of Pennsylvania, is hereby accepted by this state; and the commission of the state of Pennsylvania, is hereby accepted by the state of Pennsylvania, is hereby accepted by the state of Pennsylvania and the state of Penn 1. The surrender by the United States of so much of the Cumberland road as lies sioners 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

Appointenis.

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 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

how filled. Oath of office. Bond.

Vacancies.

Term.

discharge of their trust in all things. 3. The governor of this commonwealth shall appoint one person to be superintendent of Superintendsaid 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.

counties. Powers of

ent in Fay-

ette and

Somerset

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.

Compensation.

Accounts.

tendents.

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 the said 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

be erected.

court, and for this purpose the court may appoint an auditor, if necessary, 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,

I. Act I April 1835, § 3. P. L. 102. 2. Act 22 April 1856, § L. P. L. 523,

Act 1 May 1861, § 1. P. L. 678.
 Act 22 April 1866, § 7. P. L. 523.

5. Ibid. 2. 6. Act 4 April 1831, § 2. P. L. 119. Add. 98 312

## MISCELLANEOUS.

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.

Section 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 authority, or on their own landed property, or in execution of an order of court.

§ 2. Deadly weapons, in the meaning of this act, shall be construed to mean all kinds and classes of pistols,

Add. 99

# MISCELLANEOUS.

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 dangerous 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 fine 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 twenty-five 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 dollars nor more than one hundred dollars for each offense, or by imprisonment in the county jail for a term of not less than one mouth nor more than three months for each offense, or by both such fine 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

313

314

shall assess the penalty, upon conviction, 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

property, 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.

§ 10. All fines collected by virtue of the preceding sections of this act shall go, one-third to the Territory, one-third 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.

§ 12. It shall be the duty of the keeper of each and

#### STATUTES AT LARGE

A. D. 1870.

402

dred dollars, and one per cent. for all sums over that amount; for search for each paper, fifteen cents; for certificate and seal, fifty cents; for copying 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 CHARLES-

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.

privileges.

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 have power to make by-laws, not repugnant to the laws of the land, and to have, use 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 personal, 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 sell, 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 JURISDICTION OF TRIAL JUSTICES.

> 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 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.

**\$100.** 

SEC. 2. Trial Justices shall have jurisdiction of all offences which may Penalties be subject to the penalties of either fine or forfeiture not exceeding one not exceeding 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 battery. 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, &c.

SEC. 4. They may cause to be arrested all affrayers, rioters, disturbers

Add. 102

#### OF SOUTH CAROLINA.

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.

A. D. 1870.

403

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.

Sureties.

SEC. 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 does not exceed twenty dollars in value.

Larceny.

SEC. 6. They shall have jurisdiction of the offences of buying, receiv- Stolen Goods. ing or aiding in the concealment of stolen goods or other property, where they would have jurisdiction of the larceny of the same goods or prop-

crty.

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, tence. device, slight of hand, pretensions to fortune telling, trick or other means, 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.

False pre-

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 set-commence. ting 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 Trial by Jucharged with an offence within his jurisdiction, shall be entitled, on de-ry. mand, 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 hereto-

fore 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 Appeal.

#### STATUTES AT LARGE

A. D. 1870.

404

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 Dickerson, P. L.

PREVENTING THE COMMISSION OF CRIMES. ГСн. 153.

702

for the like offense, he shall be sentenced to be confined in the penitentiary for one year.

Id. § 28. 1 Va. Cas. 151-2.

26. 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, 2 29. 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.

Acts of 1868, p. 124, ch. 149, § 1.

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.

1. Conservators of the peace; power to bind to good behavior.

2. Duty of, on complaint that a crime is in3. tended.

3. 1 tended. 4. Proceedings when accused appears.

5. Right of accused to appeal.

6. Power of court upon such appeal, and when the accused is committed

8. Person going armed with deadly weapon,

when required to give recognizance, etc.

9. Affray, etc., in the presence of constable.

10. In presence of justice; duty of justice where person brought before him, etc. 11. Proceedings where person suspected of un-lawful retailing of spirituous liquors.

1. Every justice and constable shall be a conservator of the Code of Va, p. Coust art. 7. 3 9. peace, within his county. As such conservator, every justice shall Acts of 1863, p. have power to require from persons not of good fame, security for

their good behavior for a term not exceeding one year.

Code Va., p. 817,

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.

Lt. p. 818, 2 3. Munf. 458.

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.

Add. 105

- 4. When such person appears, if the justice, on hearing the parcode va., p. 818, ties, consider that there is not good cause for the complaint, he shall 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 Id. § 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, 1d. § 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 may require of the appellant a new recognizance, if it see fit.
- 7. Any person committed to jail under this chapter may be dis- Id. 27. 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, m. 28. 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 id. § 9. his county, make an affray, or threaten to beat, wound, or kill Acts of 1 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- 1d, p. 235, § 2. Add. 106

ГСн. 154.

704

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 Va., p. 11. If any justice suspect any person of selling, by retail, wine, sis, 2 10.

Acts of 1865, p. or ardent spirits, or a mixture thereof, contrary to law; or of selling, 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.

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.

Inquisition, evidence, etc., returned; witnesses recognized.

- sec. 7. Justice to issue warrant for the arrest of accused, if not in custody, 8. When deceased a stranger, body to be huried,
- 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.

#### CRIMINAL CODE.

days' Imprison-

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,

12 Aug., 1870; took effect 12 Oct., 1870, Vol. 21, part I, p. 63. Persons not to lic assemblies. course and elec-tions not to be mude dangerous.

Art. 6512.

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

Scalp-lifting country except-

Armed officials.

12 April, 1871; took effect 12 June, 1871. Vol. 21, part 2. p. 25. Currying arms a misdementor, punishable by fine and forfeit-ture, unless, &c. Patriots and mili-fiamen excepted, Art. 6511. 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 "civil officers."

Art, 6512. Justification

AN ACT REGULATING THE RIGHT TO KEEP AND BEAR ARMS.

Art. 6511. [1] If any person shall go into any church or rebear arm at publicious 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 Kindsofweepons 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 must be immed- 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 ato and pressing 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 ordinary courage; and that the weapon so and weaponnot carried was borne openly and not concealed beneath the clothing; and if it shall appear that this danger had its origin in a diffi- Impending danculty first commenced by the accused, it shall not be considered ger. as a legal defense.

meetings armed an off nee to be pour bed in like DUBLICE Socially protected and attempted civilization.

arms prohibited.

ART. 6514. [3] If any person shall go into any church or relig- Attending public ious 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, character of or other firearm, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufartured 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, Fine \$50 to \$100 and shall forfeit to the county the weapon or weapons so found and imprisonon his person; and for every subsequent offense may, in addition ment for porseto 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 devemor may exempt fronter countries by processing the designated in a proclamaany county of the state which may be designated in a proclamation of the governor as a frontier county, and liable to incursions lamation.

of hostile Indians,

ART. 6516. [5] All fines collected under the provisions of this Art. 6517.

act shall be paid into the treasury of the county, and appropriated this act must be exclusively to the keeping in repair and maintenance of public paid into county 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 purpose.

ART. 6517. [6] It shall be the duty of all sheriffs, constables, Peace officers to marshals, and their deputies, and all policemen and other peace &c. 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 de-On all such trials the accused shall have the right of a trial Jury trial and appeal of appeal to the district court; but, in case of appeal, Appeal bond. 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 Payable to State. approved by the magistrate, and conditioned that the defendant will abide the judgment of the district court that may be rendered

### CRIMINAL CODE.

Forfalture-

Art. 6516.

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

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

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.

And fined not more than \$500.

District courts to have concurrent jurisdiction.

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.

Governor to publish the act.

Arr. 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.

Arts. 2035-2038.

CHAPTER I .- ILLEGAL BANKING AND PASSING SPURIOUS MONEY.

2 Dec., 1871; took effect from pas-sage, Vol. 21, part 3, p. 82. Onicers to pub-lish semi-aunual returns; punish-ment for failure. Arts. 5932-6011.

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.

How recovered.

Arts, 2043.

CHAPTER III .- OF SELLING TO INDIANS.

31 Aug., 1866. Art. 6317 for cap-lion. Selling liquor to

Who may punish

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.

#### CHAPTER IV .- GAMING.

11 May 1871; took effect from wassage. Vol. 21, passage. V Arts. 2016, 2054.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ADOPT AND ESTAB-LISH A PENAL CODE FOR THE STATE OF TEXAS," APPROVED AUGUST 26, A. D. 1856, AND TO REPRAL AN ACT ENTITLED "AN ACT TO AMEND ARTICLES 412 AND 418 OF AN ACT TO ADOPT AND ESTABLISH A PE-NAL CODE FOR THE STATE OF TEXAS," APPROVED DECEMBER 16, A. р. 1863.

Recoing a gaining table or bank punished.

AET. 6523. [412] If any person shall keep or exhibit, for the purpose of gaming, any gaming table or bank, of any name or

Add. 110

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, how 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 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 52.

An Act to Prevent the Carrying of Fire Arms and Other Deadly Weapons.

Re it enacted by the Council and House of Representatives of the Territory of Wyoming:

Carrying weapons within city, town or vilingo limits, prohibited.

Section. 1. That hereafter it shall be unlawful for any resident of any city, town or village, or for any one not a resident of any city, town or village, in said Territory, but a sojourner 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.

Non-resident to be first no-tified.

SEC. 2. That if any person not a resident of any town, eity or 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.

Violation of this act a misdemeanor. SEC. 3. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than fifty 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.

In force,

Penalty.

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

Approved, December 2nd, 1875.

#### LAWS OF ARIZONA.

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 1. No Court of Justice shall be open, nor shall any Judicial business be transacted on any Legal Holiday, except for the following purposes:

- 1. 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 beginning.

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

passage.

Approved February 4, 1889.

#### CARRYING DEADLY WEAPONS.

#### AN ACT

REGULATING THE USE AND CARRYING OF DEADLY WEAPONS IN IDAHO TERRITORY.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

Section 1. That it is unlawful for any person, except United States officials, officials of Idaho Territory, County officials, Peace officers, Guards of any jail, and officers 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 by 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 fifty days, or by both such fine and imprisonment.

SEC. 2. One half of all fines collected under the provisions of this act shall be paid to the officer 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, 1889.

- 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.
- If a person carry about his person any revolver or other pistol, (SecActs) 1872-3.
   ch. 226, § 168.) dirk, bowie knife, razor, slung shot, billy, metallic or other false Acts 1882, ch. knuckles, or any other dangerous or deadly weapon of like kind or 7 Gratt, 597, 34 W. Va. 74. 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 with such pistol, dirk, razor or bowie knife, as charged in the in-

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 self-defence 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. 135.

If two or more persons under the name of "Red Men," "Regnlators," "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.

Id 25 W. Va. 685. 10. 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 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 wards of the might degrade him, or expose him to punishment; but no such wit-

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.

Additional powers of council.

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:

Vice.

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;

Disorderly houses.

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;

Liquors.

Third. To forbid and prevent the vending 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;

Auctions.

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

Exhibitions.

Nuisances.

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 convenience of the inhabitants of the city. To compel the owner, lessee or agent to remove buildings that are liable to fall by reason of being burnt, decayed or not properly erected;

Dangerous buildings.

Location of slaughter houses.

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- combustibles, etc. 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;

Eightli. To prevent the encumbering of streets, sidewalks, Encumbering crosswalks, lanes, alleys, bridges, aqueducts, wharves or slips 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 locomotives, engines and cars upon the railroads within the city; to compel such railroads to erect and maintain safety gates at street crossings;

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

Twelfth. To restrain and punish drunkards, vagrants, Drunkards, mendicants, street beggars and persons soliciting alms or subscriptions 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 pogs. 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

#### CRIMES AND PUNISHMENT. CHAP. 251 Art. 44-45.

643

(2498) § 579. Every person who commits any extortion under Extortion color of official right, in cases for which a different punishment is not of official right. prescribed by this chapter, or by some of the statutes which it specifies as continuing in force, is guilty of a misdemeanor.

(2499) § 580. Every person who, by any extertionate means, ob- Obtaining tains from another his signature to any paper or instrument, whereby, extortion. if such signature were freely given, any property would be transferred, or any debt, demand, charge or right of action created, is punishable in the same manner as if the actual delivery of such property or payment of the amount of such debt, demand, charge or right of action were obtained.

(2500) § 581. Every person who, with intent to extort any sending money or other property from another, sends to any person any letter or threatening other writing, whether subscribed or not, expressing or implying, or adapted to imply, any threat, such as is specified in the second section of this article, is punishable in the same manner as if such money or property were actually obtained by means of such threat.

(2501) § 582. Every person who unsuccessfully attempts by Attempting means of any verbal threat such as is specified in the second section of money. this article, to extort money or other property from another is guilty of a misdemeanor.

#### ARTICLE 45.—CONCEALED WEAPONS.

Section. Section. (2507) 588. Degree of punishment. (2508) 589. Public buildings and gather-ings. (2309) 590. Intent of persons carrying (2502) 583. Prohibited weapons enumerat-(2503) 584. Same. (2504) 585. Minors. (2505) 586. Public officials, when privileged. weapons. (2506) 586. Public officials, when privile eged. (2310) 591. Pointing weapon at another. (2506) 587. Arms, when lawful to carry. (2511) 592. Violation of certain sections.

(2502) § 583. It shall be unlawful for any person in the Terri- Prohibited tory of Oklahoma to carry concealed on or about his person, saddle, weapons or saddle bags, any pistol, revolver, bowie knife, dirk, dagger, slung-shot, sword, cane, spear, metal knuckles, or any other kind of knife or instrument manufactured or sold for the purpose of defense except as in this article provided.

The provisions of the statute in reference to the crime of carrying concealed weapons are not in conflict with any constitutional provision or organic law and are therefore valid. Walburn v. Territory, 9 Ok., 23, 59 Pac., 972.

(2503) § 584. It shall be unlawful for any person in the Terri-Same. tory of Oklahoma, to carry upon or about his person any pistol, revolver, bowie knife, dirk knife, loaded cane, billy, metal knuckles, or any other offensive or defensive weapon, except as in this article provided.

(2504) § 585. It shall be unlawful for any person within this Minors. Territory, to sell or give to any minor any of the arms or weapons designated in sections one and two of this article.

(2505) § 586. Public officers while in the discharge of their Public offiduties or while going from their homes to their place of duty, or rectals when privileged. turning therefrom, shall be permitted to carry arms, but at no other time and under no other circumstances: Provided, however, That if any public officer be found carrying such arms while under the influence of intoxicating drinks, he shall be deemed guilty of a violation of this article as though he were a private person.

Астя, 1906. — Снаря. 172, 173.

Repeal.

150

Section 3. Chapter one hundred and eight of the acts of the year nineteen hundred and two and all other acts or parts of acts inconsistent herewith are hereby repealed. Section 4. This act shall take effect upon its passage.

Approved March 16, 1906.

Chap.172 An Act to regulate by license the carrying of concealed weapons.

Be it enacted, etc., as follows:

Licenses may be granted for earrying concealed weapons, etc. Section 1. The justice of a court, or trial justices, the board of police or mayor of a city, or the selectmen of a town, or persons authorized by them, respectively, may, upon the application of any person, issue a license to such person to carry a loaded pistol or revolver in this Commonwealth, if it appears that the applicant has good reason to fear an injury to his person or property, and that he is a suitable person to be so licensed.

Penalty for carrying concealed weapon without permission.

Section 2. Whoever, except as provided by the laws of this Commonwealth, earries on his person a loaded pistol or revolver, without authority or permission as provided in section one of this act, or whoever carries any stiletto, dagger, dirk-knife, slung-shot or metallic knuckles, shall upon conviction be punished by a fine of not less than ten nor more than one hundred dollars, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment.

Approved March 16, 1906.

Chap.173 An Act to provide for the further improvement of the commonwealth's flats at south boston.

Be it enacted, etc., as follows:

Improvement of the Commonwealth's flats at South Boston, Section 1. For the purpose of enforcing and executing the provisions and requirements of existing laws relating to the Commonwealth's flats at South Boston, and for the payment of money which may be needed to earry out the provisions of chapter two hundred and thirty-nine of the acts of the year eighteen hundred and seventy-five, the sum of five hundred thousand dollars is hereby appropriated from the Commonwealth's Flats Improvement Fund, established by chapter two hundred and thirty-seven of the acts of the year eighteen hundred and seventy-eight.

SECTION 2. This act shall take effect upon its passage.

Approved March 19, 1906.

1909.

258

To the person raising the best mule colt under six months of age, \$15.00; To the person raising the best horse colt under six months old To the person raising the best acre of **\$**15.00. corn \$25.00; To the person raising the best acre of wheat, \$15.00; To the person raising the best acre of oats, \$15.00; To the person raising the best acre of sweet or irish potatoes, \$10.00 each; To the person raising the best acre of hay, \$5.00.

It shall be the duty of the commissioner of agriculture and industries to provide rules under which the results of the contestants may be declared and awards made.

Payment authorized.

3. "That the commissioner of agriculture and industries is hereby required and authorized to pay the several prizes enumerated above out of the funds provided for the expense of the agricultural department by sections 52 and 73 of the Code of 1907."

Approved Aug. 26, 1907.

No. 215)

AN ACT

(S. 50

To regulate the right to carry a pistol in this State.

Unlawful to carry concealed pistol.

Does not apply to sheriff, etc.

Section 1. Be it enacted by the Legislature of Alabama, That it shall be unlawful for any person to carry a pistol concealed about his person.

Section 2. It shall be unlawful for any person to carry a pistol about his person on premises not his own or under his control, provided this section shall not apply to any sheriff or his deputy or police officer of an incorporated town or city in the lawful discharge of the duties of his office or United States Marshal or their deputies, rural free delivery mail carriers in the discharge of their duties as such or bonded constable in the discharge of their duties as such.

Violations.

Any person violating the provi-Section 3. sions of this act must on conviction be fined not less than fifty dollars and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months.

May give evireason.

Section 4. The defendant may give evidence dence of good that at the time of carrying the pistol he had good reason to apprehend an attack which the 259 1909.

jury may consider in mitigation of the fine or justification of the offense.

Section 5. In an indictment for a violation Sufficient to of this act, it shall be sufficient to charge that the charge defendant carried a pistol concealed about his ried pistol. person or on premises not his own or under his control and the excuse if any must be proved by Excuse must the defendant on the trial, to the satisfaction of the jury.

Section 6. All laws and parts of laws in con-Conflicting flict with the provisions of this act be and the laws resame are hereby repealed.

Approved Aug. 26, 1909.

No. 217.) AN ACT (S. 7.

To authorize and empower the commissioners court, board of revenue, or other court or county officers of similar or like jurisdiction to donate or appropriate funds from the county treasury to aid in the construction or improvement of necessary buildings and the maintenance and support of those State schools known as county high schools established under the act of the Legislature approved August 7, 1907, and to ratify and confirm all appropriations heretofore made for such purposes and to repeal all laws and parts of laws in conflict therewith.

Section 1. Be it enacted by the Legislature of Lawful to ap-Alabama, That on and after the approval of this propriate act by the governor it shall be lawful for the com-in construcmissioners court, board of revenue, or other court tion, etc. of or officers of the county of similar or like jur-county high isdiction to donate or appropriate funds from the county treasury to aid in the construction or improvement of necessary buildings and the maintenance and support of those State schools known as county high schools, established in the several counties of the State under an act of the Legislature entitled an act "to provide for the establishment of high schools in this State, and to make appropriations for said schools," approved August 7th, 1907, such donations or appropriations to be applied to the benefits of said schools

vocations and trades, professions or callings, which are licensed by the State of Texas or which are taxed by said State; provided, that no tax assessed on such occupation, trade, vocation, profession or calling shall be more than one-half the amount levied thereon by said State, and said commission shall have the power to prescribe penalties against all persons pursuing any occupation, vocation, trade, profession or calling so taxed, without having first paid the tax due, and secured a proper license 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 therefor; 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.—To regulate the use of all streets, alleys, parks, squares, sidewalks and public grounds within said city, and to prevent and suppress all eneroachments on said streets, sidewalks, alltys or parks or other public places, and to prevent and suppress all obstructions of every kind and character on the said streets, 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 variety 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 intoxicating 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 cancel and forfeit any city license issued by said City of Marshall to the owner or proprietor 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.

