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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION
14

15 **STEVEN RUPP; STEVEN**
16 **DEMBER; CHERYL JOHNSON;**
17 **MICHAEL JONES;**
18 **CHRISTOPHER SEIFERT;**
19 **ALFONSO VALENCIA; TROY**
20 **WILLIS; and CALIFORNIA RIFLE**
21 **& PISTOL ASSOCIATION,**
22 **INCORPORATED,**

23 Plaintiffs,

24 v.

25 **ROB BONTA, in his official capacity**
26 **as Attorney General of the State of**
27 **California; and DOES 1-10,**

28 Defendants.

Case No. 8:17-cv-00746-JLS-JDE

**COMPENDIUM OF HISTORICAL
LAWS**

VOLUME 1 OF 7

Courtroom: 8A
Judge: Hon. Josephine L. Staton
Action Filed: April 24, 2017

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350	1917	An Act To Prohibit the Manufacture, Distribution, Storage, Use, and Possession in Time of War of Explosives, Proving Regulations for the Safe Manufacture, Distribution, Storage, Use, and Possession of the Same, and for Other Purposes, 40 Stat. 385 (1917), ch. 83	1164-1170

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force & Vire en toutz pointz; et outre ceo est assintz assentuz q̄ si aucun alien eit purchacez ou desore purchace aucun benefice de Sainte Eglise Dignite ou autre & en ppre pnone 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 xxv^e del regne luy noble Roi E. aiel nre f^r le Roi qore est, contre ceux q̄ purchacent gvisions dabbies ou Priories; et en outre au fyn q̄ tielx licences ne se facent desore enavant, le Roi voet & comande a toutz ses lieges & autres q̄ls lour abstiegnent de cy enavant de luy prier dascuns tiels licences doner; et si voet auxi le Roi luy mesmes abstiegnent de doner aucune tielle licence, durantes les guerres horpris au Cardinal de Naples ou a autre especiale pnone a q̄ le Roi soit p especiale cause tenuz.

xiiij. Item est ordeignez & assentuz & le Roi defende q̄ desoremes null hōme chivache deinz le Roialme armez, encontre la forme de lestatut de Northampton sur ce fait, ne ovesq̄ lancegay deinz mesme le Roialme, les queux lancegayes soient de tout oustez deinz le dit Roialme come chose defendue p nre f^r le Roi, sur peine de forfaiture dicelx lancegayes armures & auts herneys quelconques es mayns & possession de celluy q̄ les porta desore deinz mesme le Roialme contre cestz estatut & ordinaances sanz especiale congie de Roi nre f^r.

xiiij. Item es briefs de p̄munire fait est assentuz & accordez q̄ ceux q̄s queux tielx briefs sont portez, & q̄ sont de p̄sent hors de Roialme & sont de bone fame & aient faitz lo' gehalx atto'nes devant lo' dep̄r, q̄ le Chauceller [Dengleterre] pur le temps estant, p ladvie des Justices purra ḡn̄ier q̄ mesmes les p̄ones purront apparoir & respondre & faire & rescivre ce q̄ la ley demande, p lo' gehalx atto'nes avantdiz eiaant come es autres cas & querelles; et ceux p̄ones q̄ decy enavant passeront p licence nre f^r le Roi & soient auxint de bone fame, q̄ a lo' requeste le dit Chauceller p ladvie des Justices lour purra ḡn̄ier defaire lo' gehalx atto'nes en la Chancellerie p patent du Roi devant lo' passer, [a respondre] s̄ibn es ditz briefs de p̄munire fait, come en auts querelles en quel cas toutes voies soit exp̄ssee mencion [faite] des briefs & querelles de p̄munire fait; et celle patente enai faite, purront des lors les ditz atto'nes en absence de lo' Meistres, respondre p eux & auts atto'nes desouz eux, devant quelconq̄ juge du Roialme & faire & rescivre el dit cas, siavant come en null autre cas nientcontesteant aucun estatut fait a contr̄ie avant ces heures.

Item sur la grevoue pleinte q̄est faite des meyn-teno's des querelles & chaump̄to's; est ordeignez & assentuz q̄ lestatutz ent faitz en les ans du regne le Roi Edward aiel nre f^r le Roi primer & quart, et auxint en lan de nre f^r le Roi qore est primer, soient tenuz & gardez & duement executz en toutz pointz.

Item est assentuz & le Roi defende estreitement q̄ decy enavant nulle p̄none aliene ou denszein de quelconq̄ estat ou condicion qil soit amene ou envoie ou face amener ou envoier p v̄re ou p meer hors du Roialme Dengleterre as aucunes p̄ies Descote en prive ne en appt aucune maibe darmure de blee de brees ne dautre vitaille ou dautre refreshement queconq̄, sur peine de forfaiture de mesmes les vitailles armures & des autres choses avantdites ensemble avec les niefs vesseulx charettes & chivalx q̄ les portent ou amement, ou de la v̄roie value dicelles, si ensi ne soit q̄ le

Interlined on the Roll.

Force and Effect in all Points; and moreover it is 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 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 Abbeyes or Priories; and to the Intent that such Licences shall not be from henceforth made, the King willett and commandeth to all his Subjects and other, that they shall abstain them from henceforth to pray him for any such Licence to be given; and also the King himself will refrain to give any such Licence during the Wars, except to the Cardinal of Naples, or to some other special Person to whom the King is beholden for a special Cause.

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

ITEM, In Writs of 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 Attornies 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 Attornies 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 Chancellor, by the Advice of the Justices, may grant to them to make their general Attornies 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 facias; and this Patent so made, the said Attornies from henceforth, in Absence of their Masters, may answer [for them, and make] other Attornies 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 contrary heretofore.

ITEM, 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 and kept, and duly executed in all Points.

ITEM, It is assented, and the King straitly defendeth, That from henceforth no Person, Alien nor Denizen, of whatsoever Estate or Condition that he be, shall carry nor send, nor do to be carried nor sent, by Land nor by Sea, out of the Realm of England, to any Parts of Scotland, privily nor apertly, any Manner of Armour, Corn, Malt, or other Victuals, or any other refreshing, upon Pain of Forfeiture of the same Victuals, Armours, 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

by themselves and and

who shall also be liable to the Penalties of 15 Ed. III. c. 5. c. 22.

The King's Licences to the contrary shall not be asked for.

XIII. No Man shall ride armed contrary to the Statute 5 Edw. III. chapter 5.

XIV. For enabling Parties out of the Realm to appoint Attornies in Writs of Præmunire.

XV. Statutes 1 Edw. III. stat. 1. c. 14; 4 E. III. c. 11; 1 Ric. II. c. 4; against Maintainers, &c. confirmed.

XVI. No Armour or Victual shall be sent into Scotland without Licence of the King upon Pain of Forfeiture thereof.

20 Ric. 2, 93, ch. 1 (1396)

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First, whereas in a Statute made the Seventh Year 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 by utterly put out within the said Realm, as a Thing prohibited by the King, upon Pain of Forfeiture of the same Launcegays, Armour, 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 License. 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 contined in the same Statute, and upon Pain to be imprisoned, and make Fine and Ransom of the King.

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33^o HEN. VIII. c. 5, 6.

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VI.
Proviso as to
Persons whose
Wives wear
Velvet, &c.
[See § 1.]

AND be it pryded and enacted by au^tie aforesaid, that if the Wif of any pson *et* psons were any velvet in the lynnyng or other part of her gowne other then in the cufes or purfels of suche gowne, or ell^e were any velvet in her kyrtell or were any peticote of silke, that then the husbunde of *evy* suche Wiff shall fynde one stoned horse of the stature above in this acte resyted, or shall incurre the abovesaide penal^tie and forfaiture of tenne poundes to be levied and recover^d. as is afore declared: Provyded also that this Acte or any thing therein conteyned shall not extende to charge any pson or psons whose Wif or Wiffes shall were any of the apparell or thing^t above rehersed during the tyme such Wif or Wyffes shalbe devorsyd from her or ther husbunde or husbondes, or shall willingly absent her self from her said husbunde and duringe suche absence shall were any of the apparell or other thyng^t afore resyted: Provyded alwaies that heires wⁿ age being wardes whose landes teit^r and hereditament^t amount to the yerely value of CC li. shall not be compelled by au^tie of this acte till they c^ume to ther full age to kepe any horses, althoughe the wiffes of suche heires wⁿ age were any gowne of Sylke or any Frenche hood or Bonet of Velvet w^t any habilyment past or egge of Gold Perle or Stone or any chayne of gold about ther nekk^t or in ther plent^t or in any apparell of ther bodie; Any thing in this Acte to the contrary notw^tstanding.

VII.
Proviso for
replacing Horses
killed in War, &c.

PROVYDED also that if all or any the horses kept by vertue of this acte shall happen to be kyllyd maymyd or lost in the fvice of the King^t warres, That then in *evy* suche case the owners of suche horse or horses so kyllyd maymyd pished or lost in the warres shall have lib^tie, by the space of twoo yeres next after suche chaunce of kyllyng maymyng pishing or losing ther horses, to pvide other horses in the stede and place of the horses so kyllyd maymyd pished or lost in the Warres, w^tout any daunger losse or penal^tie of this acte; Any thing in this acte to the contrary therof notw^tstanding.

VIII.
Cart-Horses and
Sumpster-Horses.

PROVYDED also that cart horses or sumpster horses shall not be takyn reputed or reckned for any suche horses whiche any pson is or shalbe bounden to kepe by vertu of this acte.

CHAPTER VI.

AN ACTE concerninge Crosbowes and Handguns.

Recital of Stat.
15 H. VIII. c. 17.
against shooting
with Cross-bows
and Hand-guns:

Violation thereof,

Penalty on Persons,
having less than
£100. per Annum,
keeping or using
Cross-bows, &c.
£10.

II.
Length of
Hand-guns, &c.
to be kept.

Those of less
Length may be
seized and
destroyed by
Persons having
£100. a Year.

WHERE in the Parliamēt holden at Westmst the fyfenthe daye of Januarie in the twenty fyve Yere of the Kinges most gracious Raigne, and there contynued and kepte untill the thirtieth daye of Marche then next ensuyng, amonge di^vse and sondrie holosome and lawdable Act^t Statut^t and ordynⁿce^t one Statute and Ordynⁿce was made and ordeyned for the avoydinge and eschewing of shotinge in Crosbowes and Handguns; synce the makinge of whiche Acte di^vse malicious and evill disposed psons not only psumyng wilfullye and obstynatlye the violacō and breach of the saide Acte, but also of their malicious and evill disposed myndes and purposes have wilfully and shamefully cōmytted pperated and done di^vse detestable and shamefull murthers felonies ryout^t and rout^t with Crosbowes litte shorte handguns and litte hagbutt^t, to the great pill and contynuall feare and daunger of the King^t most lovinge subject^t, and also di^vse Keepers of Forest^t Chases and Park^t aswell of our saide Sovereigne Lorde as other his Nobles and Cōmons and di^vse Gentlemen Yomen and Servingmen nowe of late have layde aparte the good and laudable ex^ccise of the longe bowe, whiche alwaye heretofore hathe bene the suertie savegarde and contynuall defence of this Realme of Englande, and an inestimable dread and terror to the Enemyes of the same, and nowe of late the saide evill disposed psons have used and yet doe daylie use to ryde and goe in the King^t highe Wayes and elsewhere, havinge with them Crosbowes and litte handguns, ready furnished with Quarrell^t Gunpowder fyre & touche to the great pill and feare of the King^t most lovinge Subject^t: For REFORMACōN wherof be it enacted ordeyned and established by the Kinge our Sovereigne Lorde the Lordes sp^uall and temporall and the Cōmons in this p^esēt Parliamēt assembled and by thautoritie of the same, in maner and fourme followinge That ys to saye; that noe pson or psons of what estate or degree he or they be, excepte he or they in their owne right or in the right of his or their Wyeff^t to his or their owne uses or any other to the use of any suche pson or psons, have landes teit^r fees annuyties or Offic^t to the yerely value of one hundred pound^t, from or after the laste daye of June next cōmyng, shall shote in any Crosbowe handgun hagbutt or demy hake, or use or kepe in his or their houses or elsewhere any Crosbowe handgun hagbutt or demy hake, otherwise or in any other manner then ys hereafter in this p^esēt Acte declared, upon payne to forfeyt for everie tyme that he or they so offendinge contrie to this Acte tenne poundes.

AND furthermore be it enacted by thautorie aforesaide that no pson or psons, of what estate or degree soever he or they be, from or after the saide laste daye of June shall shote in carye kepe use or have in his house or els where any handgune other then suche as shalbe in the stock and gonne of the lenghe of one hole Yarde, or any hagbutt or demyhake other then suche as shalbe in the stock and gune of the lenghe of thre quarters of one Yarde, upon payne to forfeyt for everie tyme that he or they shall carie use or have anye suche Gun being not of the lenghe of one whole Yarde or hagbutt or demyhake beinge not of the lenghe of thre quarters of a Yarde, Tenne pound^t sterlinge. And that it shalbe lauffull to everie pson and psons, w^t have landes teit^r fees annuyties or Offic^t to the yerely value of one hundred pound^t as ys aforesaide, to seise and take everie suche Crosbowe, and also everie handgun beinge in stock and gune shorter in lenghe then one whole Yarde and everie hagbutt and demyhake beinge shorter in lenghe then thre quarters of a Yarde, or any of them; from the Keping or possession of everie suche Offendor contrie to the forme of this Acte, and the same Crosbowe or Crosbowes to kepe and reteyne to his or their owne

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33^o HEN.VIII. c.6.

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use, and also the same handguns hagbutt^e and demyhak^e so seised and taken within twenty dayes next after the same seisure or takinge to breake and distroye, upon payne of fourtye Shilling^e for everie Gune so seised and not broken and destroyed, and the same so broken and destroyed to kepe & reteyne to his or their owne use.

AND be it further enacted by thautoritie aforesaide, that noe pson or psons, other then suche as have land^e tenit^e rent^e fees annuities or Offic^e to the yerely value of one hundred Pound^e as ys aforesaide, from or after the saide laste daye of June, shall carrie or have, in his or their Jorney goinge or ridinge in the King^e highe waye or elsewhere, any Crosbowe bent or Gune charged or furnished withe Powder fier or touche for the same, Except it be in tyme and Service of Warre, upon payne to forfeit for everie suche Offence tenne pound^e; this p^{re}sent Acte or any thinge therein conteyned to the contr^{ie} notwithstandinge.

III.
Penalty upon
unqualified Persons
riding, &c. with
Guns charged, &c.

AND be it further enacted by thautoritie aforesaide, that no pson or psons from the saide laste daye of June shall in anywise shote in or withe anye handgune demyhake or hagbutt at any thinge at lardge, within any Cittie Boroughe or Markett Towne or within one quarter of a myle of anny Cittie Boroughe or Markett Towne, excepte it be at a Butt or Banck of earth in place convenient, or for the defence of his pson or house, upon payne to forfeite for everie suche Shott tenne poundes; this p^{re}sent Acte or anny thinge therein conteyned to the contrarie notwithstandinge.

IV.
None shall shoot at
large in Cities, &c.

AND be it further enacted by thautoritie aforesaide, that noe pson or psons of what estate or degre soever he or they be, shall from or after the saide laste daye of June comaunde any of his or their servaunt^e to shote in any Crosbowe handgune hagbutt or demyhake of his or their saide Masters or of any other psons, at any deare fowle or other thinge excepte it be only at a butt or bank of Earth or in the tyme of Warre as ys abovesaide, upon payne to forfeit for everie suche offence tenne pound^e: The one moytie of all wth forfeitures and penalties in this p^{re}sent Acte above specified shalbe to the Kinge our Sovereigne Lorde his heires and Successors, and thother moytie thereof to the partie that will sue for the same by bill playnt acc^on of Dehte or Informac^on in anny of the King^e Court^e of Recorde in whiche suyte noe Essoyne ptecc^on nor Wager of lawe shalbe allowed.

V.
None shall order
their Servants to
shoot at Deer, &c.
with Hand-guns.

Application
of Penalties.

PROVIDED alwaye and be it enacted by thautoritie aforesaide, that it shalbe lafull from henceforthe to all Gentlemen Yeomen and Servingemen of everie Lorde or Lord^e s^{er}vuall or temporall and of all Knight^e Esquiers and Gentlemen, and to all the Inhabitaunt^e of Citties Boroughe and Markett Townes of this Realme of Englande, to shote withe any handgune Demyhake or hagbutt at any butt or bank of Earth onlye in place convenient for the same, so that everie suche handgune Demyhake or hagbutt be of the se^{ve}ll lenghes aforesaide and not under; and that it shalbe lafull to everie of the saide Lorde and Lord^e Knight^e Esquiers and Gentlemen, and the Inhabitaunt^e of everie Cittie Boroughe and Markett Towne, to have and kepe in everie of their houses any suche handgune or handgunes of the lenghe of one whole Yarde, or any hagbutt or Demyhake of the lenghe of thre quarters of a Yarde as ys aforesaide and not under, to thintent to use and shote in the same at a butt or banke of Earthe onlye, as ys abovesaid, wherbye they and everie of them by the^{re}cise thereof in forme abovesaid may the better ayde and assist to the defence of this Realme when nede shall requyre; this p^{re}sent Acte or any thinge therein conteyned to the contr^{ie} notwithstandinge.

VI.
Shooting at Butts
with Hand-guns
allowed.

AND be it further enacted by thautoritie aforesaide, that it shalbe lafull to everie pson and psons whiche dwelleth and inhabiteth in anye house standinge and being sett distant twoo furlong^e from any Cittie Boroughe or Towne, to kepe and have in his saide house for the onelye defence of the same handgunes hagbutt^e and demyhakes beinge of the severall lenghes aforesaide and not under, & to use and ex^{er}cise to shote in the same at any butt or bancke of earthe nere to his house and not otherwise; Any thinge conteyned in this Acte to the contr^{ie} notwithstandinge.

VII.
Hand-guns allowed
out of Cities for
Defence of Houses,
&c.

AND furthermore the King^e most lovinge Subject^e the Lordes s^{er}vuall and temporall and the C^omons in this p^{re}sent Parliament assembled, most humblye doe beseeche the King^e Majestie that it be further enacted by thautoritie aforesaide, that all tres patent^e Fraternities, and also all other placard^e lycences and bill^e assigned heretofore had made or signed by his Highnes or by any other authorised by his Highnes t^{re}s patent^e under his Great Seale to give licence and placarde to shote in Crosbowes & handgunes or any of them, shalbe from and after the saide laste daye of June frustrate voyde and of none effecte.

VIII.
Patents, &c. to
shoot in Crosbows,
&c. declared void.
[But see § XIV.]

AND also that it may be further enacted by thautoritie aforesaide that the saide Statute made in the saide xxvth Yere of the King^e most gracious Raigne, and all other Statut^e heretofore made and p^{ro}vided for thavoydinge and restreynt in shotinge of Crosbowes and handgunes or for any of them, or for the usinge and kepinge of the same, be from henceforth uterlie voyde and of none effecte: Provided alwayes that everie p^{re}sse suyte or Informac^on conceived c^omenced and nowe dependinge for any Offence done contr^{ie} to the forme of the saide Statute made in the said xxvth Yere of the King^e moste noble Raigne, or of any other Statute made (') p^{ro}vyded for and concerninge the shotinge in Crosbowes and handgunes, not repealed, and for the kepinge of the same, shalbe as good and effectuell to the parties that have comenced the (') and shall stande and be in suche forme effecte and condi^on as if this Acte had never bene made.

IX.
25 H.VIII. c. 17,
&c. repealed;

Except as in Suits
depending.

PROVIDED also that this Acte or any thinge therin conteyned be not in any wise hurtfull or p^{re}judiciall to any pson or psons nowe beinge or that hereafter shalbe ap^{ro}vynted by the King^e Highnes, to kepe receyve or take any Crosbowes or Handgunes that shalbe forfeited or taken within the p^{re}cincte or lib^{er}tye of the King^e forrest^e park^e or chaces, but that he or they may lafully kepe and reteyne the same Crosbowes or Handgunes from tyme to tyme untill suche tyme

X.
Proviso for Persons
keeping Crosbows,
&c. seized in
Forests;

1 or O.