- (na) 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,

Acts, 1911. — Chaps. 547, 548.

Chap.547 An Act to ratify and confirm certain acts of the town of south hadley.

Be it enacted, etc., as follows:

Certain acts

Section 1. The action of the town of South Hadley at a special town meeting held on the ninth day of May, nineteen hundred and eleven, in voting that taxes for the year nineteen hundred and eleven be payable September first, nineteen hundred and eleven, and that if taxes are unpaid on October first, nineteen hundred and eleven, interest shall be added thereto at the rate of six per cent per annum from September first, nineteen hundred and eleven, is hereby ratified and confirmed.

Section 2. This act shall take effect upon its passage.

Approved June 14, 1911.

Chap.548 An Act relative to the carrying of concealed weapons.

Be it enacted, etc., as follows:

1906, 172, § 1, amended.

Licenses may be issued for carrying concealed weapons. Section 1. Section one of chapter one hundred and seventy-two of the acts of the year nineteen hundred and six is hereby amended by striking out the word "loaded", in the fifth line, so as to read as follows: — Section 1. The justice of a court, or trial justices, the board of police or mayor of a city, or the selectmen of a town, or persons authorized by them, respectively, may, upon the application of any person, issue a license to such person to carry a pistol or revolver in this commonwealth, if it appears that the applicant has good reason to fear an injury to his person or property, and that he is a suitable person to be so licensed.

1906, 172, § 2, amended. Section 2. Section two of said chapter one hundred and seventy-two, as amended by section one of chapter three andred and fifty of the acts of the year nineteen hundred and eight, is hereby further amended by striking out the word "loaded", in the third line; by striking out the word "twenty-five", in the seventh line, and inserting in place thereof the word: — fifty, — and by inserting after the word "not", in the ninth line, the words: — less than one month and not, — so as to read as follows: — Section 2. Whoever, except as provided by the laws of this commonwealth, carries on his person a pistol or revolver, without authority or permission as provided in section one of this act, or whoever earries any

Penalty.

## Acts, 1911.—Chap. 549.

569

stiletto, dagger, dirk-knife, slung-shot or metallie knuckles, shall upon conviction be punished by a fine of not less than fifty nor more than one hundred dollars, or by imprisonment for a term not less than one month and not exceeding one year, or by both such fine and imprisonment.

Section 3. Section nine of chapter two hundred and R. L. 211, amended. eleven of the Revised Laws is hereby amended by inserting after the word "billy", in the fourth line, the words: revolver or pistol. loaded or unloaded, — and also by striking out all after the word "by", in the fifth line, and inserting in place thereof the following: — imprisonment for not less than three months and not more than three years, — so as to read as follows: - Section 9. Whoever, when arrested Penalty for carrying cerupon a warrant for an alleged crime and whoever, when fain weapons. arrested while committing a crime or a breach or disturbance of the public peace, is armed with or has on his person any slung-shot, metallic knuckles, billy, revolver or pistol, loaded or unloaded, or other dangerous weapon, shall be punished by imprisonment for not less than three months and not more than three years.

Section 4. Chapter two hundred and eighty-three of the Repeal. acts of the year nineteen hundred and eleven is hereby Approved June 14, 1911. repealed.

An Act to establish the salaries of mary e. halley Chap.549 AND MARY A. NASON, MEMBERS OF THE INSPECTION DE-PARTMENT OF THE DISTRICT POLICE.

Be it enacted, etc., as follows:

Section 1. The salaries of Mary E. Halley and Mary Mary E. A. Nason, members of the district police, shall hereafter be Mary A. at the rate of fifteen hundred dollars per annum.

Section 2. All acts and parts of acts inconsistent here- Repeal. with are hereby repealed.

Section 3. This act shall take effect upon its passage. (The foregoing was laid before the governor on the eighth day of June, 1911, and after five days it had "the force of a law", as prescribed by the Constitution, as it was not returned by him with his objections thereto within that time.)

25 .

Act 22. Carrying Deadly Weapons.

## **ACT 22**

#### AN ACT

To Amend Section 3089 of the Revised Laws of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3089 of the Revised Laws of Hawaii is hereby amended so as to read as follows:

"Section 3089. Persons not authorized; punishment. Any person not authorized by law, who shall carry, or be found armed with any bowie-knife, sword-cane, pistol, air-gun, slung-shot, or other deadly weapon, shall be liable to a fine of not more than Two Hundred and Fifty Dollars and not less than Ten Dollars, or in default of payment of such fine, to imprisonment for a term not exceeding one year, nor less than three months, upon conviction for such offense, unless good cause be shown for having such dangerous weapon; and any such person may be immediately arrested without warrant by the high sheriff, or any sheriff, policeman, or other officer or person."

SECTION 2. This Act shall take effect from and after the date of its approval.

Approved this 19th day of March, A. D. 1913.

WALTER F. FREAR, Governor of the Territory of Hawaii.

- Where a male person of the age of sixteen years and under the age of eighteen years has been convicted of juvenilo delinquency or of a misdemeanor, the trial court may, instead of sentencing him to imprisonment in a state prison or in a penitentiary, direct him to be confined in a house of refuge established by the managers of the society for the reformation of juvenile delinquents in the city of New York; under the provisions of the statuto relating thereto. Where a female person not over the age of twelve years is convicted of a crime amounting to follony, or where a female person of the age of twelve years and not over the ago of sixteen years is convicted of a crime, the trial court may, instead of sentencing her to imprisonment in a state prison or in a penitentiary, direct her to be confined in the New York State Training School for Girls, under the provisions of the statute relating thereto, but nothing in this section shall affect any of the provisions contained in section twenty-one hundred and ninety-four.
- § 2. All acts or parts of acts inconsistent with this act are hereby repealed.
  - § 3. This act shall take effect immediately.

## Chap. 608.

AN ACT to amend the penal law generally, in relation to the carrying, use and sale of dangerous weapons.

Became a law May 21, 1013, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighteen hundred and ninety-seven of chap- I., 1909, ter eighty-eight of the laws of nineteen hundred and nine, entitled ch. 88, as "An act providing for the punishment of crime, constituting chap- in 1911, ter forty of the consolidated laws," as amended by chapter one amended. hundred and ninety-five of the laws of nineteen hundred and cleven, is hereby amended to read as follows:

§ 1897. Carrying and use of dangerous weapons. A person who attempts to use against another, or who carries, or possesses. any instrument or weapon of the kind commonly known as a black jack,

<sup>1</sup> Following sentence new.

[CHAP.

1628

slungshot, billy, sandclub, sandbag, metal knuckles, bludgeon, bomb or bombshell, or who, with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any other dangerous or deadly instrument or weapon, is guilty of a felony.

Any person under the age of sixteen years, who shall have, carry, or have in his possession, any of the articles named or described in the last section, which is forbidden therein to offer, sell, loan, lease or give to him, shall be guilty of a misdemeanor.

Any person over the age of sixteen years, who shall have in his possession in any city, village or town of this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, without a written license therefor, issued to him <sup>2</sup> as hereinafter prescribed, shall be guilty of a misdemeanor.

Any person over the age of sixteen years, who shall have or carry concealed upon his person in any city, village, or town of this state, any pistol, revolver, or other firearm without a written license therefor, <sup>3</sup> issued as hereinafter prescribed and licensing such possession and concealment, shall be guilty of a felony.

Any person not a citizen of the United States, who shall have or carry firearms, or any dangerous or deadly weapons in any race, at any time, shall be guilty of a felony, bunless authorized by license issued as hereinafter prescribed.

BIt shall be the duty of any magistrate in this state to whom an application therefor is made by a commissioner of correction of a city or by any warden, superintendent or head keeper of any state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted of or accused of crime, or offences, or held as witnesses in criminal cases, to issue to each of such persons as may be designated in such applications, and who is in the regular employ in such institution of the state, or of any county, city, town or village therein, a license authorizing such

<sup>1</sup> Inclusion of bomb and bombshell, new.

<sup>2</sup> Remainder of sentence formerly read: "by a police magistrate of such city or village, or by a justice of the peace of such town, or in such manner as may be prescribed by ordinance in such city, village or town, shall be guilty of a misdemeanor."

Remainder of sentence formerly read: "theretofore issued to him by a police magistrate of such city or village, or by a justice of the peace of such town, or in such manner as may be prescribed by ordinance of such city, village or town, shall be guilty of a felony."

4 Word "public" omitted.

Remainder of sentence new Following paragraph new,

608.]

1629

person to have and carry concealed a pistol or revolver while such person remains in the said employ.

It shall be the duty of any magistrate in this state, upon application therefor, by any householder, merchant, storekeeper or messenger of any banking institution or express company in the state, and provided such magistrate is satisfied of the good moral character of the applicant, and provided that no other good cause exists for the denial of such application, to issue to such applicant a license to have and possess a pistol or revolver, and authorizing him (a) if a householder, to have such weapon in his dwelling, and (b) if a merchant, or storekeeper, to have such weapon in his place of business, and (c) if a messenger of a banking institution or express company, to have and carry such weapon concealed while in the employ of such institution or express company.

In addition, it shall be lawful for any magistrate, upon proof before him that the person applying therefor is of good moral character, and that proper cause exists for the issuance thereof, to issue to such person a license to have and carry concealed a pistol or revolver without regard to employment or place of possessing such weapon, provided, however, that no such license shall be issued to any alien, or to any person not a citizen of and usually resident in the state of New York, except by a judge or justice of a court of record in this state, who shall state in such license the particular reason for the issuance thereof, and the names of the persons certifying to the good moral character of the applicant.

<sup>6</sup>Any license issued in pursuance of the provisions of this section may be limited as to the date of expiration thereof and may be vacated and cancelled at any time by the magistrate, judge or justice who issued the same or by any judge or justice of a court of record. Any license issued in pursuance of this section and not otherwise limited as to place or time or possession of such weapon, shall be effective throughout the state of New York, \*notwitstanding the provisions of any local law or ordinance.

This section shall not apply to the regular and ordinary transportation of firearms as merchandise, nor to sheriffs, policemen, or to other duly appointed peace officers, nor to duly authorized military or civil organizations, when parading, nor to the members thereof when going to and from the place of meeting of their respective organizations.

<sup>\*</sup> So in original.

<sup>6</sup> Following paragraph new.

[CHAP.

1630

§ 1914, as added by L. 1911, ch. 195, amended.

- § 2. Section nineteen hundred and fourteen of such chapter. as added by chapter one hundred and ninety-five of the laws of nineteen hundred and eleven, is hereby amended to read as follows:
- § 1914. Sale of pistols, revolvers and other firearms. <sup>7</sup>No pistol, revolver or other firearms of a size which may be concealed upon the person, shall be sold, or given away, or otherwise disposed of, except to a person expressly authorized under the provisions of section eighteen hundred and ninety-seven of the penal law to possess and have such firearm.

<sup>7</sup>Any person selling or disposing of such firearm in violation of this provision of this section shall be guilty of a misdemeanor.

Every person selling a pistol, revolver or other firearm of a size which may be concealed upon the person, whether such seller is a retail dealer, pawnbroker, or otherwise, shall keep a register in which shall be entered at the time of sale, the date of sale, name, age, occupation and residence of every purchaser of such a pistol, revolver or other firearm, together with the calibre, make, model, manufacturer's number or other mark of identification on such pistol, revolver or other firearm. Such person shall also, before delivering the same to the purchaser, require such purchaser to produce a license 8 for possessing or carrying the same, as required by law, and shall also enter in such register the date of such permit, the number thereof, if any, and the name of the magistrate or other officer by whom the same was issued. Every person who shall fail to keep a register and to enter therein the facts required by this section or who shall fail to exact the production of a permit to possess or carry such pistol, revolver or other firearm, if such permit is required by law, shall be guilty of a misdemeanor. Such register shall be open at all reasonable hours for the inspection of any peace officer. Every person becoming the lawful possessor of such a pistol, revolver or other firearm, who shall sell, give or transfer the same to another person without first notifying the police authorities, shall he guilty of a misdemeanor. This section shall not apply to wholesale dealers.

In effect Sept. 1, 1913. § 3. This act shall take effect September first, nineteen hundred and thirteen.

<sup>7</sup> Following sentence new.

<sup>\*</sup> Word "license" substituted for word "permit."

156 GENERAL ACTS, 1919. — CHAPS. 206, 207.

before the injury and the average weekly wages which he is able to carn thereafter, but not more than sixteen dollars a week; and in no case shall the amount of such compensation be more than four thousand dollars.

Approved May 29, 1919.

Chap.206 An Act relative to the salary of the parole clerk at the massachusetts reformatory.

Be it enacted, etc., as follows:

1917, 293 (G), amended.

Chapter two hundred and ninety-three of the General Acts of nineteen hundred and seventeen is hereby amended by striking out the words "an annual salary of sixteen hundred dollars", in the ninth and tenth lines, and substituting the words: — such annual salary, not to exceed nineteen hundred dollars, as shall be fixed by the director of prisons with the approval of the governor and council, — so as to read as follows: — The director of the bureau of prisons is hereby authorized to designate as parole clerk one of the officers at the Massachusetts reformatory mentioned in section twenty-one of chapter two hundred and twenty-three of the Revised Laws, as affected by chapter four hundred and fifty-four of the acts of the year nineteen hundred and ten. He shall perform such duties relating to the parole of inmates of the reformatory as the director may prescribe. While performing the duties of parole clerk, such officer shall receive such annual salary, not to exceed nineteen hundred dollars, as shall be fixed by the director of prisons with the approval of the governor and council, in full for all services rendered by him, and shall be subject to the provisions of chapter six hundred and one of the acts of the year nineteen hundred and eight and acts in amendment thereof. Approved May 29, 1919.

Parole clork at Massachusetts reformatory, salary, etc.

Chap.207 An Act relative to the carrying of concealed weapons.

Be it enacted, etc., as follows:

1906, 172, § 1, etc., amended.

Section 1. Section one of chapter one hundred and seventy-two of the acts of ninetcen hundred and six, as amended by section one of chapter five hundred and forty-eight of the acts of nineteen hundred and eleven, is hereby further amended by inserting after the word "property", in the seventh and eighth lines, the words: — or for any

Add. 131

## GENERAL ACTS, 1919. — CHAP. 207.

157

other proper purpose, — so as to read as follows: — Section Licenses for 1. The justice of a court, or trial justices, the board of weapons may police or mayor of a city, or the selectmen of a town, or per- be issued in cortain cases. sons authorized by them, respectively, may, upon the application of any person, issue a license to such person to carry a pistol or revolver in this commonwealth, if it appears that the applicant has good reason to fear an injury to his person or property, or for any other proper purpose, and that he is a suitable person to be so licensed.

Section 2. Section two of said chapter one hundred 1906, 172, § 2, and seventy-two, as amended by section one of chapter three hundred and fifty of the acts of nineteen hundred and eight and by section two of said chapter five hundred and forty-eight is hereby further amended by striking out all after the word "than", in the sixth line, and substituting the words: — one hundred nor more than five hundred dollars or by imprisonment for a term of not less than six months and not more than five years, or by both such fine and imprisonment, — so as to read as follows: — Section 2. Who-Penalty for ever, except as provided by the laws of this commonwealth, carrying certain weapons withcarries on his person a pistol or revolver, without authority out a license. or permission as provided in section one of this act, or whoever carries any stiletto, dagger, dirk-knife, slung-shot or metallic knuckles, shall upon conviction be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for a term of not less than six months and not more than five years, or by both such fine and imprisonment.

SECTION 3. Section nine of chapter two hundred and R. L. 211, \$ 9, otc., amended. eleven of the Revised Laws, as amended by section three of chapter five hundred and forty-eight of the acts of nineteen hundred and eleven, is hereby further amended by striking out all after the word "punished", in the sixth line, and substituting the following: — by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment for a term of not less than six months and not more than five years, or by both such fine and imprisonment, — so as to read as follows: — Section 9. Whoever, when Penalty for arrested upon a warrant for an alleged crime and whoever, carrying certain weapons when when arrested while committing a crime or a breach or dis- arrested. turbance of the public peace, is armed with or has on his person any slung-shot, metallic knuckles, billy, revolver or pistol, loaded or unloaded, or other dangerous weapon, shall

be punished by a fine of not less than one hundred nor more

## GENERAL ACTS, 1919. — CHAP. 208.

than five hundred dollars, or by imprisonment for a term of not less than six months and not more than five years, or by both such fine and imprisonment.

Approved May 29, 1919.

Chap. 208 An Act relative to the settlement by public admin-ISTRATORS OF THE ESTATES OF CERTAIN DECEASED PER-

Be it enacted, etc., as follows:

Appointment of public administrators as administrators with the will annexed or as administrators of goods and estates not already administered,

158

Section 1. If there is occasion for the appointment of an administrator with the will annexed, under the provisions of section six of ehapter one hundred and thirty-seven of the Revised Laws, as amended by chapter five hundred and eighty-eight of the acts of nincteen hundred and eleven, or for the appointment of an administrator of the goods and estates not already administered of a deceased person, under the provisions of section eight of the said chapter, and it appears that there are no known heirs of the deceased person living, a public administrator of the county shall be appointed to such trust.

R. L. 138, § 12, etc., amended.

trators with annexed to deposit balances of estates with treasurer and receiver general, etc.

Section 2. Section twelve of chapter one hundred and thirty-eight of the Revised Laws, as amended by section one of chapter ninety of the General Acts of nineteen hundred and seventeen, is hereby further amended by inserting after the word "administrator", in the second line, the words: — or by the executor or administrator with the will annexed of a person who died leaving no known heirs, — so as to Public administrated as follows: - Section 12. When an estate has been trators, executors or administrator, or by the extension administrator, or by the executor or administrator with the will annexed of a person who died leaving no known heirs, he shall deposit the balance of such estate remaining in his hands with the treasurer and receiver general, who shall receive and hold it for the benefit of those who may have lawful claims thereon. At any time within six years after a public administrator has made such deposit, the probate court may, upon the application of the administrator and if it appears that there are reasonable grounds to believe that certain persons have lawful claims upon the said balance, enter a decree directing that the same be repaid to the public administrator. The treasurer and receiver general shall thercupon pay over all money deposited in the treasury to the credit of the estate to the public adАстя, 1922. — Снар. 485.

the real estate in, along or by the Quequechan river under the provisions of chapter eighty of the General Laws.

Repayment to Watuppa Reservoir Company of certain expense, etc., apportionment of expense, etc.

560

The expense of maintaining and operating said dam and pumping station shall be annually repaid to the Watuppa Reservoir Company by the city of Fall River and the amount so paid, not in excess of the special benefit arising therefrom, shall be apportioned by the assessment commission on the real estate in, along or by the Quequechan river. Such apportionment shall remain in force until changed as hereinafter provided, and shall be assessed annually upon the designated real estate. The provisions of chapter eighty of the General Laws with relation to the collection and abatement of betterment assessments and to interest thereon shall apply to such assessments.

Appointment of new assessment commission.

After five years from the date of such apportionment the mayor of Fall River shall, on the petition of any party in interest, appoint a new assessment commission, which shall be appointed and act and shall make a new apportionment in the manner and form hereinbefore provided; and such apportionment shall remain in force until changed in like manner.

Repeals, etc.

Section 5. All provisions of chapter three hundred and eleven of the Special Acts of ninetcen hundred and sixteen, as amended by chapter five hundred and forty-four of the acts of nineteen hundred and twenty, which are inconsistent with the provisions of this act are hereby repealed, but no action taken under the authority of said statute is hereby made invalid, and the improvement therein authorized is to proceed without interruption.

Assessment commissioners not obliged to comply with certain requirements of law.

In the assessment of betterments under this act the assessment commissioners shall not be obliged to include in the order of taking or to prepare or file the description, plan and estimate required by the provisions of section two of chapter eighty of the General Laws.

Section 6. This act shall take effect upon its passage.

Approved May 29, 1922.