* same O.

for Makers
of Crossbows, &c.

and Merchants
dealing therein.

XI.
Proclamation of
the Act in each
County.

XII.
Housekeepers not
liable to Penalty
for their Lodgers
keeping Crossbows,
&c.

XIII.
Offenders may be
arrested by any
Persons.

XIV.
Licences, if given,
(See § VIII.)
shall specify at
what beasts, &c.,
the Party licensed
may shoot, and he
shall give Security
to obey such
Regulations.

XV.
Recovery and
Application of
Penalties.

XVI.
Penalty on Jurors
charged to enquire
into Offences, who
shall conceal the
same, &c.

as the further pleasure of the King's Highness in that behalf be to every such person shewed & declared: Provided also that this Acte extend not to the makers of Crossbowes or Handguns, but that they may lawfully kepe Crossbowes and Handguns Hagbutt and Demyhakes in their houses, and shott in the same onely for provinge & assayings of them at a butt or bank of earthe in the place convenient and not otherwise, so that the said Handguns Hagbutt & Demyhak be of the sevall lengthes in Stock and Gune as ys above lymitted: Provided also that this Acte nor any thinge therein conteyned extend not to be judiciall to any Marchaunt whiche have or shall have any Crossbowes Handguns Hagbutt and Demyhak or any of them to sell within this Realme and to none other use, so that the same Handguns Hagbutt and Demyhak be of the sevall lengthes in Gune and Stocke as ys above lymitted and not under.

PROVIDED also that noe manner of parson rune in any daunger or take hurte by reason of any penaltye or forfeiture conteyned in this Acte untill suche tyme as pclamation be made of the same Acte, within the Countye where the partie that shall or maye offende contrie to this Acte dwelleth, by the space of twentye dayes nexte after the makinge of the said pclamation.

PROVIDED also that yf any manner of person bringe or cause to be brought wite him into his lodgings or in or to any other mans house any Crossbowe or Handgun, that then the penaltye and forfeiture, yf any suche be or hereafter shalbe forfeited by reason of this Acte, to rune and be onely upon the bringer of the said Crossbowe and Handgun and not to the owner of the same lodgings or house, yf the said [howner] of the said lodging or house cause the said bringer thereof to take & carrie awaye the said Crossbowe or Handgun agayne wite him at his departinge; any thinge in this Acte made to the contrie notwithstandinge.

AND be it also enacted by thaurtorite of this present parliament that if any person or persons, from or after the laste daye of June next comynge, see or fynde any person or persons offendinge or doinge contrie to the forme and effecte of this Acte, that then it shalbe lafull to everie suche person or persons pceyvinge fyndinge or seinge anye suche person or persons so offendinge contrie to the fourme of this acte, to arrest and attache every suche offender or offenders and to bringe or convey the same to the next Justice of Peace of the same Countye where the said offender or offenders shalbe founde soe offendinge; And that the same Justice of Peace upon a due exiacon and proeff thereof before him had or made by his discrecon shall have full power and authoritie to sende or comytt the same offender or offenders to the next Gaole, there to remayne till suche tyme as the said penaltye or forfeiture shalbe trulye contented and payde by the said offender; the one moytie of the same penaltye to be payde to the King's Highness and thother moytie thereof to the first bringer or conveyer of the said offender to the same Justice of Peace.

AND be it further enacted by thaurtorite aforesaide, that yf any person or persons doe at any tyme hereafter obteyne gett or purchase, of the King's Majestie his heires or successors, any placarde licence or bill assigned to shote in any Crossbowe Handgun Hagbutt or Demyhake contrie to the tenor purporte and effecte of this present acte, that then there shalbe conteyned in everie suche placarde licence and bill assigned, at what beast fowles or other thinges the said person or persons so obteyninge any suche placarde licence or bill assigned shall shote, wite any Crossbowe Handgun Hagbutt or Demyhake, or els that everie suche placarde licence and bill assigned hereafter to be obteyned gotten or purchased shalbe clerely voyde frustrate and of none effecte: And also that everie suche person or persons so obteyninge any suche placarde licence or bill assigned, before they shote in any suche Crossbowe Handgun Hagbutt or Demyhake, in any suche manner or forme as shalbe mencioned in any suche placarde licence or bill assigned, shalbe bounden in the King's Courte of Chauncerie by recognizaunce in the some of twenty pounde to the King's use wite and upon condicon that he so obteyninge or havinge the said licence placarde or bill assigned, shall not shote in any Crossbowe Handgun Hagbutt or Demyhake at any other beast or fowles then in any suche placarde licence or bill assigned shalbe conteyned and specified, and els all suche placardes licenc and bill assigned so hereafter to be made to any person or persons not beinge so bounden by recognizaunce in the Courte of Chauncerie as is aforesaide, to be utterlie voyde and of none effecte.

AND be it further enacted by thaurtorite aforesaide, that it shalbe lafull to all Justic of Peace in their sessions and to all Stewardes and Baylieff in their sevall leet and lawe dayes to enquire heare and determyne every suche offence after the said laste daye of June to be comytted and done contrie to the tenor of this present Acte; So that alwayes noe lesse fyne then tenne poundes be assessed upon everie suche presentment and conviccon made accordinge to the due course of the lawe; the same fyne so by the same Justic of Peace upon everie suche presentment and conviccon made before them in their Sessions, to be payde and leyed onely to the King's use; and the one moytie of everie fyne to be assessed by the Steward or Baylyff of any leete or lawe daye, upon everie presentment and conviccon before them, to be payde and leyed to the use of the Kinge our Sovereigne Lorde, and (*) the other moytie the one halfe to the owner of the said leete or lawe daye by distresse or acccon of debte, and thother halfe of the same seconde moytie of the same fyne, to be to the partie that will pursue for the same in any of the King's Court by bill playnte informacon or acccon of debte, in the whiche none Essoyne pteccon nor wager of lawe shalbe allowed.

AND be it further enacted, that yf any Jurie beinge sworne and charged to enquire for the Kinge our Sovaigne Lorde before anye Justic of the Peace or Steward of leet or lawdayes, of any offence comytted or done contrie to this present Acte, doe wilfullie conceale any of the same offence, that then the said Justic Steward or Baylyff before whom any concealment shalbe had and done, shall have auctorite by vertue of this present Acte from tyme to tyme to chardge and sweare an other Jurie of twelve or mo good and substantiall honest persons to enquire of everie suche concealment, and if any suche concealment be founde and presented by the said Jurie so chardged to enquire of the same, that

1 OWDET Q.

* of Q.

A.D.1541-2.

33° HEN.VIII. c. 6.

835

then everie one of the saide fyrste Jurie that so did conceale the same, shall leese and forfeit for everie suche concelement of evy suche offence twenty shilling^e; All whiche forfeitures and penalyes of twenty shilling^e for everie such concealment of everie suche offence so found and p^resented before the same Justic^e of Peace shall holye be levied and payde to the King^e use, and the moytie of all the same forfeitures and penalyes of twenty shilling^e, so founde and p^resented before the Steward^e or Bayliff^e of any leete or lawdaye, shalbe levied and payde to the use of the owner of the saide leete or lawdaye by distresse or acc^on of debte, and thother moytie thereof to be to the partie or parties that will sue for the same by acc^on informac^on bill or playnte in any of the King^e Court^e, in the whiche acc^ons informac^ons bill^e or playnt^e no wager of lawe essoyn^e nor p^rec^on shalbe allowed.

PROVIDED alwaies and be it enacted by thautoricie aforesaide, that yf any pson or psons hereafter in any parte do offende or do contr^rie to the purwe and remedy of this Acte, whereupon cause of Acc^on for the same offence shalbe geven to the Kinge his heires or successors or to any other pson or psons that will sue by vertue of this Acte for the punyishment of the saide offence or forfeitures, that yf the Kinge our Sovereigne Lorde his heires or successors within one yere next and ymediatlye after suche offence and forfeitures had and made do not pursue their acc^on or acc^ons so given by this Acte or cause ex^aia^on upon suche default^e and offence to be had and made before their counsaile, or other p^resentment^e thereof to be had accordinge to the meanyng of the same Acte, and everie other pson whiche hereafter by vertue of this Acte maye have acc^on or acc^ons suyte or informac^on upon this Statute within halfe a yere next and ymediatlye after suche offence or forfeitures had and made do not comence their suyt^e informac^on acc^ons or p^resentment^e of and upon the said forfeyt^e by acc^on or otherwise as in this p^resent Acte ys lymited and declared, that then aswell the Kinge our Sovereigne Lorde his heires and successors, after one yere next after suche offence and forfeyt^e had and made yf no suyte in his or their name be taken by acc^on or otherwise as ys before exp^ressed before the same yere ended & del^rmynded, as everie other pson after halfe yere next after like Offence had and done in the fourme aforesaide yf noe suyte thereupon be taken by none of them in fourme above declared, be utterly excluded and debarred of their saide suyt^e acc^ons Informac^ons and ex^aia^ons to them gyven by vertue of the saide Acte, and the parties and evy of them so offendinge shalbe of all suche Offence and forfeyt^e clerely discharged and quytt; Any thinge in this Acte comprised to the contr^rie notwithstandinge.

XVII.
Limitation of
Prosecutions;
One Year to the
King, and Half a
Year to others.

PROVIDED alwaies and be it enacted by thautoricie aforesaide that this p^resent Acte ne any thinge therein conteyned shall in anywise extende or be p^rjudiciall unto the King^e Subject^e resident or inhabitinge nere unto the Coast^e of the Sea in any parte of this Realme, their houses beinge not above fyve myles distant from the same Coast^e, nor also to any of the saide Subject^e inhabitinge within twelve myles of the borders of Scotlande, nor to any the King^e Subject^e Inhabitant^e of the Towne and Marches of Callice, nor to any of the Inhabitant^e of the Isles of Jersey Gernesey Anglesey and the Isles of Weight and Man, but that it shalbe lafull for everie of the saide Inhabitant^e at all tymes hereafter to have excise and use their handguns hagbutt^e and demyhakes of the lengthes abovesaide within the lymytt^e and Isles abovesaide, so that it be at noe manner of Dere heron Shoveler fesant partridge Wild Swanne or Wilde Elke or any of them; this p^resent Acte or any thinge therein conteyned to the contr^rie notwithstandinge.

XVIII.
Proviso for
Inhabitants near
the Sea Coasts,
Scotland, Calais,
Jersey, &c.

PROVIDED also that this Acte ne any thinge therein conteyned be in anywise hurtfull or p^rjudiciall to any p^rivate or pson that hereafter, from the saide laste daye of June, shall bend beare charge use or assaye anye Crosbowe or any handgun demyhake or hagbutt of the lengthes abovesaide, by the comaundment of his Lorde [and] Master so that the saide p^rivate or pson doe not shote at any fowle Dere or other Game of what Kynd or nature soever they be; nor also to any suche p^rivate pson or psons that shall after the saide laste daye of June beare or convey any Crosbowe handgun hagbutt or Demyhake of the lengthes aforesaide to any place or places, by the comaundment of his lorde or master that maye shote by auctoritie of this Acte, to be amended repayred delyvered or assayed; so that the saide Servaunte or other pson so bringinge or conveyinge the saide Crosbowe handgun hagbutt or demyhake have redye to shewe to evy pson requiring the sight thereof one licence in Writinge sealed or subscribed by his saide Lorde or Master to carrie and convey the same Crosbowe handgun hagbutt or demyhake to thintent to be amended repayred assayed or delivered as ys aforesaide.

XIX.
Proviso for
Servants under
Orders of their
Masters.

PROVIDED alwaies that this Acte or any thinge conteyned therein shall not extende to any Owner of any Shippe, for having or kepinge of any handgun hagbutt or demyhake of the sevall lengthes in this Acte exp^ressed or under, only to be had and occupied within their Shippe or other Vessell, or for the carriage and recarriage of them or any of them on lande, or kepinge of them for the onely excise and occupyinge of them within their saide Shippe or Vessell; Any thinge in this Acte to the contr^rie in any wise notwithstandinge.

XX.
Proviso for
Owners of Ships,
&c.

CHAPTER I.

AN ACT for the utter abolition of all memory of Hostilitie and the Dependances thereof beweeene England and Scotland, and for the repressing of occasions of Discord and Disorders in tyme to come.

For promoting Union between England and Scotland, certain English Acts repealed: viz.
4 H. V. st. 2. c. 7.
Letters of Marque, against the Scots.

33 H. VIII. c. 6.
§ 18. Cross-Bows, &c. on the Borders.

FOR the honour weale and good of theis two mightie famous and auncient Kingdomes of England and Scotland, and for the furtheraunce and advancement of the happie Union already begun in his Majesties Royall pson: Be it enacted by the Kinges most excellent Majestie wth the Assent of the Lord^e Spirituall and Temporall and the Comons in this Psent Parliament assembled and by the Authoritie of the same, That one Act made in the fourth yeere of the Reigne of King Henrie the Fifth, whereby it is enacted, that tres of Marte or Reprisall be granted against the People of Scotland, in case where the Subject^e of England have beene spoyled and have complayned and not receaved Redresse, shall for soe much thereof as soe concerneth the People of Scotland, be utterlie repealed and made void: And also that one Proviso conteyned in an Act made in the three and thirtieth yeere of the Reigne of Kinge Henry the Eighte, by which Proviso the King^e Majesties Subject^e inhabitinge within Twelve Myles of the Borders of Scotland are allowed and pmitted to use Crossebowes Handgunns Hackbutt^e or Demyhakes, or to use or keepe in his or their Howses or elsewhere any such Crossebowes Handgunnes Hackbutt^e and Demyhakes, for soe much of the said Proviso as soe concerneth such as shall inhabite within Twelve Miles of the said late Borders, shalbe utterlie repealed and made void.

II.
Repeal of certain other English Acts, viz.
7 Ric. II. c. 16.
Importation of Arms, &c. into Scotland;
31 H. VI. c. 5.
March Law;
7 H. VII. c. 6.
Scotchmen leaving England;
23 H. VIII. c. 16.
1 Eliz. c. 7.
exporting Horses to Scotland;
2, 3 P. & M. c. 1.
23 Eliz. c. 4.
letting Lands to Scotchmen.
General Repeal of all other unfriendly Laws.

And be it further enacted by the Authoritie aforesaid, That theis other Statutes hereafter followinge, That is to say, One Act made in the seventh yeere of the Raigne of Kinge Richard the Second, whereby it is enacted, That noe Armour Victuall or other Refreshment be caried into Scotland, uppon paine of seizure or forfeiture; And one other Act made in the one and thirtieth yeere of the Reigne of Kinge Henry the Sixt, whereby it is enacted, That March Lawe be not used out of the Circuit of the Counties of Northumbland Cumberland and Westm^rland or the Towne of Newcastle; And one other Statute made in the seventh yeere of the Reigne of Kinge Henry the Seaventh, whereby it is enacted, That Scottishmen should avoyde out of the Realme of England within a tyme pfixed; And one other Statute made in the three and twentieth yeere of the Reigne of Kinge Henrie the Eighte; And a like Statute made in the first yeere of the Reigne of the late Queene Elizabeth, whereby the conveyinge of Horses out of England into Scotland is made Felonie; And one other Statute made in the second and third yeeres of the Reigne of Kinge Philip and Queene Mary; And the like Statute made in the three and twentieth yeere of the Reigne of the late Queene Elizabeth, whereby it is enacted, That noe Landes or Tenement^e be lett to Scottishmen uppon the Borders; shalbe utterlie abrogated repealed and made void: And if there had appeared any other Statute of this Realme of England, wherein any thinge is ordeyned enacted or established expresly and by Name against Scottishmen as Enimyes, or Scotland as an Enemye Countrey, to the King^e of this Realme or the State of the same, Wee should for soe much of them as had soe conched Scottishmen or Scotland have utterly abrogated and adnulled the same, seinge all Enmitie and Hostilitie of former tymes beweeene the two Kingdomes and People is nowe happily taken away, and under the Goverment of his Majestie, as under one Parent and Head turned into fraternitie or brotherlie Frindship.

III.
The Effect of this Act to depend on the Repeal of certain Scotch Acts, viz.
Temp. Jac. I.
Visiting England;
Assurance with English;
Buying English Goods.
Temp. Jac. II.
Visiting England;
Englishmen visiting Scotland;
Supply to Berwick;
Defence against England.
Temp. Jac. III.
Resisting Ed. IV.;
Supply of Berwick.
Temp. Mary.
Assurance with English.
Temp. Jac. VI.
Marriage of Borderers;
English holding Land in Scotland, &c.

PROVIDED nevertheless and be it enacted by the Authoritie of this Psent Parliament, That none of the Articles Braunches or Clauses abovesaid in this Act before conteyned and exp^{re}ssed, shall take effect or be in force or in any wise be deemed or expounded to take effect or be in force to any intent construc^{ti}on or purpose until theis Act^e of Parliament of the Realme of Scotland hereafter followinge, That is to say, One Act made in the tyme of James the First, Kinge of Scotland, by which it was enacted, That all psons remayning in England without the King^e License did cōmytt Treason; One other Act made in the tyme of the said Kinge James the First, whereby any Assurance with Englishe men for takinge P^{re}ccion from them for Landes or Good^e, is Treason; One other Act [in'] the same King^e tyme, inhibiting all buyinge and sellinge of Englishe Good^e forbidden, under payne of Escheate; One other Act made in the tyme of James the Second, Kinge of Scotland, that none should passe into England in tyme of Warre w^out Licence, under payne of Treason; One other Act made in the Reigne of the saide Kinge James the Second conteyninge that noe Englishman come into Scotland without conduct, and that noe Scottishman sit under Assurance w^o them; One other Acte of the same King^e tyme, That noe Scottishman supply Barwick or Roxburgh, under paine of Treason; One other Act made in the tyme of the said Kinge James the Second, That all men be ready for Defence of the Realme against England; Two Act^e made in the tyme of James the Third, King of Scotland, for resisting Kinge Edward the Fourth; One other Act made in the tyme of the said King James the Third, con^{cern}ing the upholding of Barwicke and Garisons upon the Borders; One Act made in the Reigne of Mary late Queene of Scotland, by which it was enacted, That Scottishmen are charged to leave Assurance w^o Englishmen; One other Acte made in the tyme of the saide Queene Marie, con^{cern}inge assured Scottishmen assistinge the English Armye; One Act made in the Parliament of Scotland, in the tyme of the most happie Reigne of our most gracious Sovereigne Lord the Kinge that nowe is, conteyninge that the Scottish Borderers are discharged to marry English Borderers Daughters; And lastlye one other Act made in the tyme of our said Sovereigne Lorde the Kinge, injoyninge the Warden to putt in a Bill the Names of all Englishmen that occupie Land^e in Scotland and seeke Redresse accordinge to the Treaties; shall by Act of Parliament of the said Realme of Scotland be utterlie repealed frustrate and made voide; And untill alsoe the said

1 of O.

GRANTS, CONCESSIONS,
AND
ORIGINAL CONSTITUTIONS
OF THE PROVINCE OF
NEW JERSEY
THE
A C T S

Passed during the Proprietary Governments, and other
material Transactions before the Surrender
thereof to Queen Anne.

The Instrument of Surrender, and her formal Accept-
ance thereof

Lord CORNBURY'S COMMISSION and Instructions Conse-
quent thereon.

Collected by some Gentlemen employed by the General Assembly.
And afterwards

Published by virtue of an Act of the Legislature of the said Province
With proper Tables alphabetically Digested, containing the prin-
cipal Matters in the Book.

New Jersey (Colony)
By AARON LEAMING and JACOB SPICER.

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,

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 be it 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 (upon proof thereof before any justice of the peace) 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 further enacted* 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.