Chap.485 An Act relative to the sale and carrying of fire-

Be it enacted, etc., as follows:

G. L. 140, § 121, amended. Section 1. Section one hundred and twenty-one of chapter one hundred and forty of the General Laws is hereby amended by striking out all after the word "inches" in the

Add. 134

## Астя, 1922. — Снар. 485.

sixth line down to and including the word "towns" in the seventh line, so as to read as follows: - Section 121. In Sale of firesections one hundred and twenty-two to one hundred and Definition of twenty-nine, inclusive, "firearms" includes a pistol, revolver arms." or other weapon of any description, loaded or unloaded, from which a shot or bullet can be discharged and of which the length of barrel, not including any revolving, detachable or magazine breech, does not exceed twelve inches. Said sec- Sections not tions shall not apply to antique firearms ineapable of use as applicable to firearms nor to sales of firearms at wholesale.

561

Section 2. Said chapter one hundred and forty is hereby G. L. 140, § 122, amended by striking out section one hundred and twenty-two and inserting in place thereof the following: — Section 122. Licenses to soll, rent, etc., The licensing authorities in any town may, in their discretion, firearms. grant licenses to persons to sell, rent or lease firearms and may fix a fee for such license. Every such license shall specify the street and number, if any, of the building where the business is to be carried on and the license shall not protect a licensee who carries on his business in any other place.

Section 3. Said chapter one hundred and forty is hereby G. L. 140, now further amended by inserting after section one hundred and \$ 122. twenty-two the following new section: — Se tion 122A. The Room of licensing authorities shall record all licenses issued under the licenses issued, etc. preceding section in books kept for the purpose, shall furnish the licensee with a sales record book to be kept by him as provided in section one hundred and twenty-three and shall. upon the granting of any license, send notice thereof to the Notlee to commissioner of public safety. The said books shall be commissioner of public safety. supplied by the commissioner, upon application of the licens- safety, etc.

ing authorities, at a price not in excess of the cost thereof. SECTION 4. Said chapter one hundred and forty is hereby G. L. 140, § 123, further amended by striking out section one hundred and twenty-three and inserting in place thereof the following: — Section 123. The license shall be expressed to be and shall be Conditions of subject to the following conditions: First, That the provisions in regard to the nature of the license and the building in which the business may be carried on under it shall be strictly adhered to. Second, That every licensee shall before delivery of a firearm make or cause to be made a true entry in a sales record book to be furnished by the licensing authorities and to be kept for that purpose, specifying the description of the firearm, the make, number, whether single barrel, magazine, revolver, pin, rim or central fire, whether sold, rented or leased, the date and hour of such delivery, and the full

Астя, 1922. — Снар. 485.

Conditions of

562

name, sex, residence and occupation of the purchaser, exchanger or hirer. The said book shall be open at all times to the inspection of the licensing authorities and of the police. Third. That the license or a copy thereof, certified by the recording officer of the licensing authorities or by the clerk of the town by which it is issued, shall be displayed on the premises in a position where it can easily be read. Fourth, That no firearms shall be displayed in any outer window of said premises or in any other place where they can readily be seen from the outside. Fifth, That the licensee shall, once a week, send a copy of the record of sales made by him for the preceding seven days to the licensing authorities and to the commissioner of public safety. Sixth, That every firearm shall be delivered securely wrapped and fastened and shall be unloaded when delivered. Seventh, That no delivery of a firearm shall be made on the day of the application for the purchase, rent or lease thereof, except to a person having a permit to carry a firearm issued under section one hundred and thirty-one. Eighth, That the license shall be subject to forfeiture as herein provided for breach of any of its conditions, and that, if the licensee is convicted of a violation of any such condition, his license shall thereupon become void.

G. L. 140, § 125, amended.

Forfeiture or suspension of licenses.

Section 5. Section one hundred and twenty-five of said chapter one hundred and forty is hereby amended by striking out, in the first line, the word "board" and inserting in place thereof the word: — authorities, — and by striking out all after the word "heard" in the second line down to and including the word "council" in the third line, so as to read as follows: — Section 125. The licensing authorities, after notice to the licensee and reasonable opportunity for him to be heard, may declare his license forfeited, or may suspend his license for such period of time as they may deem proper, upon satisfactory proof that he has violated or permitted a violation of any condition thereof or has violated any law. pendency of proceedings before a court shall not suspend or interfere with the power to declare a forfeiture. If the license is declared forfeited, the licensee shall be disqualified to receive a license for one year after the expiration of the term of the license so forfeited.

G. L. 140, § 127, amended.

Section 6. Section one hundred and twenty-seven of said chapter one hundred and forty is hereby amended by striking out, in the first line, the word "boards" and inserting in place thereof the word: — authorities, — so as to read as follows: — Section 127. Licensing authorities may trans-

Transfer of licenses.

## Acts, 1922. — Снар. 485.

fer licenses from one location to another within the town in which the licenses are in force, but such transfer shall be granted only to the original licensee and upon the same terms and conditions upon which the license was originally granted.

Section 7. Said chapter one hundred and forty is hereby G. L. 140, new further amended by inserting after section one hundred and section after twenty-nine the following new section: - Section 129A. No Permit required unnaturalized foreign born person shall, within the common- etc., of firewealth, own or have in his possession or under his control a arms by aliens. firearm as defined in section one hundred and twenty-one, unless such person has a permit under section one hundred and thirty-one to carry such firearm. Any violation of this Ponelty. section shall be punished by a fine of not less than one hundred dollars or by imprisonment for not more than three months, or both.

Section 8. Section one hundred and thirty of said chap- G. L. 140, 1 130, ter one hundred and forty is hereby amended by inserting after the word "fifteen" in the second line the words: —, or to an unnaturalized foreign born person who has not a permit to carry firearms under section one hundred and thirty-one, — so as to read as follows: — Section 130. Whoever sells or Femalty for furnishes to a minor under the age of fifteen, or to an un-selling firenaturalized foreign born person who has not a permit to carry entain minors and to cortain firearms under section one hundred and thirty-one, any fire-aliens. arm, air gun or other dangerous weapon or ammunition therefor shall be punished by a fine of not less than ten nor more than fifty dollars, but instructors and teachers may furnish military weapons to pupils for instruction and drill.

SECTION 9. Said chapter one hundred and forty is hereby G. L. 140, 1 131, amended. further amended by striking out section one hundred and thirty-one and inserting in place thereof the following:— Section 131. The justice of a court or a trial justice, the board carry pistols or of police or mayor of a city, the selectmen of a town, or the revolvers, issuance, duration, etc. may, upon the application of any person residing or having a place of business within the jurisdiction of the person issuing the license, issue a license to such person to carry a pistol or revolver in the commonwealth if it appears that the applicant has good reason to fear an injury to his person or property or for any other proper purpose, and that he is a suitable person to be so licensed. Such license shall be issued for a term not to exceed one year, but may be for a less period, and all such licenses shall be revocable at the will of the person or body issuing the same. Said licenses shall be issued

563

for possession,

Add. 137

## Астя, 1922. — Спар. 486.

on forms furnished by the commissioner of public safety and a copy of every license so issued shall within one week after the granting thereof be sent to the said commissioner.

G. L. 269, § 12, amended.

Penalty for manufacture,

sale, etc., of slung shots, sword canes, Section 10. Section twelve of chapter two hundred and sixty-nine of the General Laws is hereby amended by inserting after the word "shot" in the third line the words:—, sword cane, pistol cane, bludgeon, blackjack,— so as to read as follows:—Section 12. Whoever manufactures or causes to be manufactured, or sells or exposes for sale, an instrument or weapon of the kind usually known as slung shot, sword cane, pistol cane, bludgeon, blackjack, or metallic knuckles, shall be punished by a fine of not less than fifty nor more than two hundred dollars or by imprisonment for not more than six months.

Expiration of

licenses heretofore issued. Section 11. All licenses heretofore issued under section one hundred and thirty-one of chapter one hundred and forty of the General Laws or the corresponding provisions of earlier laws shall expire on January first, nineteen hundred and twenty-three.

Approved May 29, 1922.

## Chap.486 An Act making uniform the laws relative to partnerships.

Be it enacted, etc., as follows:

G. L. new chapter after chapter 108. SECTION 1. The General Laws is hereby amended by inserting after chapter one hundred and eight the following new chapter, to be numbered one hundred and eight A, and to be entitled, "Partnerships."

# CHAPTER 108A. PARTNERSHIPS.

Uniform Partnership Act. Definition of

Section 1. This chapter may be cited as the Uniform Partnership Act.

Section 2. In this chapter, "court" includes every court and judge having jurisdiction in the case.

"Business" includes every trade, occupation, or profession.
"Bankrupt" includes bankrupt under the Federal Bankruptcy Act or insolvent under any state insolvent law.

"Conveyance" includes every assignment, lease, mortgage or encumbrance.

"Real property" includes land and any interest or estate in land.

Interpretation of knowledge and notice.

Section 3. (1) A person has "knowledge" of a fact within the meaning of this chapter, not only when he has actual

Ch. 3381

FORTY-FIFTH SESSION.

695

treasurer or the inheritance tax appraiser of the county of the superior court having jurisdiction as provided in section fifteen of this act.

(6) This act shall become effective and in force contempo- Act takes raneously with the taking effect of amendments to sections one effect. thousand four hundred one and one thousand four hundred two of the Civil Code, which amendments were enacted at the forty-fifth session of the legislature of the State of California and known as chapter eighteen of the statutes of 1923, and not otherwise.

#### CHAPTER 338.

An act to add a new section to the Civil Code to be numbered three thousand fifty-one a, fixing a limit on the amount of a lien on property held under the provisions of section three thousand fifty-one of said code.

[Approved June 13, 1923.]

The people of the State of California do enact as follows:

Section 1. A new section is hereby added to the Civil Code to be numbered three thousand fifty-one a and to read as follows:

3051a. That portion of any lien, as provided for in the Limitation mext preceding section, in excess of one hundred dollars, for recoverable any work, services, eare, or safekeeping rendered or performed written at the request of any person other than the holder of the legal notice not title, shall be invalid, unless prior to commencing any such given. work, service, earc, or safekeeping, the person claiming such lien shall give actual notice in writing either by personal service or by registered letter addressed to the holder of the legal title to such property, if known. In the case of automobiles, the person named as legal owner in the registration certificate, shall be deemed for the purpose of this section, as the holder of the legal title.

#### CHAPTER 339.

An act to control and regulate the possession, sale and use of pistols, revolvers and other firearms capable of being concealed upon the person; to prohibit the manufacture, sale, possession or carrying of certain other dangerous weapons within this state; to provide for registering all sales of pistols, revolvers or other firearms capable of being concealed upon the person; to prohibit the carrying of concealed firearms except by lawfully authorized persons; to provide for the confiscation and destruction of such weapons in certain cases; to prohibit the ownership, use, or possession of any of such weapons by certain classes of persons; to prescribe penalties for violations of this act and increased penalties for repeated violations hereof; to

[Ch. 339]

696

authorize, in proper cases, the granting of licenses or permits to carry firearms concealed upon the person; to provide for licensing retail dealers in such firearms and regulating sales thereunder; and to repeal chapter one hundred forty-five of California statutes of 1917, relating to the same subject.

[Approved June 13, 1923.]

The people of the State of California do enact as follows:

Manufacture, sale, carrying, etc., certain dangerous weapons prohibited.

Section 1. On and after the date upon which this act takes effect, every person who within the State of California manufactures or causes to be manufactured, or who imports into the state, or who keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandelub, sandbag, or metal knuckles, or who carries concealed upon his person any explosive substance, other than fixed ammunition, or who carries concealed upon his person any dirk or dagger, shall be guilty of a felony and upon a conviction thereof shall be punishable by imprisonment in a state prison for not less than one year nor for more than five years.

Aliens and felons must not possess certain firearms. SEC. 2. On and after the date upon which this act takes effect, no unnaturalized foreign born person and no person who has been convicted of a felony against the person or property of another or against the government of the United States or of the State of California or of any political subdivision thereof shall own or have in his possession or under his custody or control any pistol, revolver or other firearm capable of being concealed upon the person. The terms "pistol," "revolver," and "firearms capable of being concealed upon the person" as used in this act shall be construed to apply to and include all firearms having a barrel less than twelve inches in length. Any person who shall violate the provisions of this section shall be guilty of a felony and upon conviction thereof shall be punishable by imprisonment in a state prison for not less than one year nor for more than five years.

Committing felony while carrying dangerous weapon, SEC. 3. If any person shall commit or attempt to commit any felony within this state while armed with any of the weapons mentioned in section one hereof or while armed with any pistol, revolver or other firearm capable of being concealed upon the person, without having a license or permit to carry such firearm as hereinafter provided, upon conviction of such felony or of an attempt to commit such felony, he shall in addition to the punishment prescribed for the crime of which he has been convicted, be punishable by imprisonment in a state prison for not less than five nor for more than ten years. Such additional period of imprisonment shall commence upon the expiration or other termination of the sentence imposed for the crime of which he stands convicted and shall not run concurrently with such sentence. Upon a second conviction under like circumstances such additional period of impris-

Ch. 339]

FORTY-FIFTH SESSION.

697

onment shall be for not less than ten years nor for more than fifteen years, and upon a third conviction under like circumstances such additional period of imprisonment shall be for not less than fifteen nor for more than twenty-five years, such terms of additional imprisonment to run consecutively as before. Upon a fourth or subsequent conviction under like circumstances the person so convicted may be imprisoned for life or for a term of years not less than twenty-five years, within the discretion of the court wherein such fourth or subsequent conviction was had.

In the trial of a person charged with committing or attempt- Eddence. ing to commit a felony against the person of another while armed with any of the weapons mentioned in section one hereof, or while armed with any pistol, revolver or other firearm capable of being concealed upon the person, without having a license or permit to earry such firearm as hereinafter provided, the fact that he was so armed shall be prima facie

evidence of his intent to commit such felony.

SEC. 4. In no ease shall any person punishable under the No probation, preceding sections of this act be granted probation by the or suspension trial court, nor shall the execution of the sentence imposed upon such person be suspended by the court.

SEC. 5. Except as otherwise provided in this act, it shall carrying be unlawful for any person within this state to earry concealed upon his person or within any vehicle which is under without his control or direction any pistol, revolver or other firearm capable of being concealed upon the person without having a license to carry such firearm as hercinafter provided in section eight hereof. Any person who violates the provisions of this section shall be guilty of a misdemeanor, and if he has been convicted previously of any felony, or of any crime made punishable by this act, he is guilty of a felony.

This section shall not be construed to prohibit any citizen Exceptions. of the United States, over the age of eighteen years, who resides or is temporarily sojourning within this state, and who is not within the excepted classes prescribed by section two hereof, from owning, possessing or keeping within his place of residence or place of business any pistol, revolver or other firearm capable of being concealed upon the person, and no permit or license to purchase, own, possess or keep any such firearm at his place of residence or place of business shall be required of any such citizen. Firearms carried openly in belt holsters shall not be deemed to be concealed within the meaning of this section, nor shall knives which are carried openly in sheaths suspended from the waist of the wearer.

SEC. 6. Nothing in the preceding section shall be construed Police to apply to or affect sheriffs, constables, marshals, policemen, diers, etc., whether active or honorably retired, or other duly appointed excepted. peace officers, nor to any person summoned by any such officers to assist in making arrests or preserving the peace while said person so summoned is actually engaged in assisting such officer; nor to the possession or transportation by any merchant of unloaded firearms as merchandise; nor to members of Add. 141

the army, navy, or marine corps of the United States, or the national guard, when on duty, or to organizations which are by law authorized to purchase or receive such weapons from the United States, or from this state; nor to duly authorized military or civil organizations while parading, nor to the members thereof when going to and from the places of meeting of their respective organizations; nor to members of any club or organization now existing, or hereafter organized, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in this act upon such target ranges, or while going to and from such ranges; or to licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from such hunting or fishing expedition.

Nuisances.

Destruction 1

of weapons.

Sec. 7. The unlawful consealed carrying upon the person or within the vehicle of the earrier of any dirk, dagger, pistol, revolver, or other firearm capable of being concealed upon the person, is a unisance. Any such weapons taken from the person or vehicle of any person unlawfully carrying the same are hereby declared to be muisances, and shall be surrendered to the magistrate before whom said person shall be taken, except that in any city, city and county, town or other municipal corporation the same shall be surrendered to the head of the police force or police department thereof. The officers to whom the same may be so surrendered, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the preservation thereof is necessary or proper to the ends of justice, shall arnually, between the first and tenth days of July, in each year, destroy or cause to be destroyed such weapons to such extent that the same shall become and be wholly and entirely ineffective and useless for the purpose for which it was manufactured; provided, however, that in the event any such weapon has been stolen and is thereafter recovered from the thief or his transferee, the same shall not be destroyed but shall be restored to the lawful owner thereof, so soon as its use as evidence has been served. upon his identification of the weapon and proof of ownership thereof. Blackjacks, slungshots, billys, sandclubs, sandbags and metal knuckles are hereby declared to be musanees and shall be subject to confiscation and summary destruction whenever found within the state; provided, that upon the certificate of a judge or of the district attorney that the ends of justice will be subserved thereby, such weapon shall be preserved until the necessity for its use ceases.

Licenses to carry firearms.

SEC. 8. It shall be lawful for the sheriff of a county, and the board of police commissioners, chief of police, city marshal, town marshal, or other head of the police department of any city, city and county, town, or other municipal corporation of this state, upon proof before said board, chief, marshal or other police head, that the person applying therefor is of good moral character, and that good cause exists for the issuance thereof, to issue to such person a license to carry con-

Ch. 339]

FORTY-FIFTH SESSION. 699

cealed a pistol, revolver or other firearm for a period of one year from the date of such license. All applications for such Applications. licenses shall be filed in writing, signed by the applicant, and shall state the name, occupation, residence and business address of the applicant, his age, height, weight, color of eyes and hair, and reason for desiring a license to carry such weapon. Any license issued upon such application shall set forth the foregoing data and shall, in addition, contain a description of the weapon authorized to be carried, giving the name of the manufacturer, the serial number and the caliber thereof. When such licenses are issued by a sheriff a record thereof shall be kept in the office of the county Record. clerk; when issued by police authority such record shall be maintained in the office of the authority by whom issued. Such applications and licenses shall be uniform throughout the state, upon forms to be prescribed by the attorney general.

Sec. 9. Every person in the business of selling, leasing or Dealers otherwise transferring a pistol, revolver or other firearm, of a size capable of being concealed upon the person, whether such seller, lessor or transferrer is a retail dealer, pawnbroker or otherwise, except as hereinafter provided, shall keep a register in which shall be entered the time of sale, the date of sale, the name of the salesman making the sale, the place where sold, the make, model, manufacturer's number, caliber or other marks of identification on such pistol, revolver or Such register shall be prepared by and other firearm. obtained from the state printer and shall be furnished by the state printer to said dealers on application at a cost of three cost. dollars per one hundred leaves in duplicate and shall be in the form hereinafter provided. The purchaser of any firearm, eapable of being concealed upon the person shall sign, and the dealer shall require him to sign his name and affix signatures. his address to said register in duplicate and the salesman shall affix his signature in duplicate as a witness to the signatures of the purchaser. Any person signing a fictitious name or address is guilty of a misdemeanor. The duplicate sheet of such Disposition register shall on the evening of the day of sale, be placed in sheets, the mail, postage prepaid and properly addressed to the board of police commissioners, chief of police, city marshal, town marshal or other head of the police department of the city, city and county, town or other municipal corporation wherein the sale was made; provided, that where the sale is made in a district where there is no municipal police department, said duplicate sheet shall be mailed to the county clerk of the county wherein the sale is made. A violation of any of the Penalty. provisions of this section by any person engaged in the business of selling, leasing or otherwise transferring such firearm is a misdemeanor. This section shall not apply to wholesale dealers in their business intercourse with retail dealers, nor to wholesale or retail dealers in the regular or ordinary transportation of unloaded firearms as merchandise by mail, express or other mode of shipment, to points outside of the city, city and county, town or municipal corporation wherein

700 STATUTES OF CALIFORNIA. [Ch. 339

Form of register.

they are situated. The register provided for in this act shall be substantially in the following form:

Form of Register.