Bill of Rights [1688]

[Previous](#) | [Next: Provision](#)



Bill of Rights [1688]

1688 CHAPTER 2 1 Will and Mar Sess 2

An Act declareing the Rights and Liberties of the Subject and Settleing the Succession of the Crowne.

X1 Whereas the Lords Spirituall and Temporall and Comons assembled at Westminster lawfully fully and freely representing all the Estates of the People of this Realme did upon the thirteenth day of February in the yeare of our Lord one thousand six hundred eighty eight present unto their Majesties then called and known by the Names and Stile of William and Mary Prince and Princesse of Orange being present in their proper Persons a certaine Declaration in Writeing made by the said Lords and Comons in the Words following viz

The Heads of Declaration of Lords and Commons, recited.

Whereas the late King James the Second by the Assistance of diverse evill Councillors Judges and Ministers employed by him did endeavour to subvert and extirpate the Protestant Religion and the Lawes and Liberties of this Kingdome.

Dispensing and Suspending Power.

By Assumeing and Exerciseing a Power of Dispensing with and Suspending of Lawes and the Execution of Lawes without Consent of Parlyament.

Committing Prelates.

By Committing and Prosecuting diverse Worthy Prelates for humbly Petitioning to be excused from Concurring to the said Assumed Power.

Ecclesiastical Commission.

By issueing and causeing to be executed a Commission under the Great Seale for Erecting a Court called The Court of Commissioners for Ecclesiasticall Causes.

Levyng Money.

By Levyng Money for and to the Use of the Crowne by pretence of Prerogative for other time and in other manner then the same was granted by Parlyament.

Standing Army.

By raising and keeping a Standing Army within this Kingdome in time of Peace without Consent of Parlyament and Quartering Soldiers contrary to Law.

Disarming Protestants, &c.

By causing severall good Subjects being Protestants to be disarmed at the same time when Papists were both Armed and Employed contrary to Law.

Violating Elections.

By Violating the Freedome of Election of Members to serve in Parlyament.

Illegal Prosecutions.

By Prosecutions in the Court of Kings Bench for Matters and Causes cognizable onely in Parlyament and by diverse other Arbitrary and Illegall Courses.

Juries.

And whereas of late yeares Partiall Corrupt and Unqualified Persons have beene returned and served on Juryes in Tryalls and particularly diverse Jurors in Tryalls for High Treason which were not Freeholders,

Excessive Bail.

And excessive Baile hath beene required of Persons committed in Criminall Cases to elude the Benefitt of the Lawes made for the Liberty of the Subjects.

Fines.

And excessive Fines have beene imposed.

Punishments.

And illegall and cruell Punishments inflicted.

Grants of Fines, &c. before Conviction, &c.

And severall Grants and Promises made of Fines and Forfeitures before any Conviction or Judgement against the Persons upon whome the same were to be levyed. All which are utterly directly contrary to the knowne Lawes and Statutes and Freedome of this Realme.

Recital that the late King James II. had abdicated the Government, and that the Throne was vacant, and that the Prince of Orange had written Letters to the Lords and Commons for the choosing Representatives in Parliament.

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And whereas the said late King James the Second having Abdicated the Government and the Throne being thereby Vacant His [X2] Highnesse the Prince of Orange (whome it hath pleased Almighty God to make the glorious Instrument of Delivering this Kingdome from Popery and Arbitrary Power) did (by the Advice of the Lords Spirituall and Temporall and diverse principall Persons of the Commons) cause Letters to be written to the Lords Spirituall and Temporall being Protestants and other Letters to the severall Countyes Cities Universities Burroughs and Cinque Ports for the Choosing of such Persons to represent them as were of right to be sent to Parlyament to meete and sitt at Westminster upon the two and twentyeth day of January in this Yeare one thousand six hundred eighty and eight in order to such an Establishment as that their Religion Lawes and Liberties might not againe be in danger of being Subverted, Upon which Letters Elections haveing beene accordingly made.

The Subject's Rights.

And thereupon the said Lords Spirituall and Temporall and Commons pursuant to their respective Letters and Elections being now assembled in a full and free Representative of this Nation taking into their most serious Consideration the best meanes for attaining the Ends aforesaid Doe in the first place (as their Auncestors in like Case have usually done) for the Vindicating and Asserting their auntient Rights and Liberties, Declare

Dispensing Power.

That the pretended Power of Suspending of Laws or the Execution of Laws by Regall Authority without Consent of Parlyament is illegall.

Late dispensing Power.

That the pretended Power of Dispensing with Laws or the Execution of Laws by Regall Authoritie as it hath beene assumed and exercised of late is illegall.

Ecclesiastical Courts illegal.

That the Commission for erecting the late Court of Commissioners for Ecclesiasticall Causes and all other Commissions and Courts of like nature are Illegall and Pernicious.

Levying Money.

That levying Money for or to the Use of the Crowne by pretence of Prerogative without Grant of Parlyament for longer time or in other manner then the same is or shall be granted is Illegall.

Right to petition.

That it is the Right of the Subjects to petition the King and all Commitments and Prosecutions for such Petitioning are Illegall.

Standing Army.

That the raising or keeping a standing Army within the Kingdome in time of Peace unlesse it be with Consent of Parlyament is against Law.

Subjects' Arms.

That the Subjects which are Protestants may have Arms for their Defence suitable to their Conditions and as allowed by Law.

Freedom of Election.

That Election of Members of Parlyament ought to be free.

Freedom of Speech.

That the Freedome of Speech and Debates or Proceedings in Parlyament ought not to be impeached or questioned in any Court or Place out of Parlyament.

Excessive Bail.

That excessive Baile ought not to be required nor excessive Fines imposed nor cruell and unusuall Punishments inflicted.

Juries.

That Jurors ought to be duely impannelled and returned . . . F1

Grants of Forfeitures.

That all Grants and Promises of Fines and Forfeitures of particular persons before Conviction are illegall and void.

Frequent Parliaments.

And that for Redresse of all Grievances and for the amending strengthening and preserveing of the Lawes Parlyaments ought to be held frequently.

The said Rights claimed. Tender of the Crown. Regal Power exercised. Limitation of the Crown.

And they doe Claime Demand and Insist upon all and singular the Premises as their undoubted Rights and Liberties and that noe Declarations Judgements Doeings or Proceedings to the Prejudice of the People in any of the said Premises ought in any wise to be drawne hereafter into Consequence or Example. To which Demand of their Rights they are particularly encouraged by the Declaration of this Highnesse the Prince of Orange as being the onely meanes for obtaining a full Redresse and Remedy therein. Haveing therefore an intire Confidence That his said Highnesse the Prince of Orange will perfect the Deliverance soe farr advanced by him and will still preserve them from the Violation of their Rights which they have here asserted and from all other Attempts upon their Religion Rights and Liberties. The said Lords Spirituall and Temporall and Commons assembled at Westminster doe Resolve That William and Mary Prince and Princesse of Orange be and be declared King and Queene of England France and Ireland and the Dominions thereunto belonging to hold the Crowne and Royall Dignity of the said Kingdomes and Dominions to them the said Prince and Princesse dureing their Lives and the Life of the Survivour of them And that the sole and full Exercise of the Regall Power be onely in and executed by the said Prince of Orange in the Names of the said Prince and Princesse dureing their joynt Lives And after their Deceases the said Crowne and Royall Dignitie of the said Kingdoms and Dominions to be to the Heires of the Body of the said Princesse And for default of such Issue to the Princesse Anne of Denmarke and the Heires of her Body And for default of such Issue to the Heires of the Body of the said Prince of Orange. And the Lords Spirituall and Temporall and Commons doe pray the said Prince and (X3) Princesse to accept the same accordingly.

New Oaths of Allegiance, &c.

And that the Oathes hereafter mentioned be taken by all Persons of whome the Oathes of Allegiance and Supremacy might be required by Law instead of them And that the said Oathes of Allegiance and Supremacy be abrogated.

Allegiance.

I A B doe sincerely promise and sweare That I will be faithfull and beare true Allegiance to their Majestyes King William and Queene Mary Soe helpe me God.

Supremacy.

I A B doe sweare That I doe from my Heart Abhor, Detest and Abjure as Impious and Hereticall this damnable Doctrine and Position That Princes Excommunicated or Deprived by the Pope or any Authority of the See of Rome may be deposed or murdered by their Subjects or any other whatsoever. And I doe declare That noe Forreigne Prince Person Prelate, State or Potentate hath or ought to have any Jurisdiction Power Superiority Preeminence or Authoritie Ecclesiasticall or Spirituall within this Realme Soe helpe me God.

Acceptance of the Crown. The Two Houses to sit. Subjects' Liberties to be allowed, and Ministers hereafter to serve according to the same. William and Mary declared King and Queen. Limitation of the Crown. Papists debarred the Crown. Every King, &c. shall make the Declaration of 30 Car. II. If under 12 Years old, to be done after Attainment thereof. King's and Queen's Assent

Upon which their said Majestyes did accept the Crowne and Royall Dignitie of the Kingdoms of England France and Ireland and the Dominions thereunto belonging according to the Resolution and Desire of the said Lords and Commons contained in the said Declaration. And thereupon their Majestyes were pleased That the said Lords Spirituall and Temporall and Commons being the two Houses of Parlyament should continue to sitt and with their Majesties Royall Concurrence make effectuall Provision for the Settlement of the Religion Lawes and Liberties of this Kingdome soe that the same for the future might not be in danger againe of being subverted, To which the said Lords Spirituall and Temporall and Commons did agree and proceede to act accordingly. Now in pursuance of the Premisses the said Lords Spirituall and Temporall and Commons in Parlyament assembled for the ratifying confirming and establishing the said Declaration and the Articles Clauses Matters and Things therein contained by the Force of a Law made in due Forme by Authority of Parlyament doe pray that it may be declared and enacted That all and singular the Rights and Liberties asserted and claimed in the said Declaration are the true auintent and indubitable Rights and Liberties of the People of this Kingdome and soe shall be esteemed allowed adjudged deemed and taken to be and that all and every the particulars aforesaid shall be firmly and strictly holden and observed as they are expressed in the said Declaration And all Officers and Ministers whatsoever shall serve their Majestyes and their Successors according to the same in all times to come. And the said Lords Spirituall and Temporall and Commons seriously considering how it hath pleased Almighty God in his marvellous Providence and mercifull Goodness to this Nation to provide and preserve their said Majestyes Royall Persons most happily to Raigne over us upon the Throne of their Ancestors for which they render unto him from the bottome of their Hearts their humblest Thanks and Praises doe truely firmly assuredly and in the Sincerity of their Hearts thinke and doe hereby recognize acknowledge and declare That King James the Second havinge abdicated the Government and their Majestyes havinge accepted the Crowne and Royall Dignity **[X⁴as]** aforesaid Their said Majestyes did become were are and of right ought to be by the Lawes of this Realme our Sovereigne Liege Lord and Lady King and Queene of England France and Ireland and the Dominions thereunto belonging in and to whose Princely Persons the Royall State Crowne and Dignity of the said Realmes with all Honours Stiles Titles Regalities Prerogatives Powers Jurisdictions and Authorities to the same belonging and appertaining are most fully rightfully and intirely invested and incorporated united and annexed And for preventing all Questions and Divisions in this Realme by reason of any pretended Titles to the Crowne and for preserving a Certainty in the Succession thereof in and upon which the Unity Peace Tranquillity and Safety of this Nation doth under God wholly consist and depend The said Lords Spirituall and Temporall and Commons doe beseech their Majestyes That it may be enacted established and declared That the Crowne and Regall Government of the said Kingdoms and Dominions with all and singular the Premisses thereunto belonging and appertaining shall bee and continue to their said Majestyes and the Survivour of them dureing their Lives and the Life of the Survivour of them And that the entire perfect and full Exercise of the Regall Power and Government be onely in and executed by his Majestie in the Names of both their Majestyes dureing their joynt Lives And after their deceases the said Crowne and Premisses shall be and remaine to the Heires of the Body of her Majestie and for default of such Issue to her Royall Highnesse the Princess Anne of Denmarke and the Heires of her Body and for default of such Issue to the Heires of the Body of his said Majestie And thereunto the said Lords Spirituall and Temporall and Commons doe in the Name of all the People aforesaid most humbly and faithfully submitt themselves their Heires and Posterities for ever and doe faithfully promise That they will stand to maintaine and defend their said Majesties and alsoe the Limitation and Succession of the Crowne herein specified and contained to the utmost of their Powers with their Lives and Estates against all Persons whatsoever that shall attempt any thing to the contrary. And whereas it hath beene found by Experience that it is inconsistent with the Safety and Welfare of this Protestant Kingdome to be governed by a Popish Prince **F²...** the said Lords Spirituall and Temporall and Commons doe further pray that it may be enacted That all and every person and persons that is are or shall be reconciled to or shall hold Communion with the See or Church of Rome or shall professe the Popish Religion **F³...** shall be excluded and be for ever uncapeable to inherit possesse or enjoy the Crowne and Government of this Realme and Ireland and the Dominions thereunto belonging or any part of the same or to have use or exercise any Regall Power Authoritie or Jurisdiction within the same **[X⁵And in all and every such Case or Cases the People of these Realmes shall be and are hereby absolved of their Allegiance]** And the said Crowne and Government shall from time to time descend to and be enjoyed by such person or persons being Protestants as should have inherited and enjoyed the same in case the said person or persons soe reconciled holding Communion or Professing **F⁴...** as aforesaid were naturally dead **[X⁶And that every King and Queene of this Realme who at any time hereafter shall come to and succcede in the Imperiall Crowne of this Kingdome shall on the first day of the meeting of the first Parlyament next after his or her coming to the Crowne sitting in his or her Throne in the House of Peeres in the presence of the Lords and Commons therein assembled or at his or her Coronation before such person or persons who shall administer the Coronation Oath to him or her at the time of his or her taking the said Oath (which shall first happen) make subscribe and audibly repeate the Declaration mentioned in the Statute made in the thirtyeth yeare of the Raigne of King Charles the Second Entituled An Act for the more effectuall Preserving the Kings Person and Government by disableing Papists from sitting in either House of Parlyament But if it shall happen that such King or Queene upon his or her Succession to the Crowne of this Realme shall be under the Age of twelve yeaes then every such King or Queene shall make subscribe and audibly repeate the said Declaration at his or her Coronation or the first day of the meeting of the first Parlyament as aforesaid which shall first happen after such King or Queene shall have attained the said Age of twelve yeaes.]** All which Their Majestyes are contented and pleased shall be declared enacted and established by authoritie of this present Parliament and shall stand remaine and be the Law of this Realme for ever And the same are by their said Majesties by and with the advice and consent of the Lords Spirituall and Temporall and Commons in Parlyament assembled and by the authoritie of the same declared enacted and established accordingly

Editorial Information

- X1** The Bill of Rights is assigned to the year 1688 on legislation.gov.uk (as it was previously in successive official editions of the revised statutes from which the online version is derived) although the Act received Royal Assent on 16th December 1689. This follows the practice adopted in *The Statutes of the Realm*, Vol. VI (1819), in the Chronological Table in that volume and all subsequent Chronological Tables of the Statutes, which attach all the Acts in 1 Will and Mar sess 2 to the year 1688. The first Parliament of William and Mary (the Convention Parliament) convened on 13th February 1689 (1688 in the old style calendar - until 1st Jan 1752 the calendar year began on March 25th). It appears that all the Acts of that Parliament (both sessions) were treated as being Acts of 1688 using the old method of reckoning, according to which, until 1793, all Acts passed in a session of Parliament with no specified commencement date were deemed to be passed in the year in which that session began (see Acts of Parliament (Commencement) Act 1793 (c 13)). [The Short Titles Act 1896 \(c. 14\)](#) gave to chapter 2 of 1 Will and Mar sess 2 the title "The Bill of Rights", without attributing it to any calendar year. In the Republic of Ireland, the Short Titles Act 1896 (c 14) has been amended to add "1688" to the short title of The Bill of Rights as it continues to have effect there (see Statute Law Revision Act 2007, Act of the Oireachtas No 28 of 2007, s 5(a)).
- X2** Variant reading of the text noted in *The Statutes of the Realm* as follows: Highnesse O. [O. refers to a collection in the library of Trinity College, Cambridge]
- X3** Variant reading of the text noted in *The Statutes of the Realm* as follows: and O. [O. refers to a collection in the library of Trinity College, Cambridge]
- X4** interlined on the Roll.
- X5** annexed to the Original Act in a separate Schedule.
- X6** annexed to the Original Act in a separate Schedule.

Textual Amendments

- F1** Words repealed by (E.W.) [Juries Act 1825 \(c. 50\)](#), **s. 62** and (N.I.) [Statute Law Revision Act 1950 \(c. 6\)](#), **Sch. 1**
- F2** Words in s. 1 omitted (26.3.2015) by virtue of Succession to the [Crown Act 2013 \(c. 20\)](#), s. 5, **Sch. para. 2(a)** (with [Sch. para. 5](#)); S.I. 2015/894, **art. 2**
- F3** Words in s. 1 omitted (26.3.2015) by virtue of Succession to the [Crown Act 2013 \(c. 20\)](#), s. 5, **Sch. para. 2(b)** (with [Sch. para. 5](#)); S.I. 2015/894, **art. 2**
- F4** Words in s. 1 omitted (26.3.2015) by virtue of Succession to the [Crown Act 2013 \(c. 20\)](#), s. 5, **Sch. para. 2(c)** (with [Sch. para. 5](#)); S.I. 2015/894, **art. 2**

Modifications etc. (not altering text)

- C1** Short title "The Bill of Rights" given by [Short Titles Act 1896 \(c. 14\)](#), **Sch. 1**
- C2** Act declared to be a Statute by [Crown and Parliament Recognition Act 1689 \(c. 1\)](#)



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C H A P. DLIV.

4th GEORGE II.
A. D. 1730.

An ACT for the further continuing the Currency of the Bills of Credit struck and issued in the Year One Thousand Seven Hundred and Twenty, to the Value of Five Thousand Ounces of Plate, during the Time therein mentioned.

See Chap. 532.
Expired 1st of
September, 1733.

Pass'd the 17th of October, 1730.

C H A P. DLV.

An ACT for the better clearing, regulating, and further laying out publick Highways in Kings County, Queens County, Richmond County, and Orange County.

Continued by
Chap. 581.

Pass'd the 29th of October, 1730.

C H A P. DLVI.

An ACT for naturalizing Herman Winkler, and other the Persons therein mentioned.

Private.

Pass'd the 29th of October, 1730.

C H A P. DLVII.

An ACT to prevent the Destruction of Sheep, by Dogs, in the City and County of Albany, the County of Westchester, the County of Suffolk, Queens County, Kings County, Richmond County, and Orange County.

Expired at the
End of the first
Sessions after the
29th of October,
1731. But provi-
ded for by Chap.
774.

Pass'd the 29th of October, 1730.

C H A P. DLVIII.

An ACT for the Relief of insolvent Debtors within the Colony of New-York, with Respect to the Imprisonment of their Persons.

Expired at the
End of the first
Sessions after the
29th of October,
1731.

Pass'd the 29th of October, 1730.

C H A P. DLIX.

An ACT to prevent the taking or levying on Specialties, more than the principal Interest and Costs of Suit, and other Purposes therein mentioned.

Repealed by the
King, the 12th of
August, 1731.

Pass'd the 29th of October, 1730.

C H A P. DLX.

An ACT for the more effectual preventing and punishing the Conspiracy and Insurrection of Negroes and other Slaves; for the better regulating them, and for repealing the Acts therein mentioned, relating thereto.

Pass'd the 29th of October, 1730.

WHEREAS many Mischiefs have been occasioned by the too great Liberty allowed to Negro and other Slaves, and that some of the Acts relating thereto, are expired, and others not fully answering the good Purposes thereby intended, the General Assembly therefore pray it may be enacted;

Preamble.