Series No.\_\_\_\_ Sheet No.\_\_\_\_

#### ORIGINAL.

Dealers' Record of Sale of Revolver or Pistol.

State of California.

Notice to dealers: This original is for your files. If spoiled in making out, do not destroy. Keep in books. Fill out in duplicate.

Carbon duplicate must be mailed on the evening of the day of sale, to head of police commissioners, chief of police, city marshal, town marshal or other head of the police department of the municipal corporations wherein the sale is made, or to the county clerk of your county if the sale is made in a district where there is no municipal police department. Violation of this law is a misdemeanor. Use carbon paper for duplicate. Use indelible pencil.

Sold by	_ Salesman
	ther revolver or pistol)
Maker N	Tumber Caliber
Name of purchaser	years
Permanent residence (state na	ame of eity, town or township
street and number of dwellin	ng)
Heightfeetinches	es. Occupation
Colorskin	eyesliair
If traveling or in locality t	temporarily, give local addres
~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~	

Signature of purchaser\_\_\_\_\_(Signing a fictitious name or address is a misdemeanor.) (To be signed in duplicate.)

Witness\_\_\_\_\_, salesman. (To be signed in duplicate.)

Series No.....

#### DUPLICATE.

Dealers' Record of Sale of Revolver or Pistol.
State of California.

Notice to dealers: This earbon duplicate must be mailed on the evening of the day of sale as set forth in the original of this register page. Violation of this law is a misdemeanor. Sold by \_\_\_\_\_\_\_ Salesman\_\_\_\_\_\_ City, town or township \_\_\_\_\_\_\_ Salesman\_\_\_\_\_\_ Description of arm (state whether revolver or pistol)\_\_\_\_\_\_ Maker \_\_\_\_\_\_ caliber\_\_\_\_\_\_ caliber\_\_\_\_\_\_

Ch. 339]

FORTY-FIFTH SESSION.

Name of purchaser \_\_\_\_\_age\_\_\_\_years. Permanent address (state name of city, town or township, street and number of dwelling)\_\_\_\_\_ Height...\_feet...\_inches. Ocenpation \_\_\_\_\_ Color ...\_\_\_skin\_\_\_eyes\_\_\_hair\_\_\_ If traveling or in locality temporarily, give local address Signature of purchaser\_\_\_\_\_ (Signing a fictitious name or address is a misdemeanor.) (To be signed in duplicate.)

Witness\_\_\_\_, salesman.

(To be signed in duplicate.)

SEC. 10. No person shall sell, deliver or otherwise transfer Restrictions any pistol, revolver or other tirearm capable of being con- of certain cealed upon the person to any person whom he has cause to freams. believe to be within any of the classes prohibited by section two hereof from owning or possessing such firearms, nor to any minor under the age of eighteen years. In no event shall any such firearm be delivered to the purchaser upon the day of the application for the purchase thereof, and when delivered such firearm shall be securely wrapped and shall be unloaded. Where neither party to the transaction holds a dealer's license, no person shall sell or otherwise transfer any such firearm to any other person within this state who is not personally known to the yender. Any violation of the provisions of this section shall be a misdemeanor.

701

SEC. 11. The duly constituted licensing authorities of Local any county, city and county, city, town or other municipality sale of cerwithin this state, may grant licenses in form prescribed by the taln flreatms. attorney general, effective for not more than one year from date of issue, permitting the licensee to sell at retail within the said county, city and county, city, town or other municipality pistols, revolvers, and other firearms capable of being concealed upon the person, subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:

- 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 issning authority, shall be displayed on the premises where it can easily be read.
  - 3. No pistol or revolver shall be delivered
- (a) On the day of the application for the purchase, and when delivered shall be unloaded and securely wrapped; nor
- (b) Unless the purchaser either is personally known to the seller or shall present clear evidence of his identity.
- 4. No pistol or revolver, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of said premises where it can readily be seen from the outside.

702

#### STATUTES OF CALIFORNIA.

|Ch. 339

Penalty for dealing in certain firearms without Heense. Sec. 12. Any person who, without being licensed as above provided, engages in the business of selling or otherwise transferring, or who advertises for sale, or offers or exposes for sale or transfer, any pistol, revolver or other firearm capable of being conecaled upon the person is guilty of a misdemeanor.

Tampering with marks on certain firew ms.

SEC. 13. No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol or revolver. Possession of any such firearm upon which the same shall have been changed, altered, removed, or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed, or obliterated the same. Violations of this section shall be punished by imprisonment in the state prison for not less than one year nor more than five years.

Expiration of current licenses.

Penalty.

Sec. 14. All licenses heretofore issued within this state permitting the carrying of pistols or revolvers concealed upon the person shall expire at midnight of December 31, 1924.

Antique pistols, etc.

Sec. 15. This act shall not apply to antique pistols or revolvers incapable of use as such.

Constitution-ality.

SEC. 16. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Stats. 1917, p. 221, repealed. Sec. 17. That certain act entitled, "An act relating to and regulating the carrying, possession, sale or other disposition of firearms capable of being concealed upon the person; prohibiting the possession, carrying, manufacturing and sale of certain other dangerous weapons and the giving, transferring and disposition thereof to other persons within this state; providing for the registering of the sales of firearms; prohibiting the carrying or possession of concealed weapons in municipal corporations; providing for the destruction of certain dangerous weapons as nuisances and making it a felony to use or attempt to use certain dangerous weapons against another," approved May 4, 1917, is hereby repealed.

1923.] SALE AND USE OF PISTOLS AND REVOLVERS.

3707 Силр. 252

# SUBSTITUTE FOR SENATE BILL No. 265. CHAPTER 252

# AN ACT CONCERNING THE POSSESSION, SALE AND USE OF PISTOLS AND REVOLVERS.

Be it enacted by the Schale and House of Representatives in General Assembly convened:

SECTION 1. The term "pistol" and the term "revolver", as used in this act, shall mean any firearm having a barrel less than twelve inches in length.

SEC. 2. No person shall advertise, sell, deliver, offer or expose for sale or delivery or have in his possession with intent to sell or deliver any pistol or revolver at retail without having

a permit therefor issued as hereinafter provided.

SEC. 3. The chief of police or, where there shall be no chief of police, the warden of the borough or the first selectman of the town, as the case may be, may, upon the application of any person, issue a permit in such form as may be prescribed by the superintendent of state police for the sale at retail of pistols and revolvers within the jurisdiction of the authority issuing such permit. Upon the application of any person having a bona fide residence or place of business within the jurisdiction of any such authority or, upon the application of any bona fide resident of the United States having a permit or license to carry any firearm issued by the authority of any state or sub-division of the United States, such chief of police, warden or selectman may issue a permit to such person to carry a pistol or revolver within the jurisdiction of the authority issuing the same, provided such authority shall find that such applicant intends to make no use of any pistol or revolver which he may be permitted to carry thereunder other than a proper use and that such person is a suitable person to receive such permit. The superintendent of state police may, upon application, issue to any holder of any permit to carry any vistol or revolver hereinbefore provided for, a permit to carry a pistol or revolver within the state. Each permit to earry any pistol or revolver shall be issued in triplicate and one of the copies issued by the superintendent of state police shall be delivered to the person to whom issued, one shall be delivered forthwith to the authority issuing the local permit and one shall be retained by the superintendent of state police, and the local authority issuing any such permit shall forthwith deliver one of such copies to the person to whom issued and one copy to the superintendent of state police and shall retain one of such copies.

SEC. 4. The fee for each permit originally issued under the provisions of this act shall be one dollar and for each renewal

Terms "pistol" and "revolver" defined.

Permit for solling pistol or revolver to be obtained.

Local authority may issue permit.

Local authorities may issue pernit to carry any fire arm within their jurisdiction.

Superintendent of state police may grant permits to carry pistol or revolver in confines of state.

Fees for permits.
Add. 147

3708 Chap. 252 SALE AND USE OF PISTOLS AND REVOLVERS. [Jan.,

thereof twenty-five cents, which fees shall be paid by the authority issuing the same to the municipality wherein issued or the state, as the case may be, and each permit issued hereunder shall be valid for one year from the date of issuance.

Sales to be made in place of business mentioned in permit.

Vendor to keep record of sale of

fire arms.

No sale of any pistol or revolver shall be made except in the room, store or place described in the permit for the sale of pistols and revolvers, and such permit or a copy thereof certified by the authority issuing the same shall be exposed to view within the room, store or place where pistols or revolvers shall be sold or offered or exposed for sale, and no sale or delivery of any pistol or revolver shall be made unless the purchaser or person to whom the same is to be delivered shall be personally known to the vendor of such pistol or revolver or the person making delivery thereof or unless the person making such purchase or to whom delivery thereof is to be made shall provide evidence of his identity. The vendor of any pixtol or revolver shall keep a record of every pistel or revolver sold in a book kept for that purpose, which record shall be in such form as shall be prescribed by the superintendent of state police and shall include the date of the sale, the caliber, make, model and manufacturer's number of such pistol or revolver and the name, address and occupation of the purchaser thereof, which record shall be signed by the purchaser and by the person making the sale, each in the presence of the other, and shall be preserved by the vendor of such pistol or revolver for a period of at least six years.

Permit to carry fire arms may be revoked.

SEC. 6. Any permit for the carrying of any pistol or revolver issued under the provisions of this act may be revoked by the authority issuing the same. The revocation of either of such permits shall be a revocation of the other and, upon the revocation of any permit, such permit shall be forthwith delivered to the authority issuing the same. Upon the revocation of any local permit, the authority issuing the same shall forthwith notify the superintendent of state police and upon the revocation of any permit issued by the superintendent of state police, said superintendent shall forthwith notify the authority issuing such local permit.

Sale of pistols or revolvers to aliens restricted.

Sec. 7. No person, firm or corporation shall sell at retail, deliver or otherwise transfer any pistol or revolver to any alien, nor shall any person deliver any pistol or revolver at retail except upon written application therefor and no sale or delivery of any pistol or revolver shall be made upon the date of the filing or receipt of any written application for the purchase thereof, and when any pistol or revolver shall be delivered in connection with the sale or purchase, such pistol or revolver shall be enclosed in a package, the paper or wrapping of which shall be securely fastened, and no pistol or revolver when delivered on any sale or purchase shall be loaded or con-

Add. 148

3709 Chap. 252

tain therein any gunpowder or other explosive or any bullet, ball or shell. Upon the delivery of any pistol or revolver the purchaser shall sign in triplicate a receipt for such pistol or revolver which shall contain the name, address and occupation of such purchaser, the date of sale, caliber, make, model and manufacturer's number and a general description thereof. One of such triplicate receipts shall, within twenty-four hours thereafter, be forwarded by the vendor of such pistol or revolver to the superintendent of state police and one to the authority issuing the permit for the sale of such pistol or revolver and the other shall be retained by such vendor for at least six years.

SEC. 8. No person shall make any false statement or give any false information connected with any purchase, sale or delivery of any pistol or revolver, and no person shall sell, barter, hire, lend, give or deliver to any minor under the age of eighteen years any pistol or revolver.

SEC. 9. No person shall carry any pistol or revolver in or upon any vehicle or upon his person, except when such person shall be within his dwelling house or place of business, without a permit to carry the same issued as hereinbefore provided.

SEC. 10. The provisions of section nine of this act shall not apply to the carrying of any pistol or revolver by any marshal, sheriff or peace officer, or to any soldier, sailor or marine in the service of the United States or this state when on duty or going to or from duty, or to any member of any military organization when on parade or when going to or from any place of assembly, or to the transportation of pistols or revolvers as merchandise, or to any person carrying any pistol or revolver while contained in the package in which it was originally wrapped at the time of sale and while carrying the same from the place of sale to the purchaser's residence or place of business, or to any person removing his household goods or effects from one place to another, or to any person while carrying any such pistol or revolver from his place of residence or business to a place or person where or by whom such pistol or revolver is to be repaired or while returning to his place of residence or business after the same shall have been repaired.

SEC. 11. No person shall change, alter, remove or obliterate the name of any maker or model or any maker's number or other mark of identification on any pistol or revolver. The possession of any pistol or revolver upon which any identifying mark, number or name shall have been changed, altered, removed or obliterated shall be prima facic evidence that the person owning or in possession of such pistol or revolver has changed, altered, removed or obliterated the same.

Giving of false information or the sale to persons under eighteen years of age prohibited.

Carrying of pistol or revolver without pormits restricted.

When and by whom pistols and revolvers may be carried without socuring a permit.

Tampering with identification mark of any pistol or revolver prohibited.

3710 Снар. 253 LICENSING OF INSURANCE AGENTS.

[Jan.,

Ponalty.

SEC. 12. Any person violating any provision of section nine or cleven of this act shall be fined not more than one thousand dollars or imprisoned not more than five years or Loth, and any person violating any other provision of this act shall be fined not more than five hundred dollars or imprisoned not more than three years or both, and any pistol or revolver found in the possession of any person in violation of any provision of this act shall be forfeited.

Repeal.

SEO. 13. Section 2678 of the general statutes, chapter 206 of the public acts of 1919, chapter 127 of the public acts of 1921 and those portions of sections 6369, 6370, 6371 and 6372 of the general statutes which relate to pistols and revolvers are repealed.

Approved June 2, 1923.

SUBSTITUTE FOR SENATE BILL No. 227.

#### CHAPTER 253

# AN ACT PROVIDING FOR THE LICENSING OF INSURANCE AGENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Insurance agent dofined.

Section 1. An insurance agent is defined as a person authorized in writing, by any insurer authorized to transact business in the state, to solicit, negotiate or effect contracts of insurance, surety or indemnity; or any member of a copartnership or association, or any stockholder, officer or agent of a corporation authorized to solicit, negotiate or effect such contracts, when such copartnership, association or corporation shall hold a direct agency appointment from any insurer.

Agent to have license.

Form of application.

Sec. 2. No person shall engage in business as an insurance agent until he shall have obtained from the insurance commissioner a license therefor under the provisions of this Each applicant for such license shall file with the commissioner his written application for a license authorizing him to engage in business as an agent in the general or some specified line or lines of insurance, surety or indemnity coverage, which, under the provisions of the general statutes, may be written in the state, which application shall be accompanied by a statement, signed and sworn to by such applicant, on a blank furnished by the commissioner, setting forth such facts as he may require, and by the affidavit of an official or representative of an insurer authorized to transact business in the state or of a licensed insurance agent of the state, that the applicant is personally known to him; that the applicant has experience, or will be instructed, in the general or some specified

# PERJURY

### CHAPTER 265.

(S. B. No. 232-Stevens.)

#### OATH.

An Act to Amend and Re-enact Section 9367 of the Compiled Laws of North Dakota for the year 1913, Relating to the Prescribing of an Oath.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Sec. 1. AMENDMENT.) That Section 9367 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows:

Sec. 9367. Oath Defined.) The term oath as used in Section 9366 of the Compiled Laws of 1913, includes an affirmation and every other mode of attesting the truth of that which is stated, which is authorized by law, and the signing of any writing purporting to be made under oath, in the presence of an officer authorized to administer oaths, or the acknowledgment of the signing thereof, to or before any such officer, or the presentation thereof to such officer by the person signing or by his direction to be authenticated as an oath, shall be deemed to be the taking of an oath within the meaning of said section and the certificate of the officer purporting to take such oath shall be prima facie evidence of the taking thereof.

Approved March 1st, 1923.

# PISTOLS AND REVOLVERS

#### CHAPTER 266.

(S. B. No. 256-McLachlin.)

#### PISTOLS AND REVOLVERS.

An Act To Control the Possession, sale, and use of pistols and revolvers, to provide penalties, and for other purposes.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Sec. 1. DEFINITION.) "Pistol or revolver," as used in this Act, shall be contrued as meaning any firearm with barrel less than twelve inches in length.

PISTOLS

- Sec. 2. COMMITTING CRIME WHEN ARMED.) If any person shall commit or attempt to commit a crime when armed with a pistol or revolver, and having no permit to carry the same, he shall be in addition to the punishment provided for the crime, be punished by imprisonment for not less than ten years.
- Sec. 3. Punishment.) The judge shall have the power to sentence any person who may be convicted for a second or third offense under section 2 of this Act, to double and triple the penalty imposed thereby, and for a fourth offense the person so convicted may be sentenced to life imprisonment.
- Sec. 4. Being Armed Prima Facie Evidence of Intention.) In the trial of a person for the commission of a felony or of an attempt to commit a felony against the person of another, the fact that he was armed with a pistol or revolver and having no permit to carry the same shall be prima facie evidence of his intention to commit said felony.
- Sec. 5. Aliens and Criminals Must Not Possess Arms.) No unnaturalized foreign-born person and no person who has been convicted of a felony against the person or property of another or against the Government of the United States or of any State or subdivision thereof, shall own or have in his possession or under his control, a pistol or revolver. Violations of this section shall be punished by imprisonment for not to exceed five years.
- Sec. 6. Carrying Pistol Concealed.) No person shall carry a pistol or revolver concealed in any vehicle or in any package, satchel, grip, suit case or carry in any way or upon his person, except in his dwelling house or place of business, without a license therefor as hereinafter provided. Violations of this section shall be punished by imprisonment for not less than one year, and upon conviction the pistol or revolver shall be confiscated and destroyed.
- Sec. 7. Exceptions.) The provisions of the preceding section shall not apply to marshals, sheriffs, policemen, or other duly appointed peace officers, nor to the regular and ordinary transportation of pistols or revolvers as merchandise, nor to members of the Army, Navy or Marine Corps of the United States, or the National Guard, when on duty, or organizations by law authorized to purchase or receive such weapons from the United States, or this State, nor to duly authorized military or civil organizations when parading, nor to the members thereof when at or going to or from their customary places of assembly.
- Sec. 8. Issue of Licenses to Carry.) The justice of a court of record, the chief of police of a city or town and the sheriff of a county, or persons authorized by any of them

shall upon the application of any persons having a bona fide residence or place of business within the jurisdiction of said licensing authority, or of any person having a bona fide residence or place of business within the United States and a license to carry a fire arm concealed upon his person issued by the authorities of any State or sub-division of the United States, issue a license to such person to carry a pistol or revolver within this State for not more than one year from date of issue, if it appears that the applicant has good reason to fear an injury to his person or property or for any other proper purpose, and that he is a suitable person to be so licensed. The license shall be in triplicate, in form to be prescrived by the Secretary of State, and shall bear the name, address, description, and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the Secretary of State, and the triplicate shall be preserved for six years by the authority issuing said license.

Sec. 9. Selling to Minors.) Any person or persons who shall sell, barter, hire, lend or give to any minor under the age of eighteen years any pistol or revolver shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be fined not less than \$100, nor more than \$1,000, or be imprisoned not less than three months, nor more than one year, or both.

Sec. 10. Sales Regulated.) No person shall sell, deliver, or otherwise transfer a pistol or revolver to a person who he has reasonable cause to believe either is an unnaturalized foreign born person or has been convicted of a felony against the person or property of another, or against the Government of the United States or any State or subdivision thereof, nor in any event shall he deliver a pistol or revolver on the day of the application for the purchase thereof, and when delivered, said pistol or revolver shall be securely wrapped and shall be unloaded. delivery be made the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, and nationality, the date of sale, the caliber, make, model, and manufacturer's number of the weapon. The seller shall, within seven days, sign and forward by registered mail one copy thereof to the Secretary of State, and one copy thereof to the chief of police of the city or town, or the sheriff of the county of which the seller is a resident, and shall retain the other copy This section shall not apply to sales at wholefor six years. sale. Where neither party to the transaction holds a dealer's license, no person shall sell or otherwise transfer a pistol or revolver to any person not personally known to him. Violations of this section shall be punished by a fine of not less than \$100 or by

PISTOLS

imprisonment for not less than one year, or by both such fine and imprisonment.