I. And be it Enacted by his Excellency the Governor, the Council, and the General Assembly, and it is hereby Enacted by the Authority of the same, That no Person or Persons do hereafter, throughout this Colony, presume to trade or traffick with any Slave or Slaves, either in buying or selling, without Leave and Consent of the Master or Mistrefs of such Slave or Slaves, on Forfeiture of treble the Value of the Thing or Things traded for, and also the Sum of Five Pounds, current lawful Money, to the Master or Mistrefs of such Slave or Slaves,

Penalty on Per-
sons trading with
Slaves.

C c c

for

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A. D. 1730.

for each Offence; to be recovered of such Person or Persons so trading, contrary to the true Intent and Meaning of this Act, by Action of Debt, in any Court of Record within this Colony, where such Sum or Sums is cognizable; and all Contracts and Bargains made with any Slave or Slaves, shall be utterly void.

Penalty on Persons for selling Strong Liquors to Slaves.

II. AND whereas, notwithstanding sundry Laws passed heretofore in this Colony, for the Purposes above mentioned, several evil-disposed Persons, having Nothing in View but their private Gain, do clandestinely trade and traffick with Slaves: For Remedy whereof, *Be it Enacted by the Authority aforesaid*, That if any Person or Persons within this Colony, shall, from and after the Publication of this Act, sell any Rum or other Strong Liquor, to any Negro, Indian, or Mulatto Slave or Slaves, or shall buy or take in Pawn from them, any Wares, Merchandizes, Apparel, Tools, Instruments, or any other Kind of Goods whatever, and shall thereof be accused by the Master or Mistress of such Slave or Slaves, or by any other Person or Persons, before any one Justice of the Peace in the City or County where the Offender shall dwell or reside, shall forfeit and pay the Sum of *Forty Shillings* for every such Offence, to be recovered with Costs, before the said Justice of the Peace, or before any other Justice dwelling where such Offence is committed; who is hereby strictly required and directed to hear, and finally to determine the same; unless the Person or Persons accused, as aforesaid, do take his, her, or their corporal Oath, (which Oath the said Justice is hereby empowered to administer) That he, she, or they, have not, either by themselves, or by any other Person or Persons on his, her, or their Behalf, directly or indirectly, sold, bought or taken in Pawn any of the Thing or Things of which he, she, or they shall be accused, in Manner as aforesaid; which Forfeiture shall be one Half to the Informer, the other Half for the Poor of the City, Town, Manor, or Precinct where such Offence is committed; and upon Non-payment of the above-mentioned Penalty, the offending Party or Parties, shall be, by the said Justices, committed to the common Goal, there to remain for the Space of twenty Days, unless the said Penalty be sooner paid.

Slaves may be punished by their Masters or Owners.

III. And be it further *Enacted by the same Authority*, That hereafter it shall and may be lawful for any Master or Mistress to punish his, her, or their Slave or Slaves, for their Crimes and Offences, at Discretion, not extending to Life or Limb.

Not above three Slaves to meet together.

IV. AND forasmuch as the Number of Slaves in the Cities of *New-York* and *Albany*, as also within the several Counties, Towns and Manors within this Colony, doth daily increase, and that they have been often-times guilty of confederating together in running away; and of other ill and dangerous Practices: *Be it therefore Enacted by the aforesaid Authority*, That it shall not hereafter be lawful for above three Slaves to meet together at any Time, nor at any other Place, than when it shall happen they meet in some servile Employment, for their Masters or Mistresses Profit, and by their Masters or Mistresses Consent, upon Penalty of being whipt upon the naked Back, at the Discretion of any one Justice of the Peace, not exceeding forty Lashes for each Offence.

Each Town and Manor, may appoint a common Whipper for their Slaves.

V. And be it further *Enacted by the same Authority*, That it shall and may be lawful hereafter, for every City, Town and Manor within this Colony, to have and appoint a common Whipper for their Slaves; and for his Salary, it shall and may be lawful for any City, Town, or Manor within this Colony, at their Common-Council or Town-Meeting, to agree upon such Sum to be paid him, by the Master or Mistress of Slaves, not exceeding the Sum of *Three Shillings per Head*, for all such Slaves as shall be whipt, as aforesaid; and upon Neglect

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Neglect or Refusal of the Master or Mistress, to pay the Sum so agreed upon, as above, that then such Slave or Slaves shall be committed until Payment be made, with Costs. And in Case any Slave shall presume to assault or strike any Christian or Jew, it shall be in the Power of any two Justices of the Peace, who, by this Act, are hereto authorised, to commit such Slave or Slaves to Prison, not exceeding fourteen Days for one Fact, and to inflict such other corporal Punishment, not extending to Life or Limb, upon him, her or them, so offending, as to the said Justices shall seem meet and reasonable.

4th GEORGE II.
A.D. 1730.

Punishment of
Slaves for striking
a white Man.

VI. And be it further Enacted by the Authority aforesaid, That no Person or Persons whatsoever, do hereafter employ, harbour, conceal or entertain other Men's Slave or Slaves, at their House, Out-house, or Plantations, without the Consent of his, her, or their Master or Mistress, upon the Forfeiture of *Five Pounds* for every twenty-four Hours, (and so proportionably for a less Time they are so concealed or entertained) to the said Master or Mistress of such Slave or Slaves, so that the Penalty for entertaining such Slave, do not exceed the Value of such Slave. And if any Person or Persons whatsoever, shall be found guilty of harbouring, entertaining, or concealing of any Slave or Slaves, or assisting to the conveying him; her, or them away; if such Slave shall happen to be lost, dead, or otherwise destroyed, such Person or Persons so harbouring, entertaining, concealing, assisting, or conveying them away, shall be also liable to pay the Value of such Slave or Slaves, to the Master or Mistress; to be recovered by Action of Debt, in any Court of Record.

Penalty for
entertaining of
Slaves.

VII. AND whereas it often happens, that through the Lenity of the Master, or Person under whose Care the said Negroes or Slaves are, the Persons so entertaining and dealing with them, are forgiven, and not brought to condign Punishment, to the very great Hurt, not only of the said Masters, but of other his Majesty's liege People, owning Negroes and other Slaves: Be it therefore Enacted by the Authority aforesaid, That if any Master or Mistress, or Person under whose Care any Negro or other Slave is, shall forgive, make up, compound, compromise, or receive or take any other or less Consideration than is by this Act prescribed, shall forfeit double the Sum the said Person or Persons so entertaining, ought to have forfeited; to be recovered in any Court of Record within this Colony, by Action of Debt, Bill, Complaint or Information, wherein there shall be no Essoin, Protection, Wager of Law, or any more than one Imparlance allowed, one Half thereof to any Person that shall sue for the same, the other Half to his Majesty, his Heirs and Successors, for and towards defraying the publick-Charge of the City, Town, Borough, Manor or Precinct in which the Master, Mistress, or Person under whose Care the said Negroes or other Slaves are, doth dwell or inhabit.

Penalty on
Masters, &c. if
they compound
for their Slaves
Crimes.

VIII. Be it also further Enacted by the same Authority, That if any Person or Persons knowing of such Entertainers of Slave or Slaves, and does not discover the same to the Master, Mistress, or Person under whose Care the said Slave or Slaves are, or to some one Justice of the Peace, or being suspected to know, upon Complaint, doth not discover the same, or upon Tender of an Oath before any Justice of the Peace, before whom such Complaint shall come, (who is hereby authorised to administer the same) shall refuse to take such Oath, and purge him; her, or themselves; the said Person or Persons so neglecting or refusing to discover or take the said Oath, shall forfeit the Sum of *Forty Shillings*, to be immediately, after Conviction, levied upon his, her or their Goods and Chattels, to the Use of the Person or Persons who shall inform or complain; and in Case there be no Goods and Chattels, then the Body of the Person or Persons offending, shall be committed to Goal, till he, she, or they pay and satisfy the said Sum of *Forty Shillings*, and Charges accruing thereon;

Penalty on
Persons that do
not discover those
that entertain
Slaves.

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A. D. 1730.

thereon ; and if it afterwards appear, that any Person or Persons, who, by the Directions in this Act, are in any Case obliged to purge him, or her, or themselves by their Oath, have sworn falsely ; such Person or Persons so offending, shall incur the like Pains and Penalties as those who are found guilty of willful Perjury, and be prosecuted accordingly.

Penalty on free
Negroes, &c. that
entertain Slaves.

IX. AND whereas there are many Negroes, Indians and Mulattoes, who have formerly been manumitted, and made free within this Colony, by their Masters or Owners ; and it is found by Experience, that they entertain, harbour, support, and encourage Negro, Indian and Mulatto Slaves, to the great Damage and Detriment of the Masters or Owners of Slaves, and of other of his Majesty's liege Subjects within this Colony ; *Be it therefore Enacted by the Authority aforesaid*, That if any Negro, Indian or Mulatto, made, or born free, or to be made free hereafter, shall knowingly and wittingly entertain any Slave or Slaves absenting himself or themselves, from his, her or their Masters or Mistresses Service, without Leave first given and signified, as aforesaid, or without the Master, or Person under whose Care the said Slave is, be present ; the said Negro, Indian or Mulatto, so offending, shall be forthwith apprehended, and forfeit the Sum of *Ten Pounds*, for every Night or Day they are so entertained, to the Master or Mistress of such Slave or Slaves ; to be recovered by Action of Debt, as aforesaid.

Slaves that are
set free, shall give
Security.

X. And be it further *Enacted by the same Authority*, That if any Master or Mistress, shall manumit and set at Liberty, any Negro, Indian or Mulatto Slave ; and such Master or Mistress, so manumitting and setting at Liberty, or any other sufficient Person, for and on Behalf of such Negro, Indian or Mulatto Slave, shall do and enter into a Bond unto his Majesty, his Heirs and Successors, with two Sureties, in a Sum not less than *Two Hundred Pounds*, at the General Sessions of the Peace, for the County where such Negro, Indian or Mulatto Slave, shall live or reside, to keep and save such Negro, Indian or Mulatto Slave, from becoming or being any Charge to the City, Town, Parish or Place within this Colony, where he, she or they, shall at any Time after such Manumission, live ; the said Negro, Indian or Mulatto, shall be free, according to such Manumission of the Master or Mistress, so manumitting and setting at Liberty, such Slave or Slaves : And if any Negro, Indian or Mulatto Slave, shall have been made free, or hereafter shall be made free, by the Will or Testament of any Person deceased ; that then, if any Executor or Executors, of any Person or Persons deceased, or on their Neglect or Refusal, any other sufficient Person, for and on the Behalf of such Negro, Indian or Mulatto Slave, shall and do enter into such Security, as aforesaid, at the General Sessions of the Peace for the County, where such Negro, Indian or Mulatto Slave, shall live or reside, to keep and save such Negro, Indian or Mulatto Slave, from becoming or being any Charge to the City, Town, Parish or Place within this Colony, where he, she or they, shall at any Time after such Manumission, live ; the said Negro, Indian or Mulatto Slave, shall be free, according to the true Intent and Meaning of the Will or Testament of any Person or Persons deceased : And if Security be not given in Manner aforesaid, such Manumission or Devise, as before mentioned, shall be void, and of none Effect ; any Usage or Custom to the contrary notwithstanding.

XI. AND whereas Slaves are the Property of Christians or Jews, and cannot, without great Loss or Detriment to their Masters or Mistresses, be subjected in all Cases criminal, to the strict Rules of the Laws of England ; *Be it Enacted by the Authority aforesaid*, That hereafter, if any Slave or Slaves, by Theft or other Trespas, shall damnify any Person or Persons, to the Value of *Five Pounds*, or under ; the Master or Mistress, of such Slave or Slaves, shall be liable to make

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make Satisfaction for such Damages, to the Party injured ; to be recovered by Action of Debt, in any Court having Jurisdiction and Cognizance of Pleas to that Value ; and the Slave or Slaves shall receive corporal Punishment, at the Discretion of any one Justice of the Peace, and immediately thereafter (the Master or Mistress having first paid the Charges of such Punishment) be permitted to attend his or her Master or Mistress's Service, without further Punishment.

XII. And be it further Enacted by the Authority aforesaid, That hereafter no Slave or Slaves shall be allowed as Evidence or Evidences, in any Matter, Cause, or Thing whatsoever, excepting in Cases of Plotting or Confederacy among themselves, either to run away, kill or destroy their Master, Mistress, or any other Person ; or burning of Houses, Barns, Barracks, or Stacks of Hay, or of Corn ; or the killing of their Master or Mistresses Cattle or Horses ; and that only against one another ; in which Cases the Evidence of one Slave shall be allowed good against another Slave.

XIII. And be it further Enacted by the same Authority, That all and every Negro, Indian, or other Slave or Slaves, who, after the Publication of this Act, shall murder or otherwise kill, unless by Misadventure, or in the Execution of Justice, or conspire or attempt the Death of any of his Majesty's liege People, not being Slaves ; or shall attempt or commit any Rape, on any of the said Subjects ; or shall willfully burn any Dwelling-House, Barn, Stable, Out-house, Stacks of Corn or Hay ; or shall willfully mutilate, mayhem, or dismember any of the said Subjects, not being Slaves, as aforesaid ; or shall willfully murder any Negro, Indian, or Mulatto Slave ; within this Colony ; and shall thereof be convicted before three or more of his Majesty's Justices of the Peace, for the County where such Fact shall be committed, one whereof to be of the *Quorum*, who are hereby authorized to hear and determine the same, in Conjunction with five of the principal Freeholders of the County, without a Grand Jury, seven of whom agreeing, shall put their Judgment in Execution, according to this Act ; or before any Court of Oyer and Terminer, or general Goal-Delivery ; he, she, or they, so offending, shall suffer the Pains of Death, in such Manner, and with such Circumstances, as the Aggravation or Enormity of their Crimes, in the Judgment of the Justices of those Courts aforesaid, or as in the Judgment of seven of the said Justices and Freeholders, shall merit and require.

XIV. Be it further Enacted by the Authority aforesaid, That upon Complaint made to any one Justice of the Peace, against any Negro, Indian, or Mulatto Slave or Slaves, who have, or are supposed to have committed any of the Murders, Rapes, Mayhems, Insurrections or Conspiracies, mentioned in this Act, the said Justice is immediately to issue his Warrant to the next Constable, to apprehend the said Offender or Offenders, and for all or any Person or Persons to come before him, that can give Evidence ; and if, upon Examination, it appears, that the Slave or Slaves apprehended, are guilty, he shall commit him, her, or them to Prison ; and also shall certify to the two next Justices of the Peace, the said Cause, and require them, by Virtue of this Act, to associate themselves to him ; which the said Justices are hereby required to do ; and they, so associated, are to issue their Summons to five Freeholders, acquainting them with the Cause, and appointing them the Time and Place the same shall be heard and determined ; at which Time and Place, the Justices are hereby empowered to appoint some Person to prosecute the said Offender or Offenders ; and the Person so appointed, shall prefer an Accusation in Writing, specifying the Time, Place, and Nature of the Offence, as near as conveniently may be ; to which Accusation the Offender or Offenders shall be obliged to plead ; and upon Refusal to plead, the like Judgment shall be given against such Slave or Slaves, so accused, as if convicted by Verdict or Confession ;

D d d

4th GEORGE II.
A. D. 1730.

The Owners of
Slaves shall make
good the Trespas-
ses their Slaves
commit.

Evidence of
Slaves not to be
allowed, except
against other
Slaves.

Trial and Pun-
ishment of Slaves
that commit
Murder, &c.

On Complaint,
one Justice may
commit Slaves to
Goal, and with
other Justices and
Freeholders pro-
ceed to Trial for
high Crimes.

4th GEORGE II.
A. D. 1730.

and upon pleading thereto, the Justices shall proceed to Trial, in Conjunction with the said Freeholders, so summoned, as aforesaid; to which Freeholders no peremptory Challenge shall be allowed; and if, upon hearing the Matter, (the said Freeholders being first sworn by the said Justices, to judge according to Evidence) they shall adjudge such Slave or Slaves, guilty of the Offence complained of, they shall give Sentence of Death upon him, her, or them, as aforesaid; and, by their Warrant, cause immediate Execution to be done by the common or any other Executioner, in such Manner as they shall think fit.

Slaves may be
tried by a Jury, if
the Master desire
it.

XV. *Provided always, and it is hereby further Enacted by the Authority aforesaid*, That if any Master or Mistress of any Slave or Slaves, be inclined to have his, her, or their Slave or Slaves, tried by a Jury of twelve Men, it shall be granted; such Master or Mistress paying the Charge of the same, not exceeding *Nine Shillings* to the Jury; and in such Case there shall a Precept be issued by the Justices, to the next Constable, to summon a Jury of twelve Men, who shall be sworn to try according to Evidence; and the Justices shall proceed to Trial, by the said Jury, summoned and sworn, as aforesaid, without a Grand Jury, to which Jurors no peremptory Challenge shall be allowed.

How the Charge
of prosecuting
Slaves is to be
defrayed.

XVI. *And be it further Enacted by the Authority aforesaid*, That the Charge of prosecuting and executing of Negroes and other Slaves, in Manner before expressed, shall be paid and defrayed by the City or County where such Negro or Slaves shall be convicted and executed, and be laid, assessed and levied in the same Manner as the publick and necessary Charge of such City or County, are, or used to be raised, and to be distributed by the Order and Direction of the Justices hereby empowered to hear and determine the Crimes of such Negro or other Slaves, offending, as aforesaid, so as that the said Charge shall not exceed the Sum of *Three Pounds*, current Money of this Colony, for each Conviction and Execution.

How the Owners
of the Slaves exe-
cuted, are to be
paid.

XVII. *And be it further Enacted by the Authority aforesaid*, That the Owner or Owners of a Slave or Slaves, so executed, in the City and County of *Albany*, or in any of the other Counties within this Colony, shall be paid for the same, in the like Manner as the Charges for Prosecution and Execution is, by this Act, directed to be assessed, levied, and paid; *Provided* the Value of such Slave does not exceed the Sum of *Twenty-five Pounds*, current Money of this Colony.

How the Charge
of the Trial of
Slaves shall be
paid in the City
of *New-York*.

XVIII. *And be it further Enacted by the same Authority*, That in the City and County of *New-York*, the Justices of the Peace of the said City, for the Time being, or the major Part of them, do take effectual Care, in Case such Conviction and Execution happen within their Jurisdiction, that such Charge, as above said, be raised, levied, and collected in the same Manner as is directed in an Act, entitled, *An Act for settling a Ministry, and raising a Maintenance for them in the City of New-York, County of Richmond, Westchester, and Queens County*, passed in the fifth Year of their late Majesties, King WILLIAM and Queen MARY; and that the same shall be paid into the Hands of the Treasurer or Chamberlain of the said City, for the Time being, who is hereby required to pay the same by Order and Direction of the Justices hereby empowered to hear and determine the Crimes of such Slave or Slaves, offending, as aforesaid, so as the Charge of each Conviction and Execution shall not exceed the Sum of *Three Pounds*, current Money of this Colony.

Slaves executed
in the City of
New-York, how
to be paid for.

XIX. *And be it further Enacted by the same Authority*, That the Owner or Owners of such Slave or Slaves, which shall happen to be executed by Virtue of this Act, in the City and County of *New-York*, shall be paid for the same, and the Money shall be assessed, collected and paid, as in and by this Act, the Justices of the Peace for the said City and County, are directed and empowered to levy,
pay

JOHN MONTGOMERIE, Esq; Governor.

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pay and discharge the Prosecution and Execution of Slave or Slaves; *Provided* the Price to be paid for each Slave, so executed, do not exceed the Sum of *Twenty-five Pounds*, current Money of this Colony.

4th GEORGE II.
A. D. 1730.

XX. And be it further Enacted by the Authority aforesaid, That it shall not be lawful for any Slave or Slaves, to have or use any Gun, Pistol, Sword, Club, or any other Kind of Weapon whatsoever, but in the Presence or by the Direction of his, her, or their Master or Mistress, and in their own Ground, on Penalty of being whipt for the same, at the Discretion of the Justice of the Peace, before whom such Complaint shall come, or upon the View of the said Justice, not exceeding twenty Lashes on the bare Back, for every such Offence.