- Sec. 11. Dealers to be Licensed.) Whoever, without being licensed as hereinafter provided, sells, or otherwise transfers, advertises, or exposes for sale, or transfers or has in his possession with intent to sell, or otherwise transfer, pistols or revolvers, shall be punished by imprisonment for not less than two years.
- Sec. 12. Dealers' Licenses: By Whom Granted, and Conditions Thereof.) The duly constituted licensing authorities of any city, town or subdivision of this state, may grant licenses in form prescribed by the Secretary of State, effective for not more than one year from date of issue, permitting the licensee to sell at retail within the said city or town or political subdivision, pistols and revolvers, subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:
- 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 easily be read.
  - 3. No pistol or revolver shall be delivered-
    - (a) On the day of the application for the purchase, and when delivered shall be unloaded and securely wrapped; nor
    - (b) Unless the purchaser either is personally known to the seller or shall present clear evidence of his identity; nor
    - (c) If the seller has reasonable cause to believe that the purchaser either is an unnaturalized foreign born person or has been convicted of a felony against the person or property of another, or against the Government of the United States or any State or subdivision thereof.
- 4. A true record, in triplicate, shall be made of every pistol or revolver sold, said record to be made in a book kept for the purpose, the form of which may be prescribed by the Secretary of State, and shall be personally signed by the purchaser and by the person affecting the sale, each in the presence of the other, and shall include the date of sale, the caliber, make, model, and manufacturer's number of the weapon, the name, address, occupation, and nationality of the purchaser. One copy of said record shall, within seven days, be forwarded by registered mail to the Secretary of State and one copy thereof to the chief of police of the city or town or the sheriff of the county of which the seller is a resident, and the other copy retained for six years.

- 5. No pistol or revolver, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of said premises where it can readily be seen from the outside.
- Sec. 13. Penalty for False Information.) If any person in purchasing or otherwise securing delivery of a pistol or revolver or in applying for a permit to carry the same, shall give false information or offer false evidence of his identity he shall be punished by imprisonment for not less than five nor more than ten years.
- Sec. 14. Alteration of Identifying Marks Prohibited.) No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol or revolver. Possession of any such firearm upon which the same shall have been changed, altered, removed, or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed, or obliterated the same. Violations of this section shall be punished by imprisonment for not less than one year nor more than five years.
- Sec. 15. Existing Licenses Revoked.) All Licenses heretofore issued within this State permitting the carrying of pistols or revolvers concealed upon the person shall expire at midnight of June 30th, 1923.
- Sec. 16. EXCEPTIONS.) This Act shall not apply to antique pistols or revolvers incapable of use as such.
- Sec. 17. CERTAIN ACTS REPEALED.) All laws or parts of laws inconsistent herewith are hereby repealed.

  Approved March 7th, 1923.

# **PLEDGE**

#### CHAPTER 267.

(H. B. No. 177—Cole.)

#### SALE OF PROPERTY PLEDGED.

- An Act to Amend and Re-enact Section 6790 of the Compiled Laws of North Dakota for 1913.
- Be It Enacted by the Legislative Assembly of the State of North Dahota:
- Sec. 1. AMENDMENT.) Section 6790 of the Compiled Laws of the State of North Dakota for 1913 is amended and re-enacted to read as follows:

CHAPTER 118.

AN ACT TO CONTROL THE POSSESSION, SALE, AND USE OF PISTOLS AND REVOLVERS.

CHAPTER 118.

#### SECTION

138

- 1. Definition of pistol or revolver.
- Commission of crime by one armed with pistol and unlicensed, how punished.
- What persons forbidden to carry pistols or revolvers; penalty for violation.
- Carrying concealed weapon without license: penalty for violation.
- Persons exempt from application of preceding section.
- License to carry loaded weapon, to whom and by whom to granted.
- Sales, etc., of weapons to minors, how punished: exemption.
- Sale, etc., to unnaturalized foreignborn persons, etc., or to a felon, prohibited except upon permit.

#### SECTION

Selling, etc., of weapons without license, how punished.

[1923]

- Licenses to sell, how granted; rec-10 ord of sales to be kept.
- Purchasing weapon by false information or evidence, how punished.
- Removing maker's name or other mark weapon. identification, how punished.
- Existing licenses to expire July 31, 1923.
- Antique weapons not included in act.
- Repealing clause; takes effect on passage.

Be it enacted by the Senate and House of Representatives in General Court convened:

Section 1. Pistol or revolver, as used in this act shall be con-Definition of pistol or revolver, strued as meaning any firearm with a barrel less than twelve inches in length.

Commission of crime by one armed with pistol and unlicensed, how punished.

SECT. 2. If any person shall commit or attempt to commit a crime when armed with a pistol or revolver, and having no permit to carry the same, he shall in addition to the punishment provided for the crime, be punished by imprisonment for not more than five years.

What persons violation.

Sect. 3. No unnaturalized foreign-born person and no person forbidden to carry who has been convicted of a felony against the person or property penalty for of another shall own or have in his possession or under his control a pistol or revolver, except as hereinafter provided. Violations of this section shall be punished by imprisonment for not more than two years and upon conviction the pistol or revolver shall be confiscated and destroyed.

Carrying conwithout license penalty for viola-

Sect. 4. No person shall carry a pistol or revolver concealed in any vehicle or upon his person, except in his dwelling house or place of business, without a license therefor as hereinafter provided. Violations of this section shall be punished by a fine of not more than one hundred dollars or by imprisonment not exceeding one year or by both fine and imprisonment.

Persons exempt from application of preceding section.

SECT. 5. The provisions of the preceding sections shall not apply to marshals, sheriffs, policemen, or other duly appointed peace and other law enforcement officers, nor to the regular and ordinary trans1923] CHAPTER 118. 139

portation of pistols or revolvers as merchandise, nor to members of the army, navy, or marine corps of the United States, nor to the national guard when on duty, nor to organizations by law authorized to purchase or receive such weapons, nor to duly authorized military or civil organizations when parading, or the members thereof when at or going to or from their customary places of assembly.

SECT. 6. The selectmen of towns or the mayor or chief of police License to carry of cities may, upon application of any person issue a license to 6 such person to carry a loaded pistol or revolver in this state, for whom to granted. not more than one year from date of issue, if it appears that the applicant has good reason to fear an injury to his person or property or for any other proper purpose, and that he is a suitable person to be licensed. The license shall be in duplicate and shall bear the name, address, description, and signature of the licensee. The original thereof shall be delivered to the licensee, the duplicate shall be preserved by the selectmen of towns and the chief of police of the cities wherein issued for a period of one year.

SECT. 7. Any person or persons who shall sell, barter, hire, sales, etc., of lend or give to any minor under the age of twenty-one years any weapon minors, pistol or revolver shall be deemed guilty of a misdemeanor and punished; exemption. shall upon conviction thereof be fined not more than one hundred dollars or be imprisoned not more than three months, or both. This section shall not apply to fathers, mothers, guardians, administrators, or executors who give to their children, wards, or heirs to an estate, a revolver.

SECT. 8. No person shall sell, deliver, or otherwise transfer a sale, etc., to unnaturalized pistol or revolver to a person who is an unnaturalized foreign-born foreign-born person or has been convicted of a felony against the person or to a felon, property of another, except upon delivery of a written permit to hibited except upon delivery of a written permit. purchase, signed by the selectmen of the town or the mayor or chief of police of the city. Before a delivery be made the purchaser shall sign in duplicate and deliver to the seller a statement containing his full name, address, and nationality, the date of sale, the caliber, make, model, and manufacturer's number of the weapon. The seller shall, within seven days, sign and forward to the chief of police of the city or selectmen of the town one copy thereof and 'shall retain the other copy for one year. This section shall not apply to sales at wholesale. Where neither party to the transaction holds a dealer's license, no person shall sell or otherwise transfer a pistol or revolver to any person not personally known to him. Violations of this section shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

SECT. 9. Whoever, without being licensed as hereinafter pro-weapons with the pro-weapo vided, sells, advertises, or exposes for sale, or has in his possession license, how pun-

with intent to sell, pistols or revolvers, shall be punished by imprisonment for not more than two years.

Licenses to sell, how granted; record of sales to be kept.

140

- SECT. 10. The selectmen of towns and the chief of police of cities may grant licenses, the form of which shall be prescribed by the secretary of state, effective for not more than one year from date of issue, permitting the licensee to sell at retail pistols and revolvers subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:
- 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 easily be read.
- 3. No pistol or revolver shall be delivered (a) to a purchaser not personally known to the seller or who does not present clear evidence of his identity; nor (b) to an unnaturalized foreign-born person or a person who has been convicted of a felony and has no permit as required by section 8 of this act.

A true record, in duplicate, shall be made of every pistol or revolver sold, said record to be made in a book kept for the purpose, the form of which shall be prescribed by the secretary of state and shall be signed by the purchaser and by the person effecting the sale, and shall include the date of sale, the caliber, make, model, and manufacturer's number of the weapon, the name, address, and nationality of the purchaser. One copy of said record shall, within seven days, be forwarded to the selectmen of the town or the chief of police of the city and the other copy retained for one year.

Purchasing weapon by false information or evidence, how punished. SECT. 11. If any person in purchasing or otherwise securing delivery of a pistol or revolver shall give false information or offer false evidence of his identity he shall be punished by imprisonment for not more than two years.

Removing maker's name from weapon, or other mark of identification, how punished.

SECT. 12. No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol or revolver. Possession of any such firearms upon which the same shall have been changed, altered, removed, or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed or obliterated the same. Violations of this section shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than one year, or both.

Existing licenses to expire July 31, 1923.

SECT. 13. All licenses heretofore issued within the state permitting the carrying of pistols or revolvers upon the person shall expire at midnight of July 31, 1923.

Antique weapons not included in SECT. 14. This act shall not apply to antique pistols or revolvers incapable of use as such.

1923] CHAPTER 119. 141

SECT. 15. All acts and parts of acts inconsistent herewith are Repealing clause; hereby repealed, and this act shall take effect upon its passage. passage.

[Approved May 4, 1923.]

#### CHAPTER 119.

AN ACT TO PROHIBIT THE SALE AND MANUFACTURE OF INFLAMMABLE STOVE POLISHES.

SECTION 1. Manufacture or sale of certain inflammable stove polishes forbid-

- 2. Penalty for violation.
- 3. Repealing clause; takes effect on passage.

Be it enacted by the Senate and House of Representatives in General Court convened:

SECTION 1. It shall be unlawful to manufacture for sale, keep for Manufacture or sale, or sell for domestic use, any articles or compounds designed inflammable or intended as stove polish, which flash at a temperature below one stove polishes hundred and twenty degrees Fahrenheit, open cup test. The selling or having for sale of such compounds by retail stores shall be deemed as presumptive evidence of their being intended for domestic use.

SECT. 2. Any violation of this act shall be punished by a fine Penalty for not exceeding one hundred dollars (\$100) or by imprisonment not violation. exceeding six months or both.

SECT. 3. So much of chapter 101, Laws of 1921, as is incon-Repealing clause; sistent herewith and all other acts and parts of acts inconsistent passage. herewith are hereby repealed and this act shall take effect upon its passage.

[Approved May 4, 1923.]

laying out, opening, changing or vacating of any street, alley, or public place in any city are hereby extended and shall apply to all proceedings had under the provisions of section 1 of this act, including the ascertainment, award and payment of damages to, and the fixing, assessment and collection of assessments from, the owners of property beneficially or injuriously affected by such proceeding.

#### CHAPTER 207.

AN ACT to regulate and control the possession, sale, and use of pistols and revolvers in the State of Indiana, to provide penalties, and for other purposes.

[S. 55. Approved March 12, 1925.]

### Pistols and Revolvers Defined.

Section 1. Be it enacted by the general assembly of the State of Indiana, That the term "pistol or revolver," as used in this act, shall be construed as meaning any firearm with a barrel less than twelve inches in length.

# Crime—Committing When Armed With Pistol or Revolver.

SEC. 2. If any person shall, within the State of Indiana, commit or attempt to commit a crime, when armed with a pistol or revolver, and having no permit to carry the same, he shall, in addition to the punishment provided for the crime, be guilty of a felony and shall be punished by imprisonment for not less than one year and not more than five years.

# Subsequent Offenses.

SEC. 3. The judge shall have the power to sentence any person who may be convicted for a second or third, or other subsequent offense under section 2 of this act, to double or triple the penalty imposed thereby.

# Felony—Conviction For—Prohibited From Possessing Pistol.

Sec. 4. No person who has been convicted of a felony committed against the person or property of another shall own or have in his possession or under his control, within the State of Indiana, a pistol or revolver. A violation

#### 496

#### GENERAL LAWS.

of this section shall constitute a felony and be punishable by imprisonment for not less than one year, and not more than five years.

# Pistol or Revolver—Possession Without Permit.

Sec. 5. No person shall carry, within the State of Indiana, a pistol or revolver concealed in any vehicle or upon his person, except in his dwelling house or place of business, without a permit therefor as hereinafter provided. Violations of this section shall constitute a misdemeanor and be punished by a fine of one hundred dollars (\$100.00), to which may be added imprisonment for not more than one year, and upon conviction the pistol or revolver shall be confiscated and destroyed by the sheriff on order of the court.

# Persons Exempt From Act.

Sec. 6. The provisions of the preceding section shall not apply to marshals, sheriffs, deputy sheriffs, policemen or any other duly appointed peace officers, nor the pistols or revolvers of any bank, trust company, or common carriers, or to the officers or employes of any bank, trust company, or common carriers, while such officers or employes are guarding money or valuables within the line of their duties as such employes, nor to the regular and ordinary transportation of pistols or revolvers as merchandise, nor to members of the army, navy, or marine corps or the mail service of the United States, or the national guard, when on duty, or organizations by law authorized to purchase or receive such weapons from the United States, or the State of Indiana, nor to duly authorized military or civil organizations when parading, nor to the members thereof when at or going to or from their customary places of assembly.

# Permits—Clerk of Circuit Court—Application—Form—Fee.

SEC. 7. The clerk of any circuit court of the State of Indiana, shall, upon application of any citizen having a bona fide residence or place of business within the State of Indiana, or of any person having a bona fide residence or place of business within the United States, and a permit

to carry a firearm concealed upon his person issued by the authorities of any other state or subdivision of the United States, issue a permit to such citizen to carry a pistol or revolver within the State of Indiana, during the period of one year or until revoked, as herein provided. Such application for permit shall be signed by two resident householders and freeholders of the county in which the applicant lives, and it shall appear from such application that the applicant is a suitable person to be granted a permit under the law. The permit shall be in duplicate, in form to be prescribed by the adjutant general of the State of Indiana, and shall bear the name, address, description and signature of the applicant and reason given for desiring a permit. The original thereof shall be delivered to the applicant, the duplicate shall be preserved for six years by the clerk of the circuit court issuing the same. For each permit so issued, the applicant shall pay the sum of one dollar (\$1.00).

# Minors—Sale of Pistols or Revolvers to Prohibited.

SEC. 8. Any person or persons who shall, within the State of Indiana, sell, barter, hire, lend, or give to any minor under the age of twenty-one years, any pistol or revolver shall be deemed guilty of a misdemeanor and shall upon conviction thereof be fined not more than one hundred dollars (\$100.00), or be imprisoned for not more than three months, or both, except for uses as hereinbefore provided.

# Sale of Pistols and Revolvers—Record—Penalty.

Sec. 9. No person shall within the State of Indiana sell, deliver or otherwise transfer a pistol or revolver to a person who he has reasonable cause to believe either is not a citizen or has been convicted of a felony against the person or property of another, nor in any event shall he deliver a pistol or revolver on the day of the application for the purchase thereof, and when delivered said pistol or revolver shall be securely wrapped and shall be unloaded. Before a delivery be made, the purchaser or his duly authorized agent shall in the presence of each other sign in duplicate a statement containing the purchaser's full name, age, ad-

498

GENERAL LAWS.

dress, place of birth, and nationality, the date of sale, the caliber, make, model, and manufacturer's number of the weapon. The seller shall, within seven days, forward by registered mail, to the clerk of the circuit court of the county in which the seller resides, one copy thereof and shall retain the other copy for six years. This section shall not apply to sales at wholesale. Where neither party to the transaction holds a dealer's license, no person shall sell or otherwise transfer a pistol or revolver to any person not personally known to him. Violations of this section shall constitute a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100.00), or by imprisonment for not more than one year, or by both such fine and imprisonment.

#### Pistols and Revolvers—Sale Without License.

SEC. 10. Whoever, within the State of Indiana, without being licensed as hereinafter provided, sells, delivers, transfers, advertises, or exposes for sale, or has in his possession with intent to sell, pistols or revolvers, shall be deemed guilty of a felony and upon conviction thereof shall be punished by imprisonment for not less than one year nor more than two years.

# Dealers' Licenses—Conditions on Which Sold—Record—Advertisement.

- SEC. 11. The clerk of the circuit court of any county may grant licenses, to any reputable, established dealer, on forms to be prescribed by the adjutant general, permitting the licensee to sell at retail within the State of Indiana pistols and revolvers, subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:
- 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 easily be read.
  - 3. No pistol or revolver shall be delivered:
- (a) On the day of the application for the purchase, and when delivered shall be unloaded and securely wrapped; nor,

- (b) Unless the purchaser either is personally known to the seller or shall present clear evidence of his identity; nor,
- (c) If the seller has reasonable cause to believe that the purchaser is an unnaturalized foreign-born person or has been convicted of a felony against the person or property of another.
- 4. A true record, in duplicate, shall be made of every pistol or revolver sold, said record to be made in a book kept for the purpose, the form of which shall be prescribed by the adjutant general and shall be signed by the purchaser and by the person effecting the sale, and in the presence of each other, and shall include the date of sale, the caliber, make, model, and manufacturer's number of the weapon, the name, address, age, place of birth, nationality of the purchaser. One copy of said record shall, within seven days, be forwarded by registered mail to the clerk of the circuit court of the county in which the seller resides, and the other copy shall be retained by the seller for six years.
- 5. No pistol or revolver, or placard advertising the sale thereof, or imitation thereof, shall be displayed in any part of said premises where it can readily be seen from the outside.

#### False Information.

SEC. 12. If any person in purchasing or otherwise securing delivery of a pistol or revolver or applying for a permit to carry same within the State of Indiana shall give false information or offer false evidence of his identity he shall be deemed guilty of a felony and upon conviction shall be punished by imprisonment for not less than one year nor more than five years.

# Obliteration of Make, Model, Number-Penalty.

SEC. 13. No person shall within the State of Indiana, change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol or revolver. Possession of any such firearms upon which the same shall have been changed, altered, removed, or obliterated, shall be prima facie evidence that such possessor has changed, altered, removed,

500

GENERAL LAWS.

or obliterated the same. Violations of this section shall be a misdemeanor and shall be punished by imprisonment for not less than six months nor more than one year.

# Felony—Possession of Revolver Prima Facie Evidence.

SEC. 14. In the trial of a person charged with committing or attempting to commit a felony against the person or property of another while armed with a pistol or revolver, without having a permit to carry such firearm as hereinbefore provided, the fact that such person was so armed shall be prima facie evidence of his intent to commit such felony.

# Weapons Exempt.

Sec. 15. This act shall not apply to antique pistols or revolvers incapable of use as a deadly weapon.

### Prior Licenses.

Sec. 16. Any or all licenses heretofore issued to carry or possess revolver or pistol shall be revoked and rendered null and void on and after thirty days from the taking effect of this act.

#### Revocation of License.

SEC. 17. Hereafter in any court of record upon trial of any person for a penal offense, and upon a showing that such person is not a fit person to carry concealed weapons, the court may enter an order revoking such person's license to carry concealed weapons and such fact shall be communicated to the public officer issuing the same.

# Licensed Dealers—Statement—Penalty.

Sec. 17½. It shall be unlawful from and after the taking effect of this act, for any person, firm or corporation to receive or have in his or its possession within the State of Indiana any pistol or revolver purchased or acquired after the taking effect of this act, except a licensed dealer, who shall not have signed and forwarded to the clerk of the county in which he resides the statements provided for in section 9 of this act, before or at the time of taking possession of such pistol or revolver. Whoever shall violate the provisions of this section of this act shall be

deemed guilty of a misdemeanor and shall upon conviction thereof be fined not more than \$100, to which may be added imprisonment for not more than sixty days.