Penalty on Slaves
that carry Arms.

XXI. And be it further Enacted by the Authority aforesaid, That every such Justice of the Peace, Constable, Assessor, Collector, or any other Officer, as do neglect, delay, or refuse the several Duties and Services hereby enjoined to be respectively done and performed by them, shall, for every such Offence, forfeit the Sum of *Forty Shillings*: And every Freeholder, summoned, as aforesaid, and neglecting or refusing to serve, shall forfeit the Sum of *Twenty Shillings*; which Penalty or Penalties shall be recovered before any two Justices of the Peace, dwelling in the City or County where such Neglect, Delay, or Refusal shall happen; to be levied on the Goods and Chattels of the Offender, by a Constable, by Warrant from such Justices; who are hereby impowered and directed, upon such Neglect, Delay, or Refusal, to issue their Warrant for levying the same; and one Half of such Penalty shall be for the Use of the Prosecutor, and the other Half for the Use of the Poor of the Place where such Penalty shall be levied.

Penalty on Of-
ficers that neglect
their Duty.

XXII. AND for preventing Doubts, Scruples, or Confusions, concerning the several Acts of General Assembly heretofore passed, in Relation to Slaves, Be it Enacted by the Authority aforesaid, That all and every the following Acts, and every Clause, Article and Thing therein, or in the Acts for the Continuance or Revival thereof, shall, after the Publication of this Act, be, and are hereby repealed, and made null and void, *That is to say*; an Act, entitled, || *An Act for regulating Slaves*, passed in the first Year of the late Queen ANNE; an Act, entitled, ‡ *An Act for preventing the Conspiracy of Slaves*, passed in the seventh Year of the said Queen; § *An Act for preventing, suppressing, and punishing the Conspiracy and Insurrection of Negroes, and other Slaves*, passed in the eleventh Year of her said late Majesty; and an Act, entitled, † *An Act for explaining and rendering more effectual, an Act of the General Assembly of this Colony, entitled, An Act for preventing, suppressing, and punishing the Conspiracy and Insurrection of Negroes and other Slaves*, passed in the * *third Year of King GEORGE the First*.

Acts repealed;

C H A P. DLXI.

An ACT to defray the Charge of victualling his Majesty's Troops posted at Oswego, and for other the Purposes therein mentioned.

Obsolete.

Pass'd the 29th of October, 1730.

C H A P. DLXII.

An ACT for paying Richard Bradley, Esq; One Hundred and Fifty Pounds; and Henry Beckman, Esq; the Sum of Seventeen Pounds Ten Shillings, for the Consideration, and in the Manner therein mentioned.

Private;

Pass'd the 29th of October, 1730:

C H A P.

|| Chap. 123. ‡ Chap. 181. § Chap. 250. † Chap. 341. * *The Act pass'd 4th GEORGE I.*

ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE THIRTIETH DAY OF MAY, A. D. 1750.

CHAPTER 1.

AN ACT FOR IMPOWERING THE PROVINCE TREASURER TO BORROW
THE SUM OF FIVE THOUSAND POUNDS, FOR APPLYING THE SAME TO
DISCHARGE THE DEBTS OF THE PROVINCE AND DEFREY THE
CHARGES OF GOVERNMENT, AND FOR MAKING PROVISION FOR THE
REPAYMENT OF THE SUM SO BORROWED.

*Be it enacted by the Lieutenant-Governour, Council and House of Rep-
resentatives,*

[SECT. 1.] That the treasurer of this province be and hereby is
impowered to borrow from such person or persons as shall appear ready
to lend the same, a sum not exceeding five thousand pounds in Spanish
mill'd dollars; and the sum so borrowed shall be a stock in the treas-
ury, to be applyed for defreying the charges of this government in
manner as in this act is after directed, and for every sum so borrowed,
the treasurer shall give a receipt of the form following; viz.,—

Treasurer em-
powered to bor-
row £5,000 for
the province.

Province of the Massachusetts Bay, day of 17 , received
from the sum of pounds, for the use and service of
the Province of the Massachusetts Bay; and in behalf of said Province, I do
hereby promise and oblige myself and my successors in the office of treasurer,
to repay the said , his heirs or assigns, on or before the tenth
day of June, one thousand seven hundred and fifty-two, the aforesaid sum of
pounds, with interest for the same, at and after the rate of six
per cent per annum. Witness my hand, , Treasurer.

Form of his re-
ceipt for said
money.

—and no receipt shall be given for any sum less than fifty pounds; and
the treasurer is hereby directed to use his discretion in borrowing said
sum at such times as that he may be enabled to comply with the draughts
that may be made on the treasury in pursuance of this act.

And be it further enacted,

[SECT. 2.] That the aforesaid sum of five thousand pounds shall be
issued out of the treasury in manner and for the purposes following;
viz., the sum of seventeen hundred and fifty pounds, part of the afore-
said sum of five thousand pounds, shall be applyed for the service of the
several forts and garrisons within this province, pursuant to such orders
and grants as are or shall be made by this court for those purposes;
and the further sum of one thousand pounds, part of the aforesaid sum of
five thousand pounds, shall be applyed for the purchasing provisions
and the commissary's necessary disbursements for the service of the
several forts and garrisons within this province, pursuant to such grants

£1,750 appro-
priated for forts
and garrisons.

£1,000 for com-
missary's stores.

And whereas there are sometimes contingent and unforeseen charges that demand prompt payment,—

Be it further enacted,

£100 for contingent charges.

[SECT. 16.] That the sum of one hundred pounds, being the remaining part of the aforesaid sum of seven thousand eight hundred and sixty pounds, be applied to pay such contingent charges, and for no other purpose whatsoever.

Provided always,—

Remainder to be and remain as a stock in the treasury.

[SECT. 17.] That the remainder of the sum which shall be brought into the treasury by the tax aforesaid, over and above what shall be sufficient to pay off the benefit tickets as aforesaid, shall be and remain as a stock in the treasury, to be applied as the general court of this province shall hereafter order, and to no other purpose whatsoever; any thing in this act to the contrary notwithstanding.

And be it further enacted,

Money to be paid out of the proper appropriations.

[SECT. 18.] That the treasurer is hereby directed and ordered to pay the sum of eight thousand and ten pounds, as aforesaid, out of such appropriations as shall be directed to by warrant, and no other, upon pain of refunding all such sum or sums as he shall otherwise pay; and the secretary to whom it belongs to keep the muster-rolls and accompts of charge, shall lay before the house of representatives, when they direct, such muster-rolls and accompts after payment thereof.

And be it further enacted,

Directors' allowance to be made by the general court.

[SECT. 19.] That the directors or managers by this act appointed, shall have such allowances for their services as the general court shall hereafter order, and in case of the death, refusal or incapacity of attendance of any one or more of said managers, the vacancy shall be fill'd up by the governour and council. [*Passed February 8; published February 16, 1750-51.*]

CHAPTER 16.

AN ACT FOR GRANTING THE SUM OF THREE HUNDRED POUNDS, FOR THE SUPPORT OF HIS HONOUR THE LIEUTENANT-GOVERNOUR AND COMMANDER-IN-CHIEF.

Be it enacted by the Lieutenant-Governour, Council and House of Representatives,

Governor's grant.

That the sum of three hundred pounds be and hereby is granted unto his most excellent majesty, to be paid out of the publick treasury to his honour Spencer Phips, Esq^[1], lieutenant-governour and commander-in-chief in and over his majesty's province of the Massachusetts Bay, for his past services, and further to enable him to manage the publick affairs of the province. [*Passed February 15; * published February 16, 1750-51.*]

CHAPTER 17.

AN ACT FOR PREVENTING AND SUPPRESSING OF RIOTS, ROUTS AND UNLAWFUL ASSEMBLIES.

Preamble.

WHEREAS the provision already made by law has been found insufficient to prevent routs, riots and tumultuous assemblies, and the evil consequences thereof; wherefore,—

* See the note to this chapter, *post*.

Be it enacted by the Lieutenant-Governour, Council and House of Representatives,

[SECT. 1.] That from and after the publication of this act, if any persons, to the number of twelve or more, being arm'd with clubs or other weapons, or if any number of persons, consisting of fifty or upwards, whether armed or not, shall be unlawfully, riotously or tumultuously assembled, any justice of the peace, field officer or captain of the militia, sheriff of the county or undersheriff, or any constable of the town, shall, among the rioters, or as near to them as he can safely come, command silence while proclamation is making, and shall openly make proclamation in these or the like words:—

Officers to make proclamation when persons are riotously assembled.

Our sovereign lord the king chargeth and commandeth all persons being assembled, immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business; upon the pains contained in the act of this province made in the twenty-fourth year of his majesty King George the Second, for preventing and suppressing of riots, routs and unlawful assemblies. God save the king.

Form of the proclamation.

And if such persons so unlawfully assembled, shall, after proclamation made, not disperse themselves within one hour, it shall be lawful for every such officer or officers, and for such other persons as he or they shall command to be assisting, to seize such persons, and carry them before a justice of the peace; and if such person shall be killed or hurt by reason of their resisting the persons so dispersing or seizing them, the said officer or officers and their assistants shall be indemnified and held guiltless.

[SECT. 2.] And all persons who, for the space of one hour after proclamation made as aforesaid,—or to whom proclamation ought to have been made, if the same had not been hindred,—shall unlawfully, routously, riotously and tumultuously continue together, or shall wilfully let or hinder any such officer, who shall be known, or shall openly declare himself to be such, from making the said proclamation, shall forfeit all their lands and tenements, goods and chattles, to his majesty (or such a part thereof as shall be adjudged by the justices before whom such offence shall be tried), to be applied towards the support of the government of this province; and shall be whipt thirty-nine stripes on the naked back at the publick whipping-post, and suffer one year's imprisonment, and once every three months during said imprisonment receive the same number of stripes on the naked back at the publick whipping-post as aforesaid.

Penalty for disobedience.

[SECT. 3.] And if any such person or persons, so riotously assembled, shall demolish or pull down, or begin to demolish or pull down, any dwelling-house or other house parcel thereof, any house built for publick uses, any barn, mill, malt-house, store-house, shop or ship, he or they shall suffer the same pains and penalties as are before provided in this act.

And be it further enacted,

[SECT. 4.] That this act shall be read at every general sessions of the peace, and at the anniversary meeting of each town, within this province, annually; and no person shall be prosecuted for any offence contrary to this act, unless prosecution be commenced within twelve months after the offence committed.

This act to be read at the anniversary meeting of the towns and general sessions of the peace.

Provided always,—

[SECT. 5.] That where there shall appear any circumstances to mitigate or alleviate any of the offences against this act, in the judgment of the court before which such offence shall be tried, it shall and may be lawful for the judges of such court to abate the whole of the pun-

Judges empowered to abate the punishment of whipping, in case. *

Continuance of
the act.

ishment of whipping, or such part thereof as they shall judge proper; anything in this act to the contrary notwithstanding.

[SECT. 6.] This act to continue and be in force for the space of three years from the publication thereof, and no longer. [*Passed and published February 14, 1750–51.*]

CHAPTER 18.

AN ACT IN ADDITION TO AN ACT, INTITLED “AN ACT TO PREVENT DAMAGE BEING DONE ON THE BEACH, HUMOCKS AND MEADOWS BELONGING TO THE TOWN OF SCITUATE, LYING BETWEEN THE SOUTHERLY END OF THE ‘THIRD CLIFT,’ SO CALLED, AND THE MOUTH OF THE NORTH RIVER.”

Preamble.

1749–50, chap. 14.

WHEREAS in and by an act made and passed in the twenty-third year of his present majesty’s reign, intituled “An Act to prevent damage being done on the beach, humocks and meadows belonging to the town of Scituate, lying between the southerly end of the ‘Third Clift,’ so called, and the mouth of the North River,” the penalt[y][ie]s for turning or driving neat cattle, horse-kind, sheep or goats upon such beach, humocks or sedge-ground adjo[y][i]ning to said beach, to feed thereon, are to be recovered from him or them that shall so drive said cattle, horse-kind, sheep or goats, or from the owner or owners of them that shall so order them to be driven; and it is found, by experience, that proof thereof can seldom be obtained, whereby the good end and design of said act in a great measure is defeated,—

Be it therefore enacted by the Lieutenant-Governour, Council and House of Representatives,

Neat cattle and
other creatures
to be impound-
ed if found feed-
ing on the
meadows, &c.

[SECT. 1.] That if any neat cattle, horse-kind, sheep or goats shall be found feeding on said beach, humocks, meadows or sedge-ground adjoining to said beach, it shall and may be lawful for any person to impound the same, such person to observe the rules and directions in the said act prescribed in case of impounding; and the owner or owners of them shall forfeit and pay to the impounder one shilling a head for all neat cattle and horse-kind, and twopence for every sheep or goat; and the said penalt[y][ie]s or forfeitures shall be paid, before the creatures, which shall or may be impounded by virtue of this act, be discharged or released by the pound-keeper.

Provided, nevertheless,—

Rates to be paid
for such im-
pounded creat-
ures.

[SECT. 2.] The owner or owners of the creatures so impounded may, if they think fit, replevie such creatures, on condition they give sufficient bond, with one or more suret[y][ie]s, to prosecute such replevin to effect before some justice of the peace in the same county, within fifteen days from the date of such replevin, and to pay all such forfeitures and costs as shall be awarded or adjudged against them. [*Passed February 8; published February 16, 1750–51.*]

CHAPTER 19.

AN ACT FOR GRANTING UNTO BENJAMIN CRABB THE SOLE PRIVILEGE OF MAKING CANDLES OF COARSE SPERMACEI OYL.

Preamble.

WHEREAS Benjamin Crabb, of Rehoboth, in the county of Bristol, has represented to this court that he, and no other person in the prov-



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WILLIAM FRANKLIN, Esquire, GOVERNOR. 343

At a GENERAL ASSEMBLY held at
Burlington from the Twentieth Day of November to the
Twenty-first Day of December 1771, in the Twelfth Year
of the Reign of King George the Third, the following
Laws were passed.

SESSION THE FOURTH.

C H A P. DXXXIX.

*An ACT to continue and amend an Act, entitled, An Act
for better settling and regulating the Militia of this Colo-
ny of New-Jersey; for the repelling Invasions, and suppress-
ing Insurrections and Rebellions.**

Passed Dec. 21, 1771.

WHEREAS the Act passed in the Nineteenth Year of the Reign Preamble.
of our late Sovereign Lord King George the Second, entitled,
*An Act for better settling and regulating the Militia of this Colony of
New-Jersey; for the repelling Invasions, and suppressing Insurrections and
Rebellions*, will expire at the End of this Session of Assembly;

Sect. 1. BE IT ENACTED by the Governor, Council and General Assem- Limitation
bly, and it is hereby Enacted by the Authority of the same, That the said
Act, entitled, An Act for better settling and regulating the Militia of
this Colony of New-Jersey; for the repelling Invasions, and suppressing In-
surrections and Rebellions, shall be, and hereby is continued, and every*
Article and Clause therein contained shall be and remain in full Force,
from the Publication hereof, to the first Day of May which will be in
the Year of our Lord One Thousand Seven Hundred and Seventy-seven,
and from thence to the End of the next Session of the General Assembly
of this Colony, and no longer.

2. AND WHEREAS it has been a Custom of late, in some of
the Counties of this Colony, to choose the Militia Officers Constables;
for preventing the same for the Future, BE IT ENACTED *by the Autho- Commission-*
ity aforesaid, That, during the Continuance of this Act, it shall not be
lawful for any Court of General Quarter-Sessions of the Peace, or for
any of the Inhabitants of this Colony, at their annual Town-meetings,
to appoint or choose any commissioned Officer, while in Commission,
to be a Constable; any Law, Usage or Custom to the contrary not-
withstanding. ed Officers
not to be cho-
sen Constables.

C H A P. DXL.

*An ACT for the Preservation of Deer and other Game, and
to prevent trespassing with Guns.*

Passed Dec. 21, 1771.

WHEREAS the Laws heretofore passed in this Colony for the Preamble.
Preservation of Deer and other Game, and to prevent trespass-
ing

* Chap. CC.

ing with Guns, Traps and Dogs, have, by Experience, been found insufficient to answer the salutary Purposes thereby intended ; Therefore,

No Person to carry a Gun on Lands not his own, except, &c.

Secl. 1. BE IT ENACTED by the Governor, Council and General Assembly of this Colony of New-Jersey, and it is hereby Enacted by the Authority of the same, That if any Person or Persons shall presume, at any Time after the Publication hereof, to carry any Gun on any Lands not his own, and for which the Owner pays Taxes, or is in his lawful Possession, unless he hath License or Permission in Writing from the Owner or Owners or legal Possessor, every such Person so offending, and convicted thereof, either upon the View of any Justice of the Peace within this Colony, or by the Oath or Affirmation of one or more Witnesses, before any Justice of the Peace of either of the Counties, Cities or Towns-corporate of this Colony, in which the Offender or Offenders may be taken or reside, he, she or they, shall, for every such Offence, forfeit and pay to the Owner of the Soil, or his Tenant in Possession, the Sum of *Forty Shillings*, with Costs of Suit ; which Forfeiture shall and may be sued for and recovered by the Owner of the Soil, or Tenant in Possession, before any Justice of the Peace in this Colony, for the Use of such Owner or Tenant in Possession.

Penalty.

No Person to drive Deer or other Game, except, &c.

2. AND BE IT ENACTED by the Authority aforesaid, That if any Person shall presume, at any Time after the Publication of this Act, to hunt or watch for Deer with a Gun, or set in any Dog or Dogs to drive Deer, or any other Game, on any Lands not his own, and for which the Owner or Possessor pays Taxes, or is in his lawful Possession, unless he hath License or Permission in Writing from such Owner or Owners or legal Possessor ; every such Person so offending, and being convicted thereof in Manner aforesaid, shall, for every such Offence, forfeit and pay to the Owner of the Soil, or Tenant in Possession, the Sum of *Forty Shillings*, with Costs of Suit ; provided, that nothing herein contained shall be construed to extend to prevent any Person carrying a Gun upon the King's Highway in this Colony.

Penalty.

Penalty on Non-Residents.

3. AND BE IT FURTHER ENACTED by the Authority aforesaid, That if the Person or Persons offending against this Act be Non-Residents of this Colony, he or they shall forfeit and pay for every such Offence *Five Pounds*, and shall forfeit his or their Gun or Guns to any Person or Persons who shall inform and prosecute the same to Effect, before any Justice of the Peace in any County of this Colony, wherein the Offender or Offenders may be taken or apprehended.

Penalty for killing, &c. Deer out of Season.

4. AND BE IT ENACTED by the Authority aforesaid, That if any Person or Persons shall kill, destroy, hunt or take any Doe, Buck, Fawn, or any Sort of Deer whatsoever, at any other Time or Season, except only between the first Day of *September* and the first Day of *January* yearly and every Year, he, she or they so offending, shall forfeit and pay the Sum of *Forty Shillings* for each and every Offence ; to be sued for, recovered and applied as hereafter is directed.

What shall be Evidence of such Killing, &c.

5. AND, for the better and more effectual convicting of Offenders against this Act, BE IT ENACTED by the Authority aforesaid, That any and every Person or Persons in whose Custody shall be found, or who shall

WILLIAM FRANKLIN, Esquire, GOVERNOR.

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shall expose to Sale, any green Deerkins, or fresh Venison killed at any Time after the first Day of *January*, and before the first Day of *September* aforesaid, and shall be thereof convicted by the Oath or Affirmation of one or more credible Witneses, shall be deemed guilty of offending against this Act, and be subjected to the Penalties of killing Deer out of Season.

6. AND WHEREAS great Numbers of idle and disorderly Persons make a Practice of hunting on the waste and unimproved Lands in this Colony, whereby their Families are neglected, and the Publick is prejudiced by the Loss of their Labour, BE IT THEREFORE ENACTED by the Authority aforesaid, That, from and after the first Day of *January* next, no Person or Persons whatsoever (except such Persons as are by the Laws of this Colony qualified to vote for Representatives in General Assembly, in Right of their Freeholds, and their Sons being of the Age of eighteen Years or upwards, and living with their Parent or Parents, or being Freeholders) shall, on any Pretence whatever, hunt on the waste and unimproved Lands in this Colony; and if any Person or Persons, not qualified as aforesaid, shall presume to hunt as aforesaid, he or they so offending shall forfeit and pay, for every such Offence; the Sum of *Twenty Shillings*; to be recovered by Action of Debt, with Costs, by any Person who shall sue for the same; to be applied one Half to the Prosecutor, and the other Half to the Use of the Poor of the Township or Precinct where the Fact was committed.

Who may
hunt on un-
improved
Lands.

Penalty on
Offenders.

7. AND BE IT ENACTED by the Authority aforesaid, That if any Person or Persons within this Colony shall set any Trap or other Device whatsoever, larger than what is usually and commonly set for Foxes and Muskrats, such Person, setting such Trap or other Device, shall pay the Sum of *Five Pounds*, and forfeit the Trap or other Device, shall suffer three Months Imprisonment, and shall also be liable to make good all Damages any Person shall sustain by setting such Trap or other Device, and the Owner of such Trap or other Device, or Person to whom it was lent, shall be esteemed the Setter thereof, unless it shall be proved, on Oath or Affirmation, what other Person set the same, or that such Trap or other Device was lost by said Owner or Person to whom it was lent, and absolutely out of his Power; and if the Setter of the Trap or other Device be a Slave, and it be his own voluntary Act, he shall (unless the Master or Mistress shall pay the Fine) in Lieu of such Fine, be publickly whipped with thirty Lashes, and committed till the Costs are paid; and that the said Trap or other Device shall be broken and destroyed in the View and Presence of the Justice of the Peace before whom they are brought: And if any Person or Persons shall have Possession of, or there shall be found in his or their House, any Trap or Traps, Device or Devices whatsoever, for taking of Deer, such Person or Persons shall be subjected to the same Penalty as if he or they were convicted of setting such Trap or Traps, or other Device.

Penalty on
setting Traps,
&c.

Penalty on a
Slave setting
such Trap,
&c.

Penalty on
keeping such
Trap, &c.

8. AND, for encouraging the Destruction of such Traps and Devices, BE IT ENACTED by the Authority aforesaid, That if any Person shall seize any Trap or other Device for the taking Deer, and shall carry such Trap or other Device to any Magistrate of the County where such Trap or Device was seized, such Person shall be entitled to

Reward for
seizing a
Trap, &c.

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an Order from the said Magistrate to the Collector of such County, to pay him the Sum of *Ten Shillings*, out of any Money in his Hands raised for the Use of the County; which Sums shall be allowed to such Collector on the Settlement of his Accounts.

Penalty on a Smith making or mending such Trap, &c.

Penalty on bringing such Trap, &c. into the Colony.

9. AND BE IT FURTHER ENACTED *by the Authority aforesaid*, That every Smith or other Artificer, who shall hereafter make or mend any such Trap or other Device aforesaid, he shall forfeit and pay the Sum of *Forty Shillings*; and the Person carrying such Trap or other Device to the Artificer aforesaid, shall forfeit and pay the Sum of *Twenty Shillings*. And every Person who shall bring into this Colony any such Trap or Device as aforesaid shall forfeit and pay the Sum of *Forty Shillings*. And if the Person who shall carry the same to the Smith or Artificer shall be so poor as that he shall not be able to pay the Forfeiture aforesaid, he shall be committed to the common Gaol, until he shall prove who is Owner of such Trap or Device, or who delivered the same to him; and in such Case the Forfeiture aforesaid shall be levied on the Goods, or in Failure of Goods, on the Body of the Owner of such Trap or Device, or the Person who delivered the same to the Pauper, and the Trap or Device shall be forfeited and destroyed.

Penalty for setting loaded Guns.

10. AND WHEREAS a most dangerous Method of setting Guns has too much prevailed in this Province, BE IT ENACTED *by the Authority aforesaid*, That if any Person or Persons within this Colony shall presume to set any loaded Gun in such Manner as that the same shall be intended to go off or discharge itself, or be discharged by any String, Rope, or other Contrivance, such Person or Persons shall forfeit and pay the Sum of *Six Pounds*; and on Non-payment thereof shall be committed to the common Gaol of the County for six Months.

Application of Penalties.

Jurisdiction given to one Magistrate.

11. AND BE IT FURTHER ENACTED *by the Authority aforesaid*, That the Fines and Forfeitures in this Act expressed, and not particularly appropriated, shall be paid, one Half to the Prosecutor, and the other Half to and for the Use of the Poor of the Town, Precinct or District, where the Offence is committed; and that the Execution of this Act, and every Part thereof, shall be within the Cognizance and Jurisdiction of any one Magistrate or Justice of the Peace, without any Reference to the Act for Trial of small Causes in this Colony.

This Act not to affect Parks.

12. AND BE IT ENACTED, That nothing in this Law shall be construed to extend to restrain the Owners of Parks, or of tame Deer, from killing, hunting or driving their own Deer.

Penalty on Magistrate neglecting his Duty.

13. AND BE IT ALSO ENACTED *by the Authority aforesaid*, That if any Justice of the Peace or other Magistrate, within this Province, shall have Information of any Persons offending against this Act, in killing Deer out of Season, setting and making Traps, Non-Residents killing Deer, and Persons setting of Guns, and shall not prosecute the same to Effect within two Months after such Information, he shall forfeit and pay the Sum or Sums to which the Offender against this Act would have been liable.

14. AND

14. AND BE IT ENACTED *by the Authority aforesaid*, That the Justices at every Quarter-Sessions of the Peace shall cause this Act to be publickly read; and give in Charge to the Grand-Jury to particularly inquire and present all Persons for killing Deer out of Season, setting or making Traps, and all Non-Residents killing, destroying, hunting and taking any Sort of Deer, and all Persons setting of Guns; and, upon Conviction for either of the said Offences, the said Justices shall set and impose the Fines and Penalties herein before-mentioned, with Costs of Suit.

This Act to be published and executed.

15. AND BE IT ENACTED *by the Authority aforesaid*, That if any Person or Persons whatsoever, whether the Accused or Accuser, Plaintiff or Defendant, shall think themselves aggrieved by any of the Judgments given by the said Justices or other Magistrates, for any Suit commenced by Virtue of this Act; then it shall and may be lawful for such Person or Persons to appeal, on giving sufficient Security for the Forfeitures and Costs, to the next Court of General Quarter-Sessions, held for such County where such Judgment shall be given; which Court is hereby empowered to hear and determine all and every such Appeal or Appeals.

Appeal given to next Sessions.

16. AND BE IT ENACTED *by the Authority aforesaid*, That if any Person or Persons, within this Colony, shall, after the Publication of this Act, watch with a Gun, on any uninclosed Land within two Hundred Yards of any Road or Path, in the Night Time, whether the said Road is laid out by Law or not, or shall stand or station him or themselves upon or within two Hundred Yards of any Road as aforesaid, for shooting at Deer driven by Dogs, he or they so offending, shall, on Conviction, forfeit and pay the Sum of *Five Pounds* for every such Offence; to be recovered by Action of Debt, or Presentment of the Grand-Jury as aforesaid, and pay all Damages.

Penalty for watching in the Night near a Road.

17. PROVIDED ALWAYS, That the sixth Section of this Act shall not be construed to affect any Native *Indian*; and that nothing in this Act shall be construed to prevent the Inhabitants of *Essex, Bergen, Morris* and *Suffex*, from making, having in their Houses, or setting Traps of five Pounds Weight or more for Bears, Wolves, Foxes, or any other wild Beasts, Deer only excepted.

Not to affect Indians, nor Essex, Bergen, Morris or Suffex.

18. AND BE IT FURTHER ENACTED *by the Authority aforesaid*, That all former Laws made in this Colony for the Preservation of Deer and other Game, and to prevent trespassing with Guns, and regulating the Size of Traps, shall be, and they are hereby repealed.

Repeal of Former Laws.

C H A P. DXLI.

An ACT declaring the River Delaware a common Highway, and for improving the Navigation in the said River.

Passed Dec. 21, 1771.

WHEREAS the improving the Navigation in Rivers is of great Importance to Trade and Commerce; AND WHEREAS the River *Delaware*

Preamble.

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Blackstone's Commentaries on the Laws of England Book the First - Chapter the First : Of the Absolute Rights of Individuals

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COMMENTARIES

ON THE

LAWS OF ENGLAND.

BOOK THE FIRST.

OF THE RIGHTS OF PERSONS.

CHAPTER THE FIRST.

OF THE ABSOLUTE RIGHTS OF INDIVIDUALS.

THE objects of the laws of England are fo very numerous and extenfive, that, in order to confider them with any tolerable eafe and perfpicuity, it will be neceffary to diftribute them methodically, under proper and diftinct heads ; avoiding as much as poffible divifions too large and comprehemive on the one hand, and too trifling and minute on the other ; both of which are equally productive of confufion.

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NOW, as municipal law is a rule of civil conduct, commanding what is right, and prohibiting what is wrong ; or, as Cicero ^d, and after him our Bracton ^b, has expreffed it, *fancio iufta, iubens honefta et prohibens contraria* ; it follows, that the primary and principal objects of the law are RIGHTS, and WRONGS. In the profecution therefore of thefe commentaries, I fhall follow this very fimple and obvious divifion ; and fhall in the firft place confider the rights that are commanded, and fecondly the wrongs that are forbidden by the laws of England.

RIGHTS are however liable to another fubdivifion ; being either, firft, thofe which concern, and are annexed to the perfons of men, and are then called *jura perfonarum* or the rights of perfons ; or they are, fecondly, fuch as a man may acquire over external objects, or things unconnected with his perfon, which are tiled *jura rerum* or the rights of things. Wrongs alfo are dividible into, firft, private wrongs, which, being an infringement merely of particular rights, concern individuals only, and are called civil injuries ; and fecondly, public wrongs, which, being a breach of general and public rights, affect the whole community, and are called crimes and mifdemefnors.

THE objects of the laws of England falling into this fourfold divifion, the prefent commentaries will therefore confift of the four following parts : 1. The rights of perfons ; with the means whereby fuch rights may be either acquired or loft. 2. The rights of things ; with the means alfo of acquiring and lofing them. 3. Private wrongs, or civil injuries ; with the means of redreffing them by law. 4. Public wrongs, or crimes and mifdemefnors ; with the means of prevention and punifhment.

WE are now, firft, to confider the rights of perfons ; with the means of acquiring and lofing them.

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11 Philipp. 12.

^b l. 1. c. 3.

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the rights of perfons that are commanded to be obferved by the municipal law are of two forts ; firft, fuch as are due from every citizen, which are ufually called civil duties ; and, fecondly, fuch as belong to him, which is the more popular acceptionation of rights or *jura*. Both may indeed be comprized in this latter divifion ; for, as all focial duties are of a relative nature, at the fame time that they are due from one man, or fet of men, they muft alfo be due to another. But I apprehend it will be more

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clear and easy, to consider many of them as duties required from, rather than as rights belonging to, particular persons. Thus, for instance, allegiance is usually, and therefore as the duty of the magistrate; and yet they are, reciprocally, the rights as well as duties of each other. Allegiance is the right of the magistrate, and protection the right of the people.

PERSONS also are divided by the law into either natural persons, or artificial. Natural persons are such as the God of nature formed us: artificial are such as created and devised by human laws for the purposes of society and government; which are called corporations or bodies politic.

THE rights of persons considered in their natural capacities are also of two sorts, absolute, and relative. Absolute, which are such as appertain and belong to particular men, merely as individuals or single persons: relative, which are incident to them as members of society, and standing in various relations to each other. The first, that is, absolute rights, will be the subject of the present chapter.

By the absolute rights of individuals we mean those which are so in their primary and strictest sense; such as would belong to their persons merely in a state of nature, and which every man is intitled to enjoy whether out of society or in it. But with regard to the absolute duties, which man is bound to perform con-

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considered as a mere individual, it is not to be expected that any human municipal laws should at all explain or enforce them. For the end and intent of such laws being only to regulate the behaviour of mankind, as they are members of society, and stand in various relations to each other, they have consequently no business or concern with any but social or relative duties. Let a man therefore be ever so abandoned in his principles, or vicious in his practice, provided he keeps his wickedness to himself, and does not offend against the rules of public decency, he is out of the reach of human laws. But if he makes his vices public, though they be such as seem principally to affect himself, (as drunkenness, or the like) they then become, by the bad example they set, of pernicious effects to society; and therefore it is then the business of human laws to correct them. Here the circumstance of publication is what alters the nature of the case. Public sobriety is a relative duty, and therefore enjoined by our laws: private sobriety is an absolute duty, which, whether it be performed or not, human tribunals can never know; and therefore they can never enforce it by any civil sanction. But, with respect to rights, the case is different. Human laws define and enforce as well those rights which belong to a man considered as an individual, as those which belong to him considered as related to others.

FOR the principal aim of society is to protect individuals in the enjoyment of those absolute rights, which were vested in them by the immutable laws of nature; but which could not be preserved in peace without that mutual assistance and intercourse, which is gained by the institution of friendly and social communities. Hence it follows, that the first and primary end of human laws is to formation of states and societies: so that to maintain and regulate these, is clearly a subsequent consideration. And therefore the principal view of human laws is, or ought always to be, to explain, protect, and enforce such rights as are

absolute,

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absolute, which in themselves are few and simple; and, then, such rights as are relative, which arising from a variety of connexions, will be far more numerous and more complicated. These will take up a greater space in any code of laws, and hence may appear to be more attended to, though in reality they are not, than the rights of the former kind. Let us therefore proceed to examine how far all laws ought, and how far the laws of England actually do, take notice of these absolute rights, and provide for their lasting security.

THE absolute rights of man, considered as a free agent, endowed with discernment to know good from evil, and with power of choosing those measures which appear to him to be most desirable, are usually summed up on one general appellation, and denominated the natural liberty of mankind. This natural liberty consists properly in a power of acting as one thinks fit, without any restraint or control, unless by the law of nature: being a right inherent in a us by birth, and one of the gifts of God to man at his creation, when he endued him with the faculty of freewill. But every man, when he enters into society, gives up a part of his natural liberty, as the price of so valuable a purchase; and, in consideration of receiving the advantages of mutual commerce, obliges himself to conform to those laws, which the community has thought proper to establish. And this species of legal obedience and conformity is infinitely more desirable, than that wild and savage liberty which is sacrificed to obtain it. For no man, that considers a moment, would wish to retain the absolute and uncontrolled power of doing whatever he pleases; the consequence of which is, that every other man would also have the same power; and then there would be no security to individuals in any of the enjoyments of life. Political therefore, or civil, liberty, which is that of a member of society, is no other than natural liberty so far restrained by human laws (and no farther) as is necessary and expedient for the general advantage of the publick^c. Hence we may collect that the law, which restrains a

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^c Facultas ejus, quod cuique facere libet, nisi quid jure prohibetur. Inft. 1. 3. 1.

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man from doing mischief to his fellow citizens, though it diminishes the natural, increases the civil liberty of mankind: but every wanton and careless restraint of the will of the subject, whether practiced by a monarch, a nobility, or a popular assembly, is a degree of tyranny. Nay, that even laws themselves, whether made with or without our consent, if they regulate and constrain our conduct in matters of mere indifference, without any good end in view, are laws destructive of liberty: whereas if any public advantage can arise from observing such precepts, the control of our private inclinations, in one or two particular points, will conduce to preserve our general freedom in others of more importance; by supporting that state, of society, which alone can secure our independence. Thus the statute of king Edward IV^d, which forbade

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the fine gentlemen of those times (under the degree of a lord) to wear pikes upon their shoes or boots of more than two inches in length, was a law that favoured of oppression ; because, however ridiculous the fashion then in use might appear, the restraining it by pecuniary penalties could serve no purpose of common utility. But the statute of king Charles II ^e, which prescribes a thing seemingly as indifferent ; viz. a dress for the dead, who are all ordered to be buried in woollen ; is a law consistent with public liberty, for it encourages the staple trade, on which in great measure depends the universal good of the nation. So that laws, when prudently framed, are by no means subversive but rather introductive of liberty ; for (as Mr Locke has well observed ^f) where there is no law, there is no freedom. But then, on the other hand, that constitution or frame of government, that system of laws, is alone calculated to maintain civil liberty, which leaves the subject entire master of his own conduct, except in those points wherein the public good requires some direction or restraint.

THE idea and practice of this political or civil liberty flourish in their highest vigour in these kingdoms, where it falls little

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^d 3 Edw. IV. c. 5.

^e 30 Car. II. ft. 1. c. 3.

^f on Gov. p. 2. § 57.

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short of perfection, and can only be lost or destroyed by the folly or demerits of its owner : the legislature, and of course the laws of England, being peculiarly adapted to the preservation of this inestimable blessing even in the meanest subject. Very different from the modern constitutions of other states, on the continent of Europe, and from the genius of the imperial law ; which in general are calculated to vest an arbitrary and despotic power of controlling the actions of the subject in the prince, or in a few grandees. And this spirit of liberty is so deeply implanted in our constitution, and rooted even in our very soil, that a slave or a negro, the moment he lands in England, falls under the protection of the laws, and with regard to all natural rights becomes eo instanti a freeman ^g.

THE absolute rights of every Englishman (which, taken in a political and extensive sense, are usually called their liberties) as they are founded on nature and reason, so they are coeval with our form of government ; though subject at times to fluctuate and change : their establishment (excellent as it is) being still human. At some times we have seen them depressed by overbearing and tyrannical princes ; at others so luxuriant as even to tend to anarchy, a worse state than tyranny itself, as any government is better than none at all. But the vigour of our free constitution has always delivered the nation from these embarrassments, and, as soon as the convulsions consequent on the struggle have been over, the balance of our rights and liberties has settled to its proper level ; and their fundamental articles have been from time to time asserted in parliament, as often as they were thought to be in danger.

FIRST, by the great charter of liberties, which was obtained, sword in hand, from king John ; and afterwards, with some alterations, confirmed in parliament by king Henry the third, his son. Which charter contained very few new grants ; but, as Sir Edward Coke ^h observes, was for the most part declaratory of the

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^s Salk. 666.

^h 2 Infl. proem.

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principal

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principal grounds of the fundamental laws of England. Afterwards by the statute called confirmatio cartarum ⁱ, whereby the great charter is directed to be allowed as the common law ; all judgments contrary to it are declared void ; copies of it are ordered to be sent to all cathedral churches, and read twice a year to the people ; and sentence of excommunication is directed to be as constantly denounced against all those that by word, deed, or counsel act contrary thereto, or in any degree infringe it. Next by a multitude of subsequent corroborating statutes, (Sir Edward Coke, I think, reckons thirty two ^k;) from the first Edward to Henry the fourth. Then, after a long interval, by the petition of right ; which was a parliamentary declaration of the liberties of the people, asserted to by king Charles the first in the beginning of his reign. Which was closely followed by the still more ample concessions made by that unhappy prince to his parliament, before the fatal rupture between them ; and by the many salutary laws, particularly the habeas corpus act, passed under Charles the second. To these succeeded the bill of rights, or declaration delivered by the lords and commons to the prince and princess of Orange 13 February 1688 ; and afterwards enacted in parliament, when they became king and queen : which declaration concludes in these remarkable words ; "and they do claim, demand, and insist upon all and singular the premises, as their "undoubted rights and liberties." And the act of parliament itself ^l recognizes "all and singular the rights and liberties asserted "and claimed in the said declaration to be the true, antient, and "indubitable rights of the people of this kingdom." Lastly, these liberties were again asserted at the commencement of the present century, in the act of settlement ^m, whereby the crown is limited to his present majesty's illustrious house, and some new provisions were added at the same fortunate era for better securing our religion, laws, and liberties ; which the statute declares to be "the birthright of the people of England," according to the antient doctrine of the common law ⁿ.