# Repeal.

Sec. 18. All laws and parts of laws in conflict herewith are hereby repealed.

# Unconstitutional Provisions.

SEC. 19. If any provision or section of this act shall be held void or unconstitutional, all other provisions and all other sections of this act, which are not expressly held to be void or unconstitutional, shall remain in full force and effect.

#### CHAPTER 208.

AN ACT fixing the terms of the circuit court, in the forty-ninth judicial circuit, composed of the counties of Daviess and Martin, and repealing all laws in conflict therewith, and declaring an emergency.

[S. 173. Approved March 12, 1925.]

#### Daviess and Martin Counties—Terms of Court.

Section 1. Be it enacted by the general assembly of the State of Indiana, That there shall be four terms each year of the circuit court in each of the counties of Daviess and Martin, comprising the forty-ninth judicial circuit. The terms in the county of Martin shall begin on the first Monday in January, the fourth Monday in March, the first Monday in August, and the fourth Monday in October of each year, and the terms beginning on the first Monday of January, and the fourth Monday of March, shall continue for four weeks each, and the terms beginning on the first Monday of August, and the fourth Monday of October, shall continue for three weeks each.

The terms in the county of Daviess shall begin on the first Monday of February, the fourth Monday of April, the first Monday of September, and the third Monday of November, and the terms beginning on the first Monday of February, and the first Monday of September, shall continue for six weeks, and the terms beginning on the fourth Monday of April and the third Monday of Novem-

# [No. 313.]

AN ACT to regulate the possession and sale of pistols, revolvers and guns; to provide a method of licensing those carrying such weapons concealed; and to provide penalties for violations of such regulations.

The People of the State of Michigan enact:

SECTION 1. A pistol, revolver or gun as used in this act Pistol, etc., shall be construed to mean any pistol, revolver or gun not defined. exceeding thirty inches in length that can be concealed on or about the person.

SEC. 2. Any person who shall commit or attempt to commit Felony, a felony when armed with a pistol, revolver or gun, as defined penalty for. in section one, shall, in addition to the punishment provided for committing the crime, be punished by imprisonment for not less than two nor more than five years within the discretion of the court.

Sec. 3. The court shall have power to sentence any person second who may be convicted of a second offense to double the addi-offense. tional penalty imposed under section two hereof for carrying such concealed weapon without a license.

Sec. 4. In the trial of a person for the commission of mur- what der, assault with intent to do great bodily harm, robbery, deemed larceny, or of an attempt to commit any of such offenses, the evidence. fact that he was armed with a pistol, revolver or gun as herein defined and had no permit to carry the same, shall be prima facie evidence of his intention to commit the crime with which he is charged. If any peace officer shall arrest a person on suspicion and with probable cause and without a warrant, for carrying concealed weapons, as herein provided, without a license therefor, and the arrest was in other respects legal and such person was actually in possession of a concealed weapon without a license to carry the same, it shall be presumed that the officer making the arrest had reasonable cause to believe that the alleged offense was being committed.

SEC. 5. No person shall carry a pistol, revolver or gun con-pletol, etc., cealed on or about his person or in any vehicle owned or when unlawful to carry. operated by him, except in his dwelling house, place of business or on his premises, without a license therefor, as hereinafter provided. The provisions of this section, however, shall not apply to the regular and ordinary transportation of pistols, revolvers or guns as merchandise, or to any member of the army, navy or marine corps of the United States, or to the national gnard when on duty, or organizations by law authorized to purchase or receive such weapons from the United States or from this state, nor to duly authorized military organizations when on duty, nor to the members thereof when going to or returning from their customary places of assembly, nor to wholesale or retail dealers therein, nor to peace officers of the state.

474

Permit to carry, who to issue.

SEC. 6. The prosecuting attorney, sheriff and chief of police of any city or incorporated village in which an applicant for a license to carry a concealed weapon, as herein defined, resides, shall constitute a licensing board for applicants living in cities and incorporated villages of each county. The prosecuting attorney and sheriff shall constitute a board to act upon applications for such a license by applicants not residing in a city or incorporated village in such county. The county clerk of each county shall be clerk of such board. The board as herein constituted may issue a permit to carry concealed, a revolver or gim within the state, to such person residing within the jurisdiction of the licensing board, if it appears that the applicant is a suitable person to be granted a license and there is reasonable cause therefor. The license so issued shall state the reason for granting the same and the length of time for which granted. Such license shall be void when the reason for granting it ceases to exist. A license may also be issued, as herein provided, to any person having a bona fide residence or place of business within the United States, and holding a license to carry the weapons herein mentioned concealed upon his person, issued by the authorities of the United States. The license herein mentioned shall be in a form prescribed by the secretary of state and shall be in triplicate. It shall give the name, address and description of the licensee and the reason for granting a license. Each of said copies shall be signed by the licensee. The original shall be delivered to such licensee; one copy shall be mailed by registered letter within thirty days to the secretary of state and the other copy shall be preserved by the person issuing the license.

Form of license.

Delivery to purchaser; statement required.

Sec. 7. No person shall deliver or otherwise transfer a pistol, revolver or gun, as defined in this act, to a person, unless it be securely wrapped and unloaded. Before the same is delivered to the purchaser, he shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, nationality, the date of sale, the caliber, make, model and manufacturer's number of the weapon. The seller shall, within thirty days thereafter, sign and mail by registered letter one copy thereof to the secretary of state, one copy to the chief of police of the city or village in which the same was sold or to the sheriff of the county of which the seller is a resident and shall retain the other copy. This section shall not apply to sales at wholesale. Any person convicted of wilfully violating the provisions of this section shall be punished by a fine of not less than one hundred dollars or by imprisonment for not more than one year or by both such fine and imprisonment, in the discretion of the magistrate.

Dealer's license.

Sec. 8. No person, firm or corporation shall hereafter sell or otherwise transfer a pistol, revolver or gun without having obtained a dealer's license therefor. The duly constituted licensing authorities herein mentioned may grant licenses on a form prescribed by the secretary of state, effective for not

more than one year from the date thereof permitting the licensee to sell at retail the flrearms herein mentioned, subject to the following conditions:

Conditions.

1. The business shall be conducted only in the building occupied by the licensed dealer.

2. The license or a copy thereof certifled by the issuing authority shall be displayed on the premises where it can be readily seen.

3. A true record in triplicate shall be made of every pistol, revolver or gun, as defined in this act, sold, said record to be made in a book kept for the purpose, the form of which shall be prescribed by the secretary of state as hereinbefore provided. The form shall show the date of sale, the caliber, make, model and manufacturer's number of the weapon and the name, address, occupation and nationality of the purchaser.

Sec. 9. If any person in purchasing or otherwise securing False delivery of a pistol, revolver, or gun, as defined in this act, or information. in applying for a permit to carry the same, shall give any false information or offer false evidence of his identity, he shall be subject to the penalty hereinafter provided.

Sec. 10. No person shall deliberately change, after, remove Not to or obliterate the name of the maker, model, manufacturer's change, etc., number or other mark of identity of any pistol, revolver or maker, etc. gun. Possession of any such firearm upon which the name or number shall have been deliberately changed, altered, removed or obliterated shall be presumptive evidence that such possessor has changed, altered, removed or obliterated the same.

SEC. 11. On or before the first day of July, nineteen hun-Registration. dred twenty-flve, any person within this state who owns or has in his possession, a pistol, revolver or gun, as herein described, and which have not been by that time legally registered, shall register the same in the office of the sheriff of the county or the chief of police of the city or village in which such person resides. A certificate of registration shall be certificate, issued in triplicate and on a form to be prescribed by the what to consecretary of state, containing the name, address, description and signature of the person registering the same, together with a full description of such firearm. The original shall be delivered to the person registering the same, one copy thereof shall be mailed to the secretary of state by registered letter within thirty days from the date of said registration, and the other copy thereof shall be retained and filed in the office of said sheriff or chief of police. The provisions of this section shall not apply to wholesale or retail dealers or to persons having in their possession pistols, revolvers or guns used solely for the purposes of display as relics, souvenirs or curios and kept as a collection of such.

Sec. 12. All licenses heretofore issued within the state, when license permitting a person to carry a pistol, revolver or gun, as de- to expire. flued in this act, concealed upon his person, shall expire at midnight, December thirty-first, nineteen hundred twentysix.

Revocation.

Hearing.

SEC. 13. Any officer issuing a license under the provisions of this act may revoke the same upon receiving a certificate of any magistrate showing that such licensee has been convicted of violating any of the provisions of this act. Such license may also be revoked by the official issuing the same whenever in his judgment the holder thereof has violated any of the provisions of this act or is an unfit person to carry a concealed weapon as mentioned herein. Such official shall not revoke a license as herein mentioned, except after a hearing of which reasonable notice shall be given to the licensee either personally or by registered mail to the last known residence of the licensee. No such license shall be revoked except upon the written complaint of a peace officer or person living within the jurisdiction of the licensing official. Such complaint shall be addressed to the licensing official and shall set forth the reasons for requesting that the license be revoked.

When inapplicable.

SEC. 14. This shall not apply to antique pistols, revolvers or guns.

Penalty for violation.

Sec. 15. Any person convicted of a violation of this act for which a penalty is not provided shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the state prison for a period of not more than three years, or by both such fine and imprisonment, in the discretion of the court.

Saving clause.

Sec. 16. This act is declared to be severable and if any section or part of a section shall be held to be unconstitutional, the validity of the balance of the act shall not be affected thereby.

Approved May 26, 1925.

#### [No. 314.]

AN ACT to amend section one of act number thirty-two of the public acts of eighteen hundred seventy-three, entitled "An act to extend aid to the university of Michigan and to repeal an act entitled 'An act to extend aid to the university of Michigan.' approved March fifteen, eighteen hundred sixty-seven, being sections three thousand five hundred six and three thousand five hundred seven of the compiled laws of eighteen hundred seventy-one," being section one thousand one hundred eighty-three of the compiled laws of nineteen hundred fifteen, as amended by act number two hundred fifty-two of the public acts of the state of Michigan for the year nineteen hundred twenty-three.

The People of the State of Michigan enact:

Section amended. Section 1. Section one of act number thirty-two of the public acts of eighteen hundred seventy-three, entitled "An act to Add. 170

# CHAPTER 64, LAWS OF 1925.

### CHAPTER 64.

An Act to amend an act entitled "A further supplement to an act entitled 'An act for the punishment of crimes' (Revision of 1898), approved June fourteenth, one thousand eight hundred and ninety-eight," which supplementary act was approved March cleventh, one thousand nine hundred and twenty-four.

BE IT ENACTED by the Schate and General Assembly of the State of New Jersey:

1. The act of which this act is amendatory be and Actamended. the same hereby is amended so that the same shall read

185

as follows:

1. Any person who shall carry any revolver, pistol Carrying conor other firearm, or other instrument of the kinds known on on person as a blackjack, slungshot, billy, sandclub, sandbag, or in vehicle a bludgeon, metal knuckles, dagger, dirk, dangerous knife, stiletto, bomb or other high explosive, other than fixed ammunition, concealed in or about his clothes or person, or in any automobile, carriage, motor cycle, or other vehicle, shall be guilty of a misdemeanor; pro- Proviso: legal vided, however, that nothing in this act contained shall carrying. be construed in any way to apply to the sheriff, or the undersheriffs of any county, nor to the regularly employed members of any uniformed police department in any municipality of this State, nor to any prosecutor or assistant prosecutor of any county, jailer, regular fish and game wardens, constable, railway police, canal police, and steamboat police and prosecutor's detectives; nor to any member of the State Police, nor to any motor vehicle inspector; nor to duly authorized military organizations when under orders, nor to the members thereof when going to or from places of meeting of their respective organizations, carrying the weapons prescribed for such drill, exercise or parade; and provided, Proviso. further, nothing in this act contained shall be construed

to apply to any person having a written permit to carry

186

# CHAPTER 64, LAWS OF 1925.

Proviso.

any revolver, pistol or other firearm, when such permit has been obtained pursuant to the provisions of this act; nor to public utility corporations in the transportation of explosives; provided, however, that nothing herein contained shall prevent any person from keeping or carrying about his or her place of business, dwelling, house or premises, any such revolver, pistol, firearm or other weapon, or from carrying the same from any place of purchase to his or her dwelling, house or place of business, or from his or her dwelling, house or place of business to any place where repairing is done, to have the same repaired and returned, or to carry a gun, rifle or knife in the woods or fields or upon the waters of the State for the purpose of hunting or target practice.

2. Any person desirous of obtaining a permit to carry

a revolver, pistol or other firearm, pursuant to the pro-

License to carry weapons.

Application.

Approval.

Permit.

Expiration and renewal.

of five vears.

visions of this act, shall in the first instance, make application therefor either to the chief police official of the municipality in which the applicant resides or to the sheriff of the county wherein the applicant resides. such application is approved by the chief police official or by the sheriff, as the case may be, the applicant shall then present such application, so approved as aforesaid, to a Common Pleas judge of the county or to the justice of the Supreme Court or to the judge holding the circuit for the county in which the applicant is resident, who, after investigation, and being satisfied of the sufficiency of the application, and of the need of such person carrying concealed upon his person, a revolver, pistol or other firearm, shall issue a permit therefor. A permit so issued pursuant to the provisions of this act is sufficient authority for the holder thereof to carry concealed upon his person a revolver, pistol or other firearm in all parts of the State of New Jersey. All permits issued pursuant to the provisions of this act shall expire on the thirty-first day of December subsequent to the date of issue, and may thereafter be renewed for a period

3. Every person engaged in the retail business of selling, leasing or otherwise transferring a pistol, revolver or other firearm of a size capable of being concealed

Record of sale kept.

# CHAPTER 64, LAWS OF 1925.

upon the person, whether such seller, lessor or transferror is a retail dealer, pawnbroker or otherwise, shall keep a register in which shall be entered the time of sale, date of sale, the name, age, color, nationality, occupation and residence of the purchaser, the name of the salesman making the sale, the place where sold, the make, model, manufacturer's number, calibre or other marks of identification on such pistol, revolver or other firearm. Such register shall be open at all reasonable hours for the inspection of any police or other peace officer.

The form of such register shall be prepared by the Registry. Secretary of State, and by him transmitted to the clerk of every municipality. The clerk of such municipality Furnished shall thereupon prepare said register in accordance with said form so transmitted, and furnish the same to each person, firm or corporation within his said municipality engaged in the business of selling, leasing or otherwise transferring pistols, revolvers or other firearms. The purchaser of any pistol, revolver or other firearm Signature of capable of being concealed upon the person shall sign, seller. and the dealer shall require him to sign his name and affix his address to said register, in duplicate, and the salesman shall affix his name, in duplicate, as a witness to the signature of the purchaser. Any person signing False reprea fictitious name or address, or giving any false information in connection with the making of any such purchase shall be guilty of a high misdemeanor.

The duplicate sheet of such register shall before Duplicate twelve o'clock midnight of the day of sale, lease or transfer be delivered to the office of the chief of police of such municipality, or to the office of the captain of the precinct of any such city, within which the dealer resides, and a receipt shall be given to such dealer therefor; provided, however, that where a sale, lease or Proviso. transfer is made in any municipality having no chief of police, it shall then be the duty of the dealer, from the day of sale to mail to the county clerk of the county within which the sale, lease or transfer was made a duplicate copy of such register. Any person violating Penalty. any of the provisions hereof shall be guilty of a misdemeanor.

Add. 173

187

188

# CHAPTER 64, LAWS OF 1925.

Form of register.

The register provided for in this act shall be substantially in the following form: Sold, leased or transferred by ...... Salesman ..... City, town or township ..... ...... Description of arm (state whether revolver Number ....... Caliber ......... Name of purchaser ..... Years ....... Permanent residence (state name of city, town or township, street and number of dwelling) ..... Height ..... feet ..... inches ..... Occupation . . . . . . . Color . . . . . . Skin . . . . . . . . Eyes ..... Hair ..... If traveling or in locality temporarily, give local address ..... Signature of purchaser ..... ...... (Signing a fictitious name or address is a misdemeanor.) (To be signed in duplicate.) Witness ..... Salesman. (To be signed in duplicate.)

No sale after five P. M.

4. No person engaged in the retail business of selling, leasing or otherwise transferring any pistol, revolver or other firearm of a size capable of being concealed upon the person shall exhibit for purposes of sale, lease or hire any pistol, revolver or other firearm after the hour of five P. M.; and provided, further, that no pistol, revolver or other firearm shall be delivered to any purchaser until twenty-four hours shall have elapsed

Proviso.

from the time of application therefor.

Permits for banking institutions.

5. The president of any National bank, building and loan association, trust company or other banking institution located in any municipality of this State may make application to the chief of police of such municipality for permits, in blank, to be used by the messengers, clerks or other employees or agents of such institutions for use while engaged in the performance of their respective duties. Upon such issue, as aforesaid, he shall transmit to the chief of police from whom such permits were obtained a record of the persons to whom the same were issued; *provided*, *however*, that such permits, so as aforesaid issued under this section, shall not exceed twenty in number to any one bank.

Police notified.

Proviso.

# CHAPTERS 64 & 65, LAWS OF 1925.

189

6. Any person who shall alter, change, disfigure or Notatier deface the serial number of any pistol or revolver shall serial number. be guilty of a misdemeanor; any person engaged in the retail business of selling, leasing or otherwise transferring pistols, revolvers, or other firearms who shall sell or lease any pistol, or revolver having the serial number thereof altered, changed, disfigured or defaced shall be guilty of a misdemeanor.

7. This act shall take effect immediately. Approved March 12, 1925.

### CHAPTER 65.

An Act concerning building and loan associations (Revision of 1925).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

ARTICLE I. As TO BUILDING AND LOAN AS-SOCIATIONS OF THIS STATE.

#### I. FORMATION.

# 1. Purposes.

Upon executing, recording and filing a certificate pur- Formation of suant to this act, nine or more persons, citizens of loan acsociathis State, may become an incorporated association for the purpose of assisting each other and all who may become associated with them in acquiring real estate, making improvements thereon and for removing incumbrances therefrom by the payment of periodical installments, as its constitution shall provide; and for the Purposes. further purpose of accumulating a fund, to be repaid to its members, subject to the right of earlier redemption, who do not obtain advances for purposes above mentioned when the funds of such association shall amount to a certain sum per share, to be specified in the certificate of incorporation.

13 Laws

9. County school superintendent, \$1,500. The county school superintendent shall be allowed a deputy or clerk whose salary shall be determined by the county court; all claims of deputy for salary or services must be approved by the county school superintendent \*[and the same shall be audited by the county court and paid as other claims against the county are paid. The county school superintendent] shall be allowed such sum as the county court may deem necessary for traveling expenses incurred in the discharge of his duties, which claims shall be audited and paid by the county court out of the general fund of the county.

Approved by the governor February 26, 1925. Filed in the office of the secretary of state February 26, 1925.

### CHAPTER 260

# AN ACT

[H. B. 452]

To control the possession, sale and use of pistols and revolvers, to provide penalties.

Be It Enacted by the People of the State of Oregon:

Section 1. On and after the date upon which this act takes effect, any person who within the state of Oregon manufactures or causes to be manufactured or who imports into the state of Oregon or who keeps for sale or offers or exposes for sale or who gives, lends or possesses a pistol or revolver otherwise than in accordance with the provisions of this act shall be guilty of a felony, and, upon conviction thereof, shall be punishable by imprisonment in the state penitentiary for not more than five years.

Section 2. On and after the date upon which this act takes effect no unnaturalized foreign-born person and no person who has been convicted of a felony against the person or property of another or against the government of the United States or of the state of Oregon or of any political subdivision thereof shall own or have in his possession or under his custody or control any pistol, revolver or other firearm capable of being concealed upon the person. The terms "pistol," "revolver," and "firearms capable of being concealed upon the person," as used in this act, shall be construed to apply to and include all firearms having a barrel less than twelve inches in length. Any person who shall violate the provisions of this section shall be guilty of a felony, and, upon conviction thereof, be punishable by imprisonment in the state penitentiary for not less than one year nor for more than five years.