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ⁱ 25 Edw. I.

^k 2 Infl. proem.

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^l 1 W. and M. ft. 2. c. 2.

^m 12 & 13 W. III. c. 2.

ⁿ Plowd. 55.

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THUS much for the declaration of our rights and liberties. The rights themselves thus defined by these several statutes, consist in a number of private immunities ; which will appear, from what has been premised, to be indeed no other, than either that residuum of natural liberty, which is not required by the laws of society to be sacrificed to public convenience ; or else those civil privileges, which society hath engaged to provide, in lieu of the natural liberties so given up by individuals. These therefore were formerly, either by inheritance or purchase, the rights of all mankind ; but, in most other countries of the world being now more or less debased and destroyed, they at present may be said to remain, in a peculiar and emphatical manner, the rights of the people of England. And these may be reduced to three principal or primary articles ; the right of personal security, the right of personal liberty ; and the right of private property : because as there is no other known method of compulsion, or of abridging man's natural free will, but by an infringement or diminution of one or other of these important rights, the preservation of these, inviolate, may justly be said to include the preservation of our civil immunities in their largest and most extensive sense.

I. THE right of personal security consists in a person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health, and his reputation.

1. LIFE is the immediate gift of God, a right inherent by nature in every individual ; and it begins in contemplation of law as soon as an infant is able to stir in the mother's womb. For if a woman is quick with child, and by a potion, or otherwise, killeth it in her womb ; or if any one beat her, whereby the child dieth in her body, and she is delivered of a dead child ; this, though not murder, was by the antient law homicide or manslaughter ^o. But at present it is not looked upon in quite the

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^o Si aliquis mulierem praegnantem percusserit, vel ei venenum dederit, per quod fecerit abortivam ; si puerperium jam formatum fuerit, et maxime si fuerit animatum, facit homicidium. Bracton. l. 3. c. 21.

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atrocious

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atrocious a light, though it remains a very heinous misdemeanour ^p.

AN infant in ventre matris mere, or in the mother's womb, is supposed in law to be born for many purposes. It is capable of having a legacy, or a surrender of a copyhold estate made to it. It may have a guardian assigned to it ^q ; and it is enabled to have an estate limited to its use, and to take afterwards by such limitation, as if it were then actually born ^r. And in this point the civil law agrees with ours ^s.

2. A MAN'S limbs, (by which for the present we only understand those members which may be useful to him in fight, and the loss of which only amounts to mayhem by the common law) are also the gift of the wife creator ; to enable man to protect himself from external injuries in a state of nature. To these therefore he has a natural inherent right ; and they cannot be wantonly destroyed or disabled without a manifest breach of civil liberty.

BOTH the life and limbs of a man are of such high value, in the estimation of the law of England, that it pardons even homicide if committed .{FE} defendendo, or in order to preserve them. For whatever is done by a man, to save either life or member, is looked upon as done upon the highest necessity and compulsion. Therefore if a man through fear of death or mayhem is prevailed upon to execute a deed, or do any other legal act ; these, though accompanied with all other the requisite solemnities, are totally void in law, if forced upon him by a well-grounded apprehension of losing his life, or even his limbs, in case of his non-compliance ^t. And the same is also a sufficient excuse for the commission of many misdemeanours, as will appear in the fourth book.

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^p 3. Inf. 90.

^q Stat. 12 Car II c. 24.

^r Stat. 10 & 11 W. III. c. 16.

^s 2id in intelliguntur in rerum natura esse, cum de eorum commode agatur. Ff. 1. 5. 26.

^t 2 Inf. 483.

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The constraint a man is under in these circumstances is called in law *duress*, from the Latin *durities*, of which there are two sorts ; *duress* of imprisonment, where a man actually loses his liberty, to which we shall presently speak ; and *duress per minas*, where the hardship is only threatened and impending, which is that we are now discoursing of. *Duress per minas* is either for fear of loss of life, or else for fear of mayhem, or loss of limb. And this fear must be upon sufficient reason ; "non," as Bracton expresses it, "fuspicio cujuslibet vani et meticulosi hominis, sed talis qui possit "cadere in circum constantem ; talis enim debet esse metus, qui in .se "contineat vitæ periculum, aut corporis cruciatum ^u." A fear of battery, or being beaten, though never so well grounded, is no *duress* ; neither is the fear of having one's house burnt, or one's goods taken away and destroyed ; because in these cases, should the threat be performed, a man may have satisfaction by recovering equivalent damages ^w : but no suitable atonement can be made for the loss of life, or limb. And the indulgence shewn to a man under this, the principal, for of *duress*, he fear of losing his life or limbs, agrees also with that maxim of the civil law ; *ignoscitur ei qui sanguinem suum qualiter redemptum voluit* ^x.

The law not only regards life and member, and protects every man in the enjoyment of them, but also furnishes him with every thing necessary for their support. For there is no man so indigent or wretched, but he may demand a supply sufficient for all the necessities of life, from the more opulent part of the community, by means of the several statutes enacted for the relief of the poor, of which in their proper places. A humane provision ; yet, though dictated by the principles of society, discountenanced by the Roman laws. For the edicts of the emperor Constantine, commanding the public to maintain the children of those who were unable to provide for them, in order to prevent the murder and exposure of infants, an institution founded on the same principle as our

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^u I. 2. c. 5.

^w 2 inst. 483.

^z Ff. 48. 21. 1.

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founding hospitals, though comprized in the Theodosian code ^y, were rejected in Justinian's collection.

THESE rights, of life and member, can only be determined by the death of the person ; which is either a civil or natural death. The civil death commences if any man be banished the realm ^z by the process of the common law, or enters into religion ; that is, goes into a monastery, and becomes there a monk professed : in which cases he is absolutely dead in law, and his next heir shall have his estate. For, such banished man is entirely cut off from society ; and such a monk, upon his profession, renounces solemnly all secular concerns : and besides, as the popish clergy claimed an exemption from the duties of civil life, and the commands of the temporal magistrate, the genius of the English law would not suffer those persons to enjoy the benefits of society, who secluded themselves from it, and refused to submit to its regulations ^a. A monk is therefore accounted civiliter mortuus, and when he enters into religion may, like other dying men, make his testament and executors ; or, if he makes none, the ordinary may grant administration to his next of kin, as if he were actually dead intestate. And such executors and administrators shall have the same power, and may bring the same actions for debts due to the religious, and are liable to the same actions for those due from him, as if he were naturally deceased ^b. Nay, so far has this principle been carried, that when one was bound in a bond to an abbot and his successors, and afterwards made his executors and professed himself a monk of the same abbey, and in process of time was himself made abbot thereof ; here the law gave him, in the capacity of abbot, an action of debt against his own executors to recover the money due ^c. In short, a monk or religious is so effectually dead in law, that a lease made even to a third person, during the life (generally) of one who afterwards becomes a monk, determines by such his entry into religion : for

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^y I. 11. t. 27.

^z Co. Litt. 133.

^a This was also a rule in the feudal law, l. 2. t. 21. *defactum esse miles seculi, qui factus est miles Christi ; nec beneficium pertinet ad eum qui non debet gerere officium.*

^b Litt. §. 200.

^c Co. Litt. 133 b.

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which

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which reason leases, and other conveyances, for life, are usually made to have and to hold for the term of one's natural life ^d.

THIS natural life being, as was before observed, the immediate donation of the great creator, cannot legally be disposed of or destroyed by any individual, neither by the person himself nor by any other of his fellow creatures, merely upon their own authority. Yet nevertheless it may, by the divine permission, be frequently forfeited for the breach of those laws of society, which are enforced by the sanction of capital punishments ; of the nature, restrictions, expedience, and legality of which, we may hereafter more conveniently enquire in the concluding book of these commentaries. At present, I shall only observe, that whenever the constitution of a state vests in any man, or body of men, a power of destroying at pleasure, without the direction of laws, the lives or members of the subject, such constitution is in the highest degree

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tyrannical : and that whenever any laws direct such destruction for light and trivial causes, such laws are likewise tyrannical, though in an inferior degree ; because here the subject is aware of the danger he is exposed to, and may by prudent caution provide against it. The statute law of England does therefore very seldom, and the common law does never, inflict any punishment extending to life or limb, unless upon the highest necessity : and the constitution is an utter stranger to any arbitrary power of killing or maiming the subject without the express warrant of law. "Nullus liber homo, fays the great charter ^e, alii- " quo modo destruat, nisi per legale iudicium parium fuorum aut "per legem terrae." Which words, "aliquo modo destruat," according to Sir Edward Coke ^f, include a prohibition not only of killing, and maiming, but also of torturing (to which our laws are strangers) and of every oppression by colour of an illegal authority. And it is enacted by the statute 5 Edw. III. c. 9. that no man shall be forejudged of life or limb, contrary to the great charter and the law of the land : and again, by statute 28 Ed. III.

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^d 2 Rep. 48. Co. Litt. 132.

^e c. 29.

^f 2 Inst. 48.

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c. 3. that no man shall be put to death, without being brought to answer by due process of law.

3. BESIDES those limbs and members that may be necessary to man, in order to defend himself or annoy his enemy, the rest of his person or body is also entitled by the same natural right to security from the corporal insults of menaces, assaults, beating, and wounding ; though such insults amount not to destruction of life or member.

4. THE preservation of a man's health from such practices as may prejudice or annoy it, and

5. THE security of his reputation or good name from the arts of detraction and slander, are rights to which every man is intitled, by reason and natural justice ; since without these it is impossible to have the perfect enjoyment of any other advantage or right. But these three last articles (being of much less importance than those which have gone before, and those which are yet to come) it will suffice to have barely mentioned among the rights of persons ; referring the more minute discussion of their several branches, to those parts of our commentaries which treat of the infringement of these rights, under the head of personal wrongs.

II. NEXT to personal security, the law of England regards, asserts, and preserves the personal liberty of individuals. This personal liberty consists in the power of locomotion, of changing situation, or removing one's person to whatsoever place one's own inclination may direct ; without imprisonment or restraint, unless by due course of law. Concerning which we may make the same observations as upon the preceding article ; that it is a right strictly natural ; that the laws of England have never abridged it without sufficient cause ; and , that in this kingdom it cannot ever be abridged at the mere discretion of the magistrate, without the explicit permission of the laws. Here again the language of the great charter ^g is, that no freeman shall be taken or imprisoned

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^g c. 29.

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but

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but by the lawful judgment of his equals, or by the law of the land. And many subsequent old statutes ^h expressly direct, that no man shall be taken or imprisoned or detained without cause shewn, to which he may make answer according to law. By 16 Car. I. c. 10. if any person be restrained of his liberty by order or decree of any illegal court, or by command of the king's majesty in person, or by warrant of the council board, or of any of the privy council ; he shall, upon demand of his counsel, have a writ of habeas corpus, to bring his body before the court of king's bench or common pleas ; who shall determine whether the cause of his commitment be just, and thereupon do as to justice shall appertain. And by 31 Car. II. c. 2. commonly called the habeas corpus act, the methods of obtaining this writ are so plainly pointed out and enforced, that, so long as this statute remains unimpeached, no subject of England can be long detained in prison, except in those cases in which the law requires and justifies such detainer. And, lest this act should be evaded by demanding unreasonable bail, or sureties for the prisoner's appearance, it is declared by 1 W. & M. ft. 2. c. 2. that excessive bail ought not to be required.

OF great importance to the public is the preservation of this personal liberty : for if once it were left in the power of any, the highest, magistrate to imprison arbitrarily whomever he or his officers thought proper, (as in France it is daily practiced by the crown) there would soon be an end of all other rights and immunities. Some have thought, that unjust attacks, even upon life, or property, at the arbitrary will of the magistrate, are less dangerous to the commonwealth, than such as are made upon the personal liberty of the subject. To bereave a man of life, or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism, as must at once

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^h 5 Edw. III. c. 9. 25. Edw. III. ft. 5. c. 4. and 28 Edw. III. 4. 3.

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convey the alarm of tyranny throughout the whole kingdom. But confinement of the person, by secretly hurrying him to gaol, where his sufferings are unknown or forgotten ; is a lefs public, a lefs striking, and therefore a more dangerous engine of arbitrary government. And yet sometimes, when the state is in real danger, even this may be a necessary measure. But the happiness of our constitution is, that it is not left to the executive power to determine when the danger of the state is so great, as to render this measure expedient. For the parliament only, or legislative power, whenever it sees proper, can authorize the crown, by suspending the habeas corpus act for a short and limited time, to imprison suspected persons without giving any reason for so doing. As the senate of Rome was wont to have recourse to a dictator, a magistrate of absolute authority, when they judged the republic in any imminent danger. The decree of the senate, which usually preceded the nomination of this magistrate, "dedit operam confutiles, nequid reipublica detrimenti capiat," was called the senatus consultum ultimum neceffitatis. In like manner this experiment ought only to be tried in case of extreme emergency ; and in these the nation parts with it's liberty for a while, in order to preserve it for ever.

THE confinement of the person, in any wife, is an imprisonment. So that the keeping a man against his will in a private house, putting him in the stocks, arresting or forcibly detaining him in the street, is an imprisonment ⁱ. And the law so much discourages unlawful confinement, that if a man is under duress of imprisonment, which we before explained to mean a compulsion by an illegal restraint of liberty, until he feels a bond or the like ; he may allege this duress, and avoid the extorted bond. But if a man be lawfully imprisoned, and either to procure his discharge, or on any other fair account, feels a bond or a deed, this is not by duress of imprisonment, and he is not at liberty to avoid it^k. To make imprisonment lawful, it must either be, by process from the courts of judicature, or by warrant from some

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ⁱ 2. Inf. 59.

^k 2 Inf. 482.

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legal officer, having authority to commit to prison ; which warrant must be in writing, under the hand and seal of the magistrate, and expresses the causes of the commitment, in order to be examined into (if necessary) upon a habeas corpus. If there be no cause expressed, the gaoler is not bound to detain the prisoner ^l. For the law judges in this respect, faith fir Edward Coke, like Festus the Roman governor ; that it is unreasonable to fend a prisoner, and not to signify withal the crimes alleged against him.

A NATURAL and regular consequence of this personal liberty, is that every Englishman may claim a right to abide in his own country so long as he pleases ; and not to be driven from it unless by the sentence of the law. The king indeed, by his royal prerogative, may issue out his writ ne exeat regnum, and prohibit any of his subjects from going into foreign parts without licence ^m. This may be necessary for the public service, and safeguard of the commonwealth. But no power on earth, except the authority of parliament, can fend any subject of England out of the land against his will ; no not even a criminal. For exile, or transportation, is a punishment unknown to the common law ; and, wherever it is now inflicted, it is either by the choice of the criminal himself, to escape a capital punishment, or else by the express direction of some modern act of parliament. To this purpose the great charter ⁿ declares that no freeman shall be banished, unless by the judgment of his peers, or by the law of the land. And by the habeas corpus act, 31 Car. II. c. 2. (that fecund magna carta, and stable bulwark of our liberties) it is enacted, that no subject of this realm, who is an inhabitant of England, Wales, or Berwick, shall be sent prisoner into Scotland, Ireland, Jersey, Guernsey, or places beyond the seas ; (where they cannot have the benefit and protection of the common law) but that all such imprisonments shall be illegal ; that the person, who shall dare to commit another contrary to this law, shall be disabled from bearing any office, shall incur the penalty of a praemunire, and be incapable of receiving the king's pardon :

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^l 2 Inf. 52. 53.

^m F. N. B. 85.

ⁿ cap. 29.

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and

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and the party suffering shall also have his private action against the person committing, and all his aiders, advisers and abettors, and shall recover treble costs ; besides his damages, which no jury shall assess at less than five hundred pounds.

THE law in this respect so benignly and liberally construed for the benefit of the subject, that, though within the realm the king may command the attendance and service, of all his liegemen, yet he cannot fend any man out of the realm, even upon the public service : he cannot even constitute a man lord deputy or lieutenant of Ireland against his will, nor make him a foreign ambassador ^o. For this might in reality be no more than an honorable exile.

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III. THE third absolute right, inherent in every Englishman, is that of property : which consists in the free use, enjoyment, and disposal of all his acquisitions, without any control or diminution, save only by the laws of the land. The original of private property is probably founded in nature, as will be more fully explained in the second book of the ensuing commentaries : but certainly the modifications under which we at present find it, the method of conserving it in the present owner, and of translating it from man to man, are entirely derived from society ; and are some of those civil advantages, in exchange for which every individual has resigned a part of his natural liberty. The laws of England are therefore, in point of honor and justice, extremely watchful in ascertaining and protecting this right. Upon this principle the great charter has declared that no freeman shall be disseised, or divested, of his freehold, or of his liberties, or free customs, but by the judgment of his peers, or by the law of the land. And by a variety of ancient statutes ^q it is enacted, that no man's lands or goods shall be seized into the king's hands, against the great charter, and the law of the land ; and that no man shall be disinherited, nor put out of his franchises or freehold,

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^o 2 Infl. 47.

P c. 29.

^q 5 Edw. III. c. 9. 25 Edw. III. ft. 5. c. 4. 28 Edw. III. c. 3.

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unless

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unless he be duly brought to answer, and be forejudged by course of law ; and if any thing be done to the contrary, it shall be redressed, and holden for none.

SO great moreover is the regard of the law for private property, that it will not authorize the least violation of it ; no, not even for the general good of the whole community. If a new road, for instance, were to be made through the grounds of a private person, it might perhaps be extensively beneficial to the public ; but the law permits no man, or set of men, to do this without consent of the owner of the land. In vain may it be urged, that the good of the individual ought to yield to that of the community ; for it would be dangerous to allow any private man, or even any public tribunal, to be the judge of this common good, and to decide whether it be expedient or no. Besides, the public good is in nothing more essentially interested, than in the protection of every individual's private rights, as modelled by the municipal law. In this, and similar cases the legislature alone, can, and indeed frequently does, interpose, and compel the individual to acquiesce. But how does it interpose and compel ? Not by absolutely stripping the subject of his property in an arbitrary manner ; but by giving him a full indemnification and equivalent for the injury thereby sustained. The public is now considered as an individual, treating with an individual for an exchange. All that the legislature does is to oblige the owner to alienate his possessions for a reasonable price ; and even this is an exertion of power, which the legislature indulges with caution, and which nothing but the legislature can perform.

NOR is this the only instance in which the law of the land has postponed even public necessity to the sacred and inviolable rights of private property. For no subject of England can be constrained to pay any aids or taxes, even for the defence of the realm or the support of government, but such as are imposed by his own consent, or that of his representatives in parliament. By the statute 25 Edw. I. c. 5 and 6, it is provided, that the king

shall

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shall not take any aids or taxes, but by the common assent of the realm. And what that common assent is, is more fully explained by 34 Edw. I. ft. 4. cap. 1. which enacts, that no tallage or aid shall be taken without assent of the arch-bishops, bishops, earls, barons, knights, burgesses, and other freemen of the land ^r : and again by 14 Edw. III. ft. 2. c. 1. the prelates, earls, barons, and commons, citizens, burgesses, and merchants shall not be charged to make any aid, if it be not by the common assent of the great men and commons in parliament. And as this fundamental law had been shamefully evaded under many succeeding princes, by compulsive loans, and benevolences extorted without a real and voluntary consent, it was made an article in the petition of right 3 Car. I. that no man shall be compelled to yield any gift, loan, or benevolence, tax, or such like charge, without common consent by act of parliament. And, lastly, by the statute 1 W. & M. ft. 2. c. 2. it is declared, that levying money for or to the use of the crown, by pretence of prerogative, without grant of parliament ; or for longer time, or in other manner, than the same is or shall be granted, is illegal.