<sup>\*</sup>The phrase inserted in brackets appears in the original and engrossed bills, but was not incorporated in the enrolled act.

Section 3. If any person shall commit or attempt to commit any felony within this state while armed with any of the weapons mentioned in section 1 hereof or while armed with any pistol, revolver or other firearm capable of being concealed upon the person, without having a license or permit to carry such firearm, as hereinafter provided, upon conviction of such felony or of an attempt to commit such felony. he shall, in addition to the punishment prescribed for the crime of which he has been convicted, be punishable by imprisonment in the state penitentiary for not less than five nor for more than ten years. Such additional period of imprisonment shall commence upon the expiration or other termination of the sentence imposed for the crime of which he stands convicted and shall not run concurrently with such sentence. Upon a second conviction under like circumstances such additional period of imprisonment shall be for not less than ten years nor for more than fifteen years, and upon a third conviction under like circumstances such additional period of imprisonment shall be for not less than fifteen nor for more than twenty-five years; such terms of additional imprisonment to run consecutively as before. Upon a fourth or subsequent conviction under like circumstances the person so convicted may be imprisoned for life or for a term of years not less than twenty-five years, within the discretion of the court wherein such fourth or subsequent conviction was had. In the trial of a person charged with committing or attempting to commit a felony against the person of another while armed with any of the weapons mentioned in section 1 hereof, or while armed with any pistol, revolver or other firearm capable of being concealed upon the person, without having a license or permit to carry such firearm, as hereinafter provided, the fact that he was so armed shall be prima facie evidence of his intent to commit such felony.

Section 4. In no case shall any person punishable under the preceding sections of this act be granted probation by the trial court, nor shall the execution of the sentence imposed

upon such person be suspended by the court.

Section 5. Except as otherwise provided in this act, it shall be unlawful for any person within this state to carry concealed upon his person or within any vehicle which is under his control or direction any pistol, revolver or other firearm capable of being concealed upon the person without having a license to carry such firearm, as hereinafter provided in section 8 hereof. Any person who violates the provisions of this section shall be guilty of a misdemeanor, and if he has been convicted previously of any felony, or of any crime made punishable by this act, he is guilty of a felony. This section

shall not be construed to prohibit any citizen of the United States, over the age of eighteen years, who resides or is temporarily sojourning within this state, and who is not within the excepted classes prescribed by section 2 hereof, from owning, possessing or keeping within his place of residence or place of business any pistol, revolver or other firearm capable of being concealed upon the person, and no permit or license to purchase, own, possess or keep any such firearm at his place of residence or place of business shall be required of any such citizen. Firearms carried openly in belt holsters shall not be deemed to be concealed within the meaning of this section.

Section 6. Nothing in the preceding section shall be construed to apply to or affect sheriffs, constables, marshals, policemen, whether active or honorably retired, or other duly appointed peace officers, nor to any person summoned by any such officers to assist in making arrests or preserving the peace while said person so summoned is actually engaged in assisting such officer; nor to the possession or transportation by any merchant of unloaded firearms as merchandise; nor to members of the army, navy or marine corps of the United States, or the national guard, when on duty, nor to organizations which are by law authorized to purchase or receive such weapons from the United States, or from this state: nor to duly authorized military or civil organizations while parading. nor to the members thereof when going to and from the places of meeting of their respective organizations; nor to members of any club or organization now existing, or hereafter organized, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in this act upon such target ranges, or while going to and from such ranges; nor to licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from such hunting or fishing expedition.

Section 7. The unlawful concealed carrying upon the person or within the vehicle of the carrier of any pistol, revolver or other firearm capable of being concealed upon the person, is a nuisance. Any such weapons taken from the person or vehicle of any person unlawfully carrying the same are hereby declared to be nuisances, and shall be surrendered to the magistrate before whom said person shall be taken, except that in any city, county, town or other municipal corporation the same shall be surrendered to the head of the police force or police department thereof. The officers to whom the same may be so surrendered, except upon the certificate of a judge or a court of record, or of the district attorney of the county,

that the preservation thereof is necessary or proper to the ends of justice, shall annually, between the first and tenth days of July, in each year, destroy or cause to be destroyed such weapons to such extent that the same shall become and be wholly and entirely ineffective and useless for the purpose for which it was [they were] manufactured; provided, however, that in the event any such weapon has been stolen and is thereafter recovered from the thief or his transferee the same shall not be destroyed but shall be restored to the lawful owner thereof, so [as] soon as its use as evidence has been served, upon his identification of the weapon and proof of ownership thereof; provided, that upon the certificate of a judge or of the district attorney that the ends of justice will be subserved thereby such weapon shall be preserved until the necessity for its use ceases.

Section 8. It shall be lawful for the sheriff of a county. and the board of police commissioners, chief of police, city marshal, town marshal, or other head of the police department of any city, county, town, or other municipal corporation of this state, upon proof before said board, chief, marshal or other police head, that the person applying therefor is of good moral character, and that good cause exists for the issuance thereof, to issue to such person a license to carry concealed a pistol, revolver or other firearm for a period of one year from the date of such license. All applications for such licenses shall be filed in writing, signed by the applicant, and shall state the name, occupation, residence and business address of the applicant, his age, height, weight, color of eves and hair, and reason for desiring a license to carry such weapon. Any license issued upon such application shall set forth the foregoing data and shall, in addition, contain a description of the weapon authorized to be carried, giving the name of the manufacturer, the serial number and the caliber thereof. When such licenses are issued by a sheriff a record thereof shall be kept in the office of the county clerk; when issued by police authority such record shall be maintained in the office of the authority by whom issued. Such applications and licenses shall be uniform throughout the state, upon forms to be prescribed by the attorney general.

Section 9. Every person in the business of selling, leasing or otherwise transferring a pistol, revolver or other firearm, of a size capable of being concealed upon the person, whether such seller, lessor or transferor is a retail dealer, pawnbroker or otherwise, except as hereinafter provided, shall keep a register in which shall be entered the time of sale, the date of sale, the name of the salesman making the sale, the place where sold, the make, model, manufacturer's number, caliber

Series No.....

472

or other marks of identification on such pistol, revolver or other firearm. Such register shall be prepared by and obtained from the state printer and shall be furnished by the state printer to said dealers on application at a cost of \$3 per one hundred leaves, in duplicate, and shall be in the form hereinafter provided. The purchaser of any firearm capable of being concealed upon the person shall sign, and the dealer shall require him to sign, his name and affix his address to said register, in duplicate, and the salesman shall affix his signature, in duplicate, as a witness to the signature of the purchaser. Any person signing a fictitious name or address is guilty of a misdemeanor. The duplicate sheet of such register shall, on the evening of the day of sale, be placed in the mail, postage prepaid, and properly addressed to the board of police commissioners, chief of police, city marshal, town marshal or other head of the police department of the city, county, town or other municipal corporation wherein the sale was made; provided, that where the sale is made in a district where there is no municipal police department, said duplicate sheet shall be mailed to the county clerk of the county wherein the sale is made. A violation of any of the provisions of this section by any person engaged in the business of selling, leasing or otherwise transferring such firearm is a misdemeanor. This section shall not apply to wholesale dealers in their business intercourse with retail dealers, nor to wholesale or retail dealers in the regular or ordinary transportation of unloaded firearms as merchandise by mail, express or other mode of shipment, to points outside of the city, county, town or municipal corporation wherein they are situated. The register provided for in this act shall be substantially in the following form:

#### FORM OF REGISTER

Sheet No
Original
Dealers' Record of Sale of Revolver or Pistol State of Oregon
<u> </u>
Notice to Dealers: This original is for your files. If spoiled in making out, do not destroy. Keep in books. Fill out in duplicate.
Carbon duplicate must be mailed on the evening of the day of sale, to head of police commissioners, chief of police, city marshal, town marshal or other head of the police department of the municipal corporations wherein the sale is made, or to the county clerk of your county if the sale is made in a district where there is no municipal police department. Violation of this law is a misdemeanor. Use carbon paper for duplicate. Use indelible pencil.
Sold by
Sold by
City, town or township
Description of arm (state whether revolver or pistol)
Maker

Chap. 260]	GENERAL LAWS OF OREGON, 1925	473
Permanent resi number of d Height Color If traveling, or	aser	street and
Signature of p (Signing a signed in duplic Witness	urchaser	
Dea	Sheet N  DUPLICATE  LLERS' RECORD OF SALE OF REVOLVER OR PISTOL  State of Oregon	o
Sold by	Dealers: This carbon duplicate must be mai day of sale as set forth in the original of the of this law is a misdemeanor.  Salesman	
Maker	cownship arm (state whether revolver or pistol)  Number Caliber aser Age lress (state name of city, town or township, welling)  feet inches, Occupation Skin Eyes Hair in locality temporarily, give local address	years street and
Signature of p (Signing a signed in duplication witness	urchaser fictitious name or address is a misdemean	
Section 10	O. No person shall sell, deliver or or pistol, revolver or other firearm capable	otherwise

Section 10. No person shall sell, deliver or otherwise transfer any pistol, revolver or other firearm capable of being concealed upon the person to any person whom he has cause to believe to be within any of the classes prohibited by section 2 hereof from owning or possessing such firearms, nor to any minor under the age of eighteen years. In no event shall any such firearm be delivered to the purchaser upon the day of the application for the purchase thereof, and when delivered such firearm shall be securely wrapped and shall be unloaded. When neither party to the transaction holds a dealers' license, no person shall sell or otherwise transfer any such firearm to any other person within this state who is not personally known to the vendor. Any violation of the provisions of this section shall be a misdemeanor.

Section 11. The duly constituted licensing authorities of any city, county, town or other municipality within this state may grant licenses in form prescribed by the attorney general, effective for not more than one year from date of issue, permitting the licensee to sell at retail within the said city, county, town or other municipality pistols, revolvers and other firearms capable of being concealed upon the person, subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:

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 easily be read.

3. No pistol or revolver shall be delivered:

(a) On the day of the application for the purchase, and when delivered shall be unloaded and securely wrapped; or

(b) Unless the purchaser either is personally known to the seller or shall present clear evidence of his identity.

4. No pistol or revolver, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of said premises where it can readily be seen.

Section 12. Any person who, without being licensed as above provided, engages in the business of selling or otherwise transferring, or who advertises for sale or offers or exposes for sale or transfer, any pistol, revolver or other firearm capable of being concealed upon the person is guilty of a misdemeanor.

Section 13. No person shall change, alter, remove or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol or revolver. Possession of any such firearm upon which the same shall have been changed, altered, removed or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed or obliterated the same. Violation of this section shall be punished by imprisonment in the state penitentiary for not more than five years.

Section 14. All permits heretofore issued within this state permitting the carrying of pistols or revolvers concealed upon the person shall expire at midnight of June 1, 1925.

Section 15. This act shall not apply to antique pistols or

revolvers incapable of use as such.

Section 16. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection,

Chap. 261

475

sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 17. All acts and parts of acts in conflict herewith

are hereby repealed.

Approved by the governor February 26, 1925. Filed in the office of the secretary of state February 26, 1925.

## CHAPTER 261

# AN ACT

[H. B. 460]

Providing for the election of county school superintendents in certain counties, prescribing their powers and duties and providing for payment of salaries and expenses of the office.

Be It Enacted by the People of the State of Oregon:

Section 1. In all counties of this state having a population of 25,000 or more children of school age the county superintendent of schools shall have jurisdiction only of the schools of that county as shall be outside of the corporate limits of districts of the first class. He shall be elected at the biennial election in the year 1928, and every four years thereafter, by the legal voters of the county outside of districts of the first class. He shall take his office on the first Monday of January following his election; provided, that the present county school superintendent at no decrease in salary shall be ex officio county school superintendent until the expiration of his term of office. In districts of the first class, in addition to the authority now conferred upon the city superintendent of such districts, said city superintendent shall be and he hereby is vested with the authority now exercised by the county school superintendent in such districts and all reports heretofore rendered by said district to the \*[county school] superintendent shall be made to the state superintendent of public instruction.

Section 2. In all counties coming under the provisions of this act the salaries of the county school superintendent. assistant superintendents, and all expenses for clerical help, traveling expenses or for any other expenses of the office of said county school superintendent shall be paid from a fund known as the county school superintendent's fund, hereinafter provided, by warrants drawn on this fund in the same manner that warrants may be drawn for the salaries for other county officials

Section 3. In all counties coming under the provisions of this act on the first Monday of November of each year the

<sup>\*</sup> The phrase inclosed in brackets appears in the engrossed bill, but was omitted in the enrolled act.

# CHAPTER 3

(House Bill No. 7-By Mr. Robinson from the Select Committee)

AN ACT to amend and re-enact section seven of chapter one hundred and forty-eight of the code of West Virginia, as amended and re-enacted by chapter fifty-one of the acts of the legislature of West Virginia, one thousand nine hundred and nine, regular session, and as further amended and re-enacted by an act of the legislature of West Virginia, regular session, one thousand nine hundred and twenty-five, relating to offenses against the peace; providing for the granting and revoking of licenses and permits respecting the use, transportation and possession of weapons and fire arms; restricting the manner of the sale and display of weapons and fire arms; imposing liability upon certain persons for the accidental or improper, negligent or illegal discharges of weapons and fire arms; defining the powers and duties of certain officers in the granting and revocation of said licenses and permits, and providing penalties for the violation of this act and any part thereof.

[Passed June 5, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.
7. (a) Penalty for carrying dangerous or deadly weapon without license; second offense; duties of prosecuting attorneys; application for license; what to show; publication; issuance; fee; bond; term of license; territory covered; deputy sheriffs and railway police licenses co-extensive with state; accounting for fees; forms by tax commissioner; certified copy of license to superintendent of department of public safety; list of all licenses to the same; lawful to carry arms on own premises, or from place of purchase and repair, not applicable to employee; permits to express company employees and railway police; bonds; emergency permits; reports of violations, and penalty

for failure so to do; certain officers permitted to carry arms; bond; unlawful to carry or use weapon in a manner likely to cause breach of peace; penalty; revocation of license; notice; reinstatement.

7. (b) Permits for possession of machine gun and high-powered rifle; regulations; exception of rifle club members and licensed hunters; granting of permit; fee; revocation; confiscation of arms; alien prohibited from owning or possessing arms; display of arms for sale or rent prohibited; report of sales by dealers to superintendent of department of public safety; unlawful to arm alien; penalty for violations of this sub-section; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter one hundred and forty-eight of the code of West Virginia, as amended and re-enacted by chapter fifty-one of the acts of the legislature of West Virginia of one thousand nine hundred and nine, regular session, and as further amended and re-enacted by the legislature of West Virginia, one thousand nine hundred and twenty-five, regular session, in House Bill number four hundred six, be amended and re-enacted so as to read as follows:

Section 7 (a). If any person, without a state license therefor, 2 carry about his person any revolver or other pistol, dirk, 3 bowie-knife, slung shot, razor, billy, metallic or other false 4 knuckles, or any other dangerous or deadly weapon of like 5 kind or character, he shall be guilty of a misdemeanor and 7 upon conviction thereof be confined in the county jail for a 8 period of not less than six nor more than twelve months for 9 the first offense; but upon conviction of the same person for 10 the second offense in this state, he shall be guilty of a felony 11 and be confined in the penitentiary not less than one or more 12 than five years, and in either case fined not less than fifty 13 nor more than two hundred dollars, in the discretion of the 14 court; and it shall be the duty of the prosecuting attorney 15 in all cases to ascertain whether or not the charge made by 16 the grand jury is the first or second offense, and if it shall be 17 the second offense, it shall be so stated in the indictment re-18 turned, and the prosecuting attorney shall introduce the rec-19 ord evidence before the trial court of said second offense, and 20 shall not be permitted to use his discretion in charging said 21 second offense nor in introducing evidence to prove the same 22 on the trial; provided, that boys or girls under the age of 23 eighteen years, upon the second conviction, may, at the dis-24 cretion of the court, be sent to the industrial homes for boys 25 and girls, respectively, of the state. Any person desiring to 26 obtain a state license to carry any such weapon within one or 27 more counties in this state shall first publish a notice in some 28 newspaper, published in the county in which he resides, setting 29 forth his name, residence and occupation, and that on a cer-30 tain day he will apply to the circuit court of his county for 31 such state license; and after the publication of such notice for 32 at least ten days before said application is made and at the 33 time stated in said notice upon application to said court, it 34 may grant such person a license in the following manner, 35 to-wit:

The applicant shall file with said court his application in 37 writing, duly verified, which said application shall show:

38 First: That said applicant is a citizen of the United States 39 of America.

40 Second: That such applicant has been a bona fide resident 41 of this state for at least one year next prior to the date of 42 such application, and of the county sixty days next prior 43 thereto.

44 Third: That such applicant is over twenty-one years of 45 age; that he is a person of good moral character, of temper-46 ate habits, not addicted to intoxication, and has not been 47 convicted of a felony nor of any offense involving the use on 48 his part of such weapon in an unlawful manner.

49 Fourth: The purpose or purposes for which the applicant 50 desires to carry such weapon and the necessity therefor and 51 the county or counties in which said license is desired to be 52 effective.

53 Upon the hearing of such application the court shall hear 54 evidence upon all matters stated in such application and upon 55 any other matter deemed pertinent by the court, and if such 56 court be satisfied from the proof that there is good reason and 57 cause for such person to carry such weapon, and all of the 58. other conditions of this act be complied with, said circuit 59 court or the judge thereof in vacation, may 60 said license for such purposes, and no other, as said 60-a circuit court may set out in the said license (and the word 60-b "court" as used in this act shall include the circuit judge acting invacation); 60-c thereof, but before the 61 license shall be effective such person shall pay to the 62 sheriff, and the court shall so certify in its order granting the 63 license, the sum of twenty dollars, and shall also file a bond 64 with the clerk of said court, in the penalty of three thousand 65 five hundred dollars, with good security, signed by a respon-66 sible person or persons, or by some surety company, author-67 ized to do business in this state, conditioned that such appli-68 cant will not carry such weapon except in accordance with his 69 said application and as authorized by the court, and that he 70 will pay all costs and damages accruing to any person by the 71 accidental discharge or improper, negligent or illegal use of 72 said weapon or weapons. Any such license granted after this 73 act becomes effective shall be good for one year, unless sooner 74 revoked, as hereinafter provided, and be co-extensive with the 75 county in which granted, and such other county or coun-76 ties as the court shall designate in the order granting such 77 license; except that regularly appointed deputy sheriffs having 78 license shall be permitted to carry such revolver or other 79 weapons at any place, within the state, while in the perfor-80 mance of their duties as such deputy sheriffs and except that 81 any such license granted to regularly appointed railway police

REARMS

27

Ch. 3]

82 shall be co-extensive with the state, and all license fees col-83 lected hereunder shall be paid by the sheriff and accounted for 84 to the auditor as other license taxes are collected and paid, and 85 the state tax commissioner shall prepare all suitable forms for 86 licenses and bonds and certificates showing that such license 87 has been granted and to do anything else in the premises to 88 protect the state and see to the enforcement of this act.

The clerk of the court shall immediately after license is 90 granted as aforesaid, furnish the superintendent of the de91 partment of public safety a certified copy of the order of the 92 court granting such license, for which service the clerk shall 93 be paid a fee of two dollars which shall be taxed as cost in 94 the proceeding; within thirty days after this act becomes 95 effective it shall be the duty of the clerks of each court in this 96 state having jurisdiction to issue pistol licenses to certify 97 to the superintendent of the department of public safety a 98 list of all such licenses issued in his county.

Provided, that nothing herein shall prevent any person 100 from carrying any such weapon, in good faith and not for a 101 felonious purpose, upon his own premises, nor shall anything 102 herein prevent a person from carrying any such weapon 103 (unloaded) from the place of purchase to his home 104 or place of residence, or to a place of repair and 105 back to his home or residence; but nothing herein 106 shall be construed to authorize any employee of any person, 107 firm or corporation doing business in this state to carry on 108 or about the premises of such employer any such pistol, or 109 other weapon mentioned in this act for which a license is 110 herein required, without having first obtained the license and 111 given the bond as herein provided; and, provided, further, 112 that nothing herein shall prevent agents, messengers and 113 other employees of express companies doing business as com-114 mon carriers, whose duties require such agents, messengers 115 and other employees to have the care, custody or protection 116 of money, valuables and other property for such express com-117 panies, from carrying any such weapon while actually en-118 gaged in such duties, or in doing anything reasonably inci-119 dent to such duties; provided, such express company shall 120 execute a continuing bond in the penalty of thirty thousand 121 dollars, payable unto the state of West Virginia, and with 122 security to be approved by the secretary of state of the state 123 of West Virginia, conditioned that said express company will 124 pay all damages, accruing to anyone by the accidental dis-125 charge or improper, negligent or illegal discharge or use of such 126 weapon or weapons by such agent, messenger or other employee 127 while actually engaged in such duties for such express com-128 pany, in doing anything that is reasonably incident to such du-129 ties; but the amount which may be recovered for breach of 130 such condition shall not exceed the sum of three thousand five 131 hundred dollars in any one case, and such bond shall be filed 132 with and held by the said secretary of state, for the purpose 133 aforesaid, but upon the trial of any cause for the recovery of 134 damages upon said bond, the burden of proof shall be upon 135 such express company to establish that such agent, messenger 136 or other employee was not actually employed in such duties for 137 such express company nor in doing anything that was rea-138 sonably incident to such duties at the time such damages were 139 sustained; and, provided further, that nothing herein shall 139-a prevent railroad police officers duly appointed and qualified 139-b under authority of section thirty-one of chapter one hun-139-c dred forty-five of Barnes' code or duly qualified under the 139-d laws of any other state, from carrying any such weapon 139-e while actually engaged in their duties or in doing anything 139-f reasonably incident to such duties; provided, such railroad 139-g company shall execute a continuing bond in the penalty of 139-h ten thousand dollars payable unto the state of West Vir-139-i ginia and with security to be approved by the secretary of 139-j state of the state of West Virginia conditioned that said 139-k railroad company will pay all damages accruing to anyone 139-l by the accidental discharge or improper, negligent or illegal 139-m discharge or use of such weapon or weapons by such rail-139-n road special police officer whether appointed in this or some 139-n-1 other state while actually engaged in such duties for such 139-o railroad company, in doing anything that is reasonably inci-139-p dent to such duties, but the amount which may be recovered 139-q for breach of such condition shall not exceed the sum of 139-r three thousand five hundred dollars in any one case, and 139-s such bond shall be filed with and held by the said secretary 139-t of state for the purpose aforesaid but upon the trial of any 139-u cause for the recovery of damages upon said bond, the bur-139-v den of proof shall be upon such railroad company to estab-139-w lish that such railroad police officer was not actually em139-x ployed in such duties for such railroad company nor in 139-y doing anything that was reasonably incident to such duties 139-z at the time such damages were sustained; and provided, fur-140 ther, that in case of riot, public danger and emer-140-a gency, justice ofthe peace, orother 141 issuing a warrant, may authorize a special constable and his 142 posse whose names shall be set forth in said warrant, 142-a to carry weapons for the purpose of executing a pro-143 cess, and a sheriff in such cases may authorize a deputy or 144 posse to carry weapons, but the justice shall write in his 145 docket the cause and reasons for such authority and the name 146 of the person, or persons, so authorized, and index the same, 147 and the sheriff or other officer shall write out and file with 148 the clerk of the county court the reasons and causes for such 149 authority and the name, or names of the persons so author-150 ized, and the same shall always be open to public inspection, 151 and such authority shall authorize such special constable, 152 deputies and posses to carry weapons in good faith only for 153 the specific purposes and times named in such authority, and 154 upon the trial of every indictment the jury shall inquire into 155 the good faith of the person attempting to defend such in-156 dictment under the authority granted by any such justice, 157 sheriff or other officer, and any such person or persons so 158 authorized shall be personally liable for the injury caused to 159 any person by the negligent or unlawful use of any such 160 weapon or weapons. It shall be the duty of all ministerial of-161 ficers, consisting of the justices of the peace, notaries public and 162 other conservators of the peace of this state, to report to the 163 prosecuting attorney of the county the names of all persons 164 guilty of violating this section, and any person wilfully failing 165 so to do, shall be guilty of a misdemeanor and shall be fined not 166 exceeding two hundred dollars, and shall, moreover, be liable 167 to removal from office for such wilful failure; and it shall 168 likewise be the duty of every person having knowledge of the 169 violation of this act, to report the same to the prosecuting 170 attorney, and to freely and fully give evidence concerning 171 the same, and any one failing so to do, shall be guilty of a 172 misdemeanor and upon conviction thereof shall be fined not 173 exceeding one hundred dollars; provided, further, that noth-174 ing herein contained shall be so construed as to prohibit sher-175 iffs, their regularly appointed deputies, who actually collect 176 taxes in each county, and all constables in their respective 177 counties and districts, and all regularly appointed police offi-178 cers of their respective cities, towns or villages, all jailors and 179 game protectors who have been duly appointed as such, and 179-a members of the department of public safety of this 179-b state, from carrying such weapons as they are now 180 authorized by law to carry, who shall have given 181 bond in the penalty of not less than three thousand five hun-182 dred dollars, conditioned for the faithful performance of their 183 respective duties, which said officers shall be liable upon their 184 said official bond, for the damages done by the unlawful or 185 careless use of any such weapon or weapons, whether such 186 bond is so conditioned or not.

It shall be unlawful for any person armed with a pistol, 188 gun, or other dangerous or deadly weapon, whether licensed 189 to carry same or not, to carry, expose, brandish, or use, such 190 weapon in a way or manner to cause, or threaten, a breach 191 of the peace. Any person violating this provision of this act 192-4 shall be guilty of a misdemeanor, and upon conviction, shall 195 be fined not less than fifty nor more than three hundred 196 dollars or imprisoned in the county jail not less than thirty 197 nor more than ninety days, or be punished by both fine and 198 imprisonment in the discretion of the court.

199 Any circuit court granting any such license to carry any 200 of the weapons mentioned in this act, the governor, or the su-201 perintendent of the department of public safety, with the con-202 sent of the governor, may, for any cause deemed sufficient by 203 said court, or by the governor or by the superintendent of the 204 department of public safety with the approval of the governor 205 aforesaid, as the case may be, revoke any such license to carry 205-a a pistol or other weapon mentioned in this act for which a 205-b license is required, and immediate notice of such revocation 206 shall be given such licensee in person, by registered mail or in 207 the same manner as provided by law for the service of other 208 notices, and no person whose license has been so revoked shall 209 be re-licensed within one year thereafter; provided, that the 210 authority so revoking such license may, after a hearing, sooner 211 reinstate such licensee.

212 (b) It shall be unlawful for any person to carry, transport, 213 or to have in his possession any machine gun, sub-machine gun, 214 and what is commonly known as a high powered rifle, or any

215 gun of similar kind or character, or any ammunition therefor, 216 except on his own premises or premises leased to him for a 217 fixed term, until such person shall have first obtained a per-218 mit from the superintendent of the department of public 219 safety of this state, and approved by the governor, or until a 220 license therefor shall have been obtained from the circuit 221 court as in the case of pistols and all such licenses together 222 with the numbers identifying such rifle shall be certified to 223 the superintendent of the department of public safety. Pro-224 vided, further, that nothing herein shall prevent the use of 225 rifles by bona fide rifle club members who are freeholders or 226 tenants for a fixed term in this state at their usual or cus-227 tomary place of practice, or licensed hunters in the actual 228 hunting of game animals. No such permit shall be granted 229 by such superintendent except in cases of riot, public danger, 230 and emergency, until such applicant shall have filed his writ-231 ten application with said superintendent of the department 232 of public safety, in accordance with such rules and regula-233 tions as may from time to time be prescribed by said depart-234 ment of public safety relative thereto, which application shall 235 be accompanied by a fee of two dollars to be used in defraying 236 the expense of issuing such permit, and said application shall 237 contain the same provisions as are required to be shown under 238 the provisions of this act by applicants for pistol license, and 239 shall be duly verified by such applicant, and at least one 240 other reputable citizen of this state. Any such permit as 241 granted under the provisions of this act may be revoked by the 242 governor at his pleasure and upon the revocation of any such 243 permit the department of public safety shall immediately seize 244 and take possession of any such machine gun, sub-machine 245 gun, high powered rifle, or gun of similar kind and character, 246 held by reason of said permit, and any and all ammunition 247 therefor, and the said department of public safety shall also 248 confiscate any such machine gun, sub-machine gun, and what 249 is commonly known as a high powered rifle, or any gun of 250 similar kind and character and any and all ammunition there-251 for so owned, carried, transported or possessed contrary to the 252 provisions of this act, and shall safely store and keep the same, 253 subject to the order of the governor. No alien shall own, keep 254 or possess any firearm of any kind or character. It shall be 255 unlawful for any person, firm or corporation to place or keep

256 on public display to passersby on the streets, for rent or sale, 257 any revolver, pistol, dirk, bowie knife, slung shot or other 258 dangerous weapon of like kind or character or any machine

259 gun, sub-machine gun or high powered rifle or any gun of

260 similar kind or character, or any ammunition for the same.

All dealers licensed to sell any of the foregoing arms or 262 weapons shall take the name, address, age and general appear-263 ance of the purchaser, as well as the maker of the gun, manu-264 facturer's serial number and caliber, and report the same at 265 once in writing to the superintendent of the department of

266 public safety.

267 It shall be unlawful for any person to sell, rent, give or 268 lend any of the above mentioned arms to an unnaturalized 269 person.

Any person violating the provisions of sub-section (b) of 271 this act shall be guilty of a misdemeanor and upon conviction 272 thereof shall be fined not less than fifty dollars, nor more than 273 three hundred dollars, or confined in the county jail not less

274 than thirty days nor more than six months, or both such fine 275 and imprisonment, in the discretion of the court.

276 All acts and parts of acts inconsistent herewith are hereby 277 repealed.

## CHAPTER 4

(Senate Bill No. 4-By Joint Special Committee)

AN ACT making appropriations of public moneys to pay general charges upon the treasury.

[Passed June 6, 1925; in effect from passage. Approved by the Governor.]

Sec.
1. Appropriations made from the treasury.
2. Fiscal years of 1926 and 1927.
3. Appropriations under sub-sections "A," "B" and "C" payable out of the general revenue of the state.

Sub-Section "A"
4. Construction and equipment of second unit of office building of new capitol; Governor to sell all state property on Cap-

second unit of office building of new capitol; Governor to sell all state property on Capltol and Summers streets in Charleston; proceeds to be paid into the treasury as a special capitol building fund; Governor may continue capitol building commission, by re-appointment; limit of total

Sec.

cost of new capitol; authorizing construction and limiting cost of second office building.

5. Appropriations for maintenance and repair of roads; in "state fund general revenue" not otherwise appropriated to be used for road maintenance.

5-a. Recodification commission; salary and expenses of the commission, assistants and stenographers; expenses of the legislative committee; this an additional appropriation.

Sub-Section "B'

 Appropriations appearing under sub-section "B" payable only on requisition and approval of the state board of control.

# Астя, 1936. — Снар. 302.

289

follows: - Section 33. Should there be due to the estate of a Payments to deceased member of any of the retirement associations established under the preceding sections, except sections one to five,
members of
city or town
inclusive, and sections twenty to twenty five inclusive, any inclusive, and sections twenty to twenty-five, inclusive, any retirement sum of money payable from the funds of the association, the systems. same shall be paid to his legal representatives; provided, that if the sum so due does not exceed three hundred dollars if due from the funds of the teachers' retirement association, or one hundred dollars if due from the funds of any other such association, and there has been no demand therefor by a duly appointed executor or administrator, payment may be made, after the expiration of three months from the date of the death of such member, to the persons appearing, in the judgment of the board, to be entitled thereto, and such payment shall be a bar to recovery by any other person. Approved May 28, 1936.

An Act relative to the issuance of licenses to carry Chap.302A PISTOL OR REVOLVER FOR THE PURPOSE OF TARGET PRACTICE AND RELATIVE TO THE CONTENTS OF LICENSES TO CARRY SUCH A WEAPON OR TO POSSESS A MACHINE GUN.

Be it enacted, etc., as follows:

Chapter one hundred and forty of the General Laws is G. L. (Ter. hereby amended by striking out section one hundred and § 131, 140, thirty-one, as appearing in the Tercentenary Edition, and amended. inserting in place thereof the following: - Section 131. The License to justice of a court or a trial justice, the board of police or carry pistol, mayor of a city, the selectmen of a town or the commissioner of public safety, or persons authorized by them, respectively, may, upon the application of any person residing or having a place of business within their respective jurisdictions, except an alien, a person who has been convicted of a felony or of the unlawful use or sale of drugs or a minor other than one fifteen years of age or over in the employ of a bank, public utility corporation or business of a similar nature whose application is endorsed by his employer, issue a license to such applicant to carry a pistol or revolver in the commonwealth or to possess therein a machine gun, if it appears that he is a suitable person to be so licensed and that he has good reason to fear an injury to his person or property or for any other proper purpose, and the carrying of a pistol or revolver for use for target practice only shall be held to be a proper purpose aforesaid. Such license shall be issued for a term not to exceed one year, but may be for a less period, and all such licenses shall be revocable at the will of the person or body issuing the same, who shall forthwith send written notice of such revocation to the commissioner of public safety. Said licenses shall be issued on forms furnished by said commissioner. Said form shall contain blank spaces to be filled in with the following information relat-

Астя, 1936. — Снар. 303.

290

ing to the license and to the licensee: — Name, residence or place of business, commencement and expiration date of license, reason for issuing said license, license number, date of issuance of said license, place of birth, height, weight, complexion, color of hair, color of eyes, date of naturalization if formerly an alien, and signature, of said licensee; and no further information from, or act of, the said licensee shall be required. A copy of every license so issued shall within one week after the granting thereof be sent to the said commissioner. The fee for each license issued under this section shall be fifty cents. Whoever issues a license in violation of this section shall be punished by imprisonment for not less than six months nor more than two years in a jail or house of correction.

Penalty.

(The foregoing was laid before the governor on the eighteenth day of May, 1936, and after five days it had "the force of a law", as prescribed by the constitution, as it was not returned by him with his objections thereto within that time.)

Chap. 303 An Act relative to the construction and leasing by the commonwealth of a fish and commercial pier in gloucester harbor.

Emergency preamble.

Whereas, The deferred operation of this act would defeat its purpose, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Section 1. Chapter three hundred and eleven of the acts of nineteen hundred and thirty-one is hereby amended by striking out section one and inserting in place thereof the following: — Section 1. For the purpose of improving and developing Gloucester harbor for the promotion of the fish industry and the commercial facilities of the city of Gloucester, the state department of public works, hereinafter called the department, is hereby authorized to construct a fish pier in said harbor on a site to be determined by the department with the approval of the municipal council of said city and the Gloucester Planning Board, to erect thereon such buildings as said purposes may require and properly equip the same, to do all dredging necessary for the proper use of said pier, and to provide necessary water and sewerage facilities therefor. Said construction may extend beyond existing harbor lines. All contracts for work authorized by this section shall be subject to the approval of the governor and council.

Section 2. Said chapter three hundred and eleven is hereby further amended by striking out section two and inserting in place thereof the following: — Section 2. Said city may take by eminent domain under chapter seventynine of the General Laws or acquire by purchase or other-

# ORDINANCES OF.

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 officer 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 of 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 shall 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.

36

Approved, April 16, A. D. 1872.

## ORDINANCE No. 7.

An Ordinance prohibiting the carrying of fire arms and concealed weapons.

Section 1. Be it ordained 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 other 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 discharge 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 shall be made good, and the

Add. 195

# CHAPTER 108.

#### 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 pocket-knife 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

## 341

#### ORDINANCES.

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.

#### SPORTON

- 1. No water-craft to unload on Sunday.
- 2. No vehicle to be laden on Sunday.
- 3. No grocery or other place of ordinary business to be kept open on the Sabbath; tavern-

## SECTION

keepers and apothecaries excepted.

- Vendors of ice, ice-cream, soda water, cigars and tobacco excepted.
- 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, keel-boat, 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

## OF THE CITY OF LOS ANGELES.

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 thereof, 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 occupying 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.
- 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 imprisonment 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 imprisonment at 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 horse or mule, saddled or harnessed, loose in the aforesaid limits. Add. 198

# ORDINANCES OF THE CITY OF SALINA.

99

# 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.

215

# THE CITY OF SYRACUSE.

three months, or to both such fine and imprisonment.

- § 5. Any person who shall immoderately ride or Immoderate driving 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 penitentiary 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 of deadly 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.

  Tupon any sidewalk, or upon any piazza, step or

80

ORDINANCES.

# UNLAWFUL CARRYING OF ARMS.

AN ORDINANCE Prohibiting and Punishing the Unlawful Carrying of

Section 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.

- SEC. 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.

Approved July 18, 1887.

# 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 done 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 mayor 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 handle, as a weapon.

Section 4. To be druck 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 language 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 within the town limits,

Section 6. To keep a disorderly house or place of public resort in the open air, or by making or causing 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 to be given admission therein, to women of known ill repute or prostitutes, or fail to remove or expel such persons after being notified of their character.

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 exhibit any tricks or legerdemain or other devices of like kind, or perform with bells, or164

JURORS OF CITY COURT - LAMPS.

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 authorized to cause to be set up such lamps in the streets and public places in said City, for the purpose of 203





131

#### CITY OF RAWLINS.

F RAWLINS.

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 unwholesome, 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 person 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 bundred dollars, or imprisoned in the city jail not exceeding thirty days.

SEC. 3. Persons not residing in said city shall









132 REVISED ORDINANCES OF THE

be notified of this Ordinance by the police or any citizen, and after thirty minutes from the time of notification, shall be held liable to the penalties of this article, in case of its violation.

SEC. 4. The city marshal and policemen of the city shall arrest, without warrant, all persons found violating the provisions of this article, and are hereby authorized to take any such weapon from the person of the offender and to imprison the offender for trial, as in case of violations of other Ordinances of said city.

SEC. 5. This ordinance shall be in force and take effect from and after its passage.

Revised, passed and adopted March 3, 1893.

CHAS. E. BLYDENBURGH, President of Board.

Approved,
JOHN C. DAVIS,
Mayor







## OF THE CITY OF WICHITA.

SECTION.

- Selling Wearing Apparel by Club Drawing,
- 81. Stealing Parts of a House.
- Moving Houses with Unpaid Tax.
- Time for Hauling Slops Along Street.
- 84. Dead Animals, Disposition of.
- Traction and Threshing Engine on Paved Streets.
- Manure not to be Thrown in Streets or Alleys; Limits; Provisions to Make Pen for.
- Privy Vaults to be Cleaned and not to be Transferred.
- 88. Stables and Water Closets to be on Line of Alley.
- Secondhand and Junk Dealers;
   Buying from Minors; Description book; Night Purchases.
- 90. Leaving Holes for Stagnant Water.
- 91. Advertisement on Street Poles.
- Bicycle Riding Regulated; Sidewalks, Speed, Dismounting, by Threes, Alarm Bell.
- 93. Obstructing Streets or Walks; How Used by Merchants and Builders; Gutters not to be Obstructed; Debris to be Cleared.
- Red Night Lights on Building Material on Street,

SECTION.

95. Hitching to Fire Hydrant or Pole with Alarm Box.

45

- 96. Ball Playing in Streets.
- 97. Running Water into Streets.
- Throwing Rubbish into the Street.
- 99. Projections Over the Sidewalks.
- 100. Stringing Banners Across Streets.
- Crowds Upon Sidewalks, Streets and Crossings.
- 102. Obstructing Crossings with Engines or Cars.
- Digging and Leaving Holes in the Street.
- 104. Breaking Horses Upon Streets.
- 105. Leaving Horse, Mule or Ox on Street After Midnight.
- Auction Sales not on Certain Streets.
- 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.
- 100. Injuring Shade or Ornamental
- 110. Public Vehicles; Limits Prohibited,
- 111. Take Effect,

# ORDINANCE NO. 1641.

An ordinance 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. Sec-TION 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

Add. 206

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