IN the three preceding articles we have taken a short view of the principal absolute rights which appertain to every Englishman. But in vain would these rights be declared, ascertained, and protected by the dead letter of the laws, if the constitution had provided no other method to secure their actual enjoyment. It has therefore established certain other auxiliary subordinate rights of the subject, which serve principally as barriers to protect and maintain inviolate the three great and primary rights, of personal security, personal liberty, and private property. These are,

1. THE constitution, powers, and privileges of parliament, of which I shall treat at large in the ensuing chapter.

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^r See the historical introduction to the great charter, & c. sub anno 1297 ; wherein it is shewn that this statute de tallagio non concedendo, supposed to have been made in 34 Edw. I. is in reality nothing more than a sort of translation into Latin of the confirmatio cartarum, 25 Edw. I. which was originally published in the Norman language.

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2. THE limitation of the king's prerogative, by bounds so certain and notorious, that it is impossible he should exceed them without the consent of the people. Of this also I shall treat in its proper place. The former of these keeps the legislative power in due health and vigour, so as to make it improbable that laws should be enacted destructive of general liberty : the latter is a guard upon the executive power, by refraining it from acting either beyond or in contradiction to the laws, that are framed and established by the other.

3. A THIRD subordinate right of every Englishman is that of applying to the courts of justice for redress of injuries. Since the law is in England the supreme arbiter of every man's life, liberty, and property, courts of justice must at all times be open to the subject, and the law be duly administered therein. The emphatical words of magna carta^s, spoken in the person of the king, who in judgment of law (says Sir Edward Coke¹) is ever present and repeating them in all his courts, are these ; "nulli vendemus, nulli negabimus, aut differemus rectum vel iustitiam : "and therefore every subject," continues the same learned author, "for injury done to him in bonis, in terribus, vel persona, by "any other subject, be he ecclesiastical or temporal without any "exception, may take his remedy by the course of the law, and "have justice and right for the injury done to him, freely without fault, fully without any denial, and speedily without delay." It were endless to enumerate all the affirmative acts of parliament wherein justice is directed to be done according to the law of the land : and what that law is, every subject knows ; or may know if he pleases : for it depends not upon the arbitrary will of any judge ; but is permanent, fixed, and unchangeable, unless by authority of parliament. I shall however just mention a few negative statutes, whereby abuses, perfections, or delays of justice, especially by the prerogative, are restrained. It is ordained by

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^s c. 29.

^t 2 Inst. 55.

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magna carta^u, that no freeman shall be outlawed, that is, put out of the protection and benefit of the laws, but according to the law of the land. By 2 Edw. III. c. 8. and 11 Ric. II. c. 10. it is enacted, that no commands or letters shall be sent under the great seal, or the little seal, the signet, or privy seal, in disturbance of the law ; or to disturb or delay common right : and, though such commandments should come, the judges shall not cease to do right. And by 1 W. & M. ft. 2 : c. 2. it is declared, that the pretended power of suspending, or dispensing with laws, or the execution of laws, by regal authority without consent of parliament, is illegal.

NOT only the substantial part, or judicial decisions, of the law, but also the formal part, or method of proceeding, cannot be altered but by parliament ; for if once those outworks were demolished, there would be no inlet to all manner of innovation in the body of the law itself. The king, it is true, may erect new courts of justice ; but then they must proceed according to the old established forms of the common law. For which reason it is declared in the statute 16 Car. I. c. 10. upon the dissolution of the court of chancery, that neither his majesty, nor his privy council, have any jurisdiction, power, or authority by English bill, petition, articles, libel (which were the course of proceeding in the chancery, borrowed from the civil law) or by any other arbitrary way whatsoever, to examine, or draw into question, determine or dispose of the lands or goods of any subjects of this kingdom ; but that the same ought to be tried and determined in the ordinary courts of justice, and by course of law.

4. IF there should happen any uncommon injury, or infringement of the rights beforementioned, which the ordinary course of law is too defective to reach, there still remains a fourth subordinate right appertaining to every individual, namely, the right of petitioning the king, or either house of parliament, for the

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^u c. 29.

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redress

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redress of grievances. In Russia we are told^w that the czar Peter established a law, that no subject might petition the throne, till he had first petitioned two different ministers of state. In case he obtained justice from neither, he might then present a third petition to the prince ; but upon pain of death, if found to be in the wrong. The consequence of which was, that no one dared to offer such third petition ; and grievances seldom falling under the notice of the sovereign, he had little opportunity to redress them. The restrictions, for some there are, which are laid upon petitioning in England, are of a nature extremely different ; and while they promote the spirit of peace, they are no check upon that of liberty. Care only must be taken, lest, under the pretence of petitioning, the subject be guilty of any riot or tumult ; as happened in the opening of the memorable parliament in 1640 : and, to prevent this, it is provided by the statute 13 Car. II. ft. 1. c. 5. that no petition to the king, or either house of parliament, for any alterations in church or state, shall be signed by above twenty persons, unless the matter thereof be approved by three justices of the peace or the major part of the grand jury, in the country ; and in London by the lord mayor, aldermen, and common council ; nor shall any petition be presented by more than two persons at a time. But under these regulations, it is declared by the statute 1 W. & M. ft. 2. c. 2. that the subject hath a right to petition ; and that all commitments and prosecutions for such petitioning are illegal.

5. THE fifth and last auxiliary right of the subject, that I shall at present mention, is that of having arms for their defence, suitable to their condition and degree, and such as are allowed by law. Which is also declared by the same statute 1 W. & M. ft. 2. c. 2. and is indeed a public allowance, under due restrictions, of the natural right of resistance and self-preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression.

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^w Montefq. Sp. L. 12. 26.

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IN these several articles consist the rights, or, as they are frequently termed, the liberties of Englishmen : liberties more generally talked of, than thoroughly understood ; and yet highly necessary to be perfectly known and considered by every man of rank or property, lest his ignorance of the points whereon it is founded should hurry him into faction and licentiousness on the one hand, or a pusillanimous indifference and criminal submission on the other. And we have seen that these rights consist, primarily, in the free enjoyment of personal security, of personal liberty, and of private property. So long as these remain inviolate, the subject is perfectly free ; for every species of compulsive tyranny and oppression must act in opposition to one or other of these rights, having no other object upon which it can possibly be employed. To preserve these from violation, it is necessary that the constitution of parliaments be supported in its full vigor ; and limits certainly known, be set to the royal prerogative. And, lastly, to vindicate these rights, when actually violated or attacked, the subjects of England are entitled, in the first place, to the regular administration and free course of justice in the courts of law ; next to the right of petitioning the king and parliament for redress of grievances ; and lastly to the right of having and using arms for self-preservation and defence. And all these rights and liberties it is our birthright to enjoy entire ; unless where the laws of our country have laid them under necessary restraints. Restraints in themselves so gentle and moderate, that will appear upon farther enquiry, that no man of sense or probity would wish to see them slackened. For all of us have it in our choice to do every thing that a good man would desire to do ; and are restrained from nothing, but what would be pernicious either to ourselves or our fellow citizens. So that this review of our situation may fully justify the observation of a learned French author, who indeed generally both thought and wrote in the spirit of genuine freedom^x ; and who hath not scrupled to profess, even

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^z Montefq. Sp. L. 11. 5.

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in the very bosom of his native country is the only nation in the world, where political or civil liberty is the direct end of its constitution. Recommending therefore to the student in our laws a farther and more accurate search into this extensive and important title, I shall close my remarks upon it with the expiring wish of the famous father Paul to his country,

"ESTO PERPETUA !"

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8 *Temporary L A W S of the Province*

C H A P. V.

An Act for reviving an Act

Pafs'd 29th
of GEO. 2. entitled, *An Act in addition to an Act, entitled, An Act, for establishing Courts of publick Justice within this Province, made and pass'd in the seventeenth Year of His present Majesty's Reign.*

Preamble. *W H E R E A S* the before recited act is expired, the same being temporary, and the same having been found very beneficial whilst in force, and it appearing necessary that the same should be revived:

BE IT ENACTED by his EXCELLENCY the GOVERNOR, COUNCIL, and ASSEMBLY, That the before recited act, and all and singular the paragraphs, clauses, articles, directions and powers in the said act contained, shall be, and hereby are revived, re-enacted, directed and ordered to abide and remain in full force, and accordingly to be exercised, practised and put in execution for and during the space of twenty years from the passing hereof, and no longer.

C H A P. VI.

An Act for preventing and

Pafs'd 27th
of GEO. 2. **suppressing of Riots, Routs, and unlawful Assemblies.**

Rioters upon conviction to pay 50 l. or receive thirty stripes. **§. 1.** **B**E IT ENACTED by the GOVERNOR, COUNCIL, and ASSEMBLY, and by the AUTHORITY of the same, IT IS hereby ENACTED and ORDAINED, That if three persons or more, shall assemble themselves with an intent to do any unlawful act, against the person of another, or against several persons, with force and violence, as to kill, beat, wound, or do any other personal injury, or against his, her or their estate or possession wrongfully, or to do any other unlawful act with force or violence against the peace, or to the manifest terror of the people, and being required and commanded by any magistrate, field officer, captain of the militia, sheriff, select-man or constable (in the town or parish to which such officers respectively in the exercise of their office are limited,) by proclamation to be made in the king's name, in the form herein after directed, to disperse and peaceably depart to their habitations or lawful business, shall not so disperse and depart : or being so assembled, shall do any unlawful act, with force and violence, against the person of any one or more, or against his, her or their estate or possession, or against the public peace, order or interest, in manner as aforesaid, and shall be thereof convicted by due course of law, either before the court of general sessions of the peace, or superior court of judicature

of NEW-HAMPSHIRE.

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cature, every such offender shall forfeit and pay for every such offence, not exceeding the sum of *fifty pounds*, and in default of paying the same, within twenty four hours after sentence, shall be whipt on the naked back at some publick place, not exceeding thirty stripes, according to the circumstances aggravating or extenuating the offence; and shall pay the legal costs of prosecution, and shall stand committed till sentence performed. And the form and order of the proclamation to be made as aforesaid, shall be as follows, namely, the officers aforesaid, or any of them, shall among, or as near as they, or any of them can safely, come to the said rioters and command silence to be kept while proclamation is making, and shall then with a loud voice, openly make proclamation in these or the like words; "Our sovereign Lord the King chargeth and commandeth all persons, being here assembled, immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pains contained in an act of this province, made in the twenty-seventh year of his Majesty King GEORGE the second, for preventing and suppressing of riots, routs, and unlawful assemblies.

The manner of making proclamation.

The form of the proclamation.

GOD save the KING.

And if any three or more of the persons so unlawfully and riotously assembled, shall continue together, and not disperse themselves immediately after proclamation made as aforesaid, it shall be lawful for the officers aforesaid, or any of them, (within their respective limits as aforesaid,) to command assistance, and to seize such rioters, or any of them, and immediately to carry them before some justice of the peace for this province, who shall demand and take of each of them, sufficient security for his or her appearance before, and abiding and performing the sentence of the next court of general sessions of the peace, or superior court of judicature, (according as the nature and circumstances of the case may require, on his or her offence,) and to stand committed till such security shall be given. And all persons of age and ability, are hereby required to aid and assist such officer or officers, being thereunto commanded as aforesaid, to seize and apprehend such riotor or riotors, and carry and keep him, her or them in custody, before a justice as aforesaid, and to convey him, her or them to the common goal, in default of giving security as aforesaid, on pain of forfeiting and paying the sum of *twenty pounds*, for every instance of refusing or neglecting to give such aid and assistance. And when three or more persons shall be so unlawfully and riotously assembled as aforesaid, and they or any of them, shall prevent and hinder proclamation to be made as aforesaid, and three or more of them shall continue together after such hindrance and impediment, they and every of them, shall be liable to the same pains and penalties aforesaid, upon conviction as is above directed.

If three or more shall continue after proclamation is made, they may be apprehended before a justice, &c.

Penalty on those who refuse to assist the officer in seizing riotors, &c.

Penalty for hindering proclamation to be made, and continuing together afterwards.

§. 2. AND BE IT *further* ENACTED, That if twelve persons or more, being armed with clubs, or other weapons; or if fifty persons or more, whether armed or not, shall be unlawfully, riotously, tumultuously or rouserously assembled, any of the officers aforesaid,

Penalty and punishment for high-handed riots, &c.

C

shall

shall make proclamation, in manner and form aforesaid; and if such persons, so unlawfully assembled, shall not thereupon immediately disperse themselves, according to said proclamation, each of them and every one who shall wilfully hinder any such officer (who shall be known, or shall openly declare himself to be such) from making the said proclamation, shall forfeit and pay a fine not exceeding the sum of *five hundred pounds*, at the discretion of the said superior court, (which only shall have cognizance of the offence) considering the aggravations attending the same, and shall be whipt thirty stripes on the naked back at the publick whipping-post, and suffer twelve months imprisonment, and once every three months, during said twelve months, receive the same number of stripes as aforesaid.

The superior court's power to remit or mitigate the corporal punishment.

Such rioters liable to answer all damages, &c.

Penalty on rescuers of prisoners or criminals.

What the punishment shall be in case the rescuers be made before conviction.

Officers power to command assistance.

If any rioters or rescuers shall be killed in re-

Provided nevertheless, It shall be in the power of said court, if they judge proper, upon considering all circumstances, to remit or mitigate the punishment of whipping in such cases. And in case any rioters shall, when so riotously assembled, demolish or pull down, or begin to demolish or pull down, any dwelling house, or other house, or any part thereof, any house built for public use, any barn, shop, or ship, or other vessel, or any part thereof, or wound, maim, or do any bodily hurt or injury to any person, such riotors, or those of them who shall be apprehended, shall make good all damages to the party or parties damaged or injured, upon an action of trespass prosecuted for the same, and shall also suffer the respective pains and penalties inflicted by this act, according as the fact shall come under one or the other of the cases herein provided against. And if any person or persons shall rescue any prisoner or prisoners convicted of any crime, out of his Majesty's goal, or out of the custody of any officer or officers aforesaid, or any under or deputy sheriff, such offender or offenders, shall be liable to, and suffer the pains and penalties which such prisoner or prisoners should have suffered, if he, she or they had not been so rescued. But in case such rescous shall be made before conviction of the person or persons so in prison or custody, he, she, or they committing the same, shall be liable to, and suffer all or any of the pains and penalties aforesaid, inflicted on riotors, where the number amounts to twelve, or fifty as aforesaid, at the discretion of the said superior court, (which only shall have cognizance of the offence.) having regard to the circumstances aggravating or alleviating the crime.

And any of said officers shall hereby have power to command assistance in this case, as in manner aforesaid, and the person or persons (being capable) who shall refuse to give the same, being thereto required or commanded as aforesaid, shall be liable to the same pains and penalties, as for refusing to give aid and assistance in the case aforesaid.

And in case any of the rioters in this act mentioned or described, shall be killed or hurt by reason of their resisting the person or persons endeavouring to disperse them, or attempting to seize and apprehend

of NEW-HAMPSHIRE.

II

apprehend them or any of them, the said officers and their assistants, and every of them, shall be wholly indemnified and held guiltless; as also in the case of a rescous aforesaid.

sisting the officers, such officers shall be held guiltless.

Provided nevertheless, Nothing in this act shall be construed to extend to any number of persons, at any time assembled, or assembling, for any lawful design or purpose, nor to any thing that such persons shall do, which is or shall be necessary to and for their own defence. And if any of the officers aforesaid, shall maliciously or causelessly make proclamation in manner and form aforesaid, against any persons lawfully assembled, or cause any persons to be apprehended wrongfully, under colour or pretence of their being rioters, within the meaning and intent of this act, every such officer shall forfeit and pay the sum of *one hundred pounds*, and shall be liable to an action of trespass on the case, to be prosecuted by the party or parties so maliciously and causelessly complained of, and to pay all damages thereby sustained, and double costs to be taxed with such damages.

This act not to extend to persons lawfully assembled.

Penalty on any malicious officer. &c.

All fines and forfeitures arising by this act, to be for his Majesty's use, towards the support of his government in this province.

Application of the fines.

This act to be read at the opening the courts aforesaid, at every term, and at every annual town meeting. And no prosecution shall be sustained for any offence herein prohibited, after one year from the time of committing the fact.

To be read at the opening the court, &c.

This act to continue and be in force for the term of three years and no longer.

Limitation

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C H A P. VII.

An Act to promote the Increase of Sheep.

Pass'd 30th of GEO. 2.

WHEREAS the increase of sheep would be of very great service to all his Majesty's subjects in this province; but by the neglect of many persons who keep sheep to take proper care of their rams, who suffer them to run at large with ewes at all seasons of the year (which is found by experience to be very prejudicial to the increase of sheep,) by the yeanning of lambs in an unsuitable season: By which sheep are rather destroyed than increased:

Preamble.

For preventing of which,

BE IT ENACTED by the GOVERNOR, COUNCIL, and ASSEMBLY, That from and after the publication of this act, no ram shall be suffered to go at large within this province, from the tenth day of *August*, to the fifteenth day of *November* annually, on the penalty of *twenty shillings* for each ram, and for every time any shall be found out of the owner's inclosure, between the days aforesaid to be paid by

Rams not to run at large, &c.

ACTS AND LAWS,

PASSED BY THE GENERAL COURT OF MASSACHUSETTS:
BEGUN AND HELD AT BOSTON, IN THE COUNTY OF
SUFFOLK, ON WEDNESDAY THE THIRTY-FIRST DAY OF
MAY, ANNO DOMINI, 1786.

1786. — Chapter 1.

[May Session, ch. 1.]

AN ACT FOR NATURALIZING ROBERT MORRIS AND JAMES ALEXANDER. *Chap. 1.*

Whereas Robert Morris and James Alexander, residents in Shrewsbury, in the county of Worcester, have petitioned the General Court, that they may be naturalized, and be thereby entitled to all the rights, liberties and privileges of free citizens of this Commonwealth: Preamble.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the said Robert Morris and James Alexander, upon their taking the Oaths of allegiance and abjuration, required by the Constitution of this Commonwealth, before two Justices of the Peace, shall be deemed, adjudged and taken to be free citizens of this Commonwealth, to all intents, constructions and purposes, as if they the said Robert Morris and James Alexander, had been inhabitants of the territory now the Commonwealth aforesaid, at the time of making the present form of civil government.

Robert Morris and James Alexander naturalized.

And it is further enacted, That the Justices before whom the same Oaths shall be taken, shall return a certificate thereof, into the Secretary's office; and the Secretary is hereby directed, to record the same in a book to be kept for that purpose.

Certificate to be returned.

June 5, 1786.

1786. — CHAPTER 38.

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ART. *Sixtieth*. The Field Officers of each and every Regiment, shall appoint some suitable person, belonging to such Regiment, to receive such fines as may arise within the same, for any breach of any of the foregoing articles ; and shall direct the same to be properly applied to the relief of such sick, wounded or necessitous soldiers as belong to such regiment ; and such person shall account with such Officer for all fines received, and the application thereof.

Field-officers to appoint persons to receive fines, &c.

ART. *Sixty First*. All crimes not capital, and all disorders and neglects, which Officers and Soldiers may be guilty of, to the prejudice of good order and military discipline, tho' not mentioned in the foregoing articles, are to be taken cognizance of by a general or regimental Court martial, according to the nature and degree of the offence, and be punished at their discretion.

Crimes not mentioned in these articles, may be taken cognizance of.

ART. *Sixty Second*. Whenever any Officer or soldier shall be accused of a capital crime, or of having used violence or committed any offence against the person or property of the good people of this or either of the United States, such as is punishable by the known laws of the land, the commanding officer and officers of every regiment, troop or party, to which the person or persons so accused shall belong, are hereby required, upon application duly made by or in behalf of the party or parties injured, to use his utmost endeavours to deliver over such accused person or persons to the Civil Magistrate, and likewise to be aiding and assisting to the Officers of Justice in apprehending and securing the person or persons so accused, in order to bring them to trial. And if any commanding Officer or Officers shall willfully neglect, or shall refuse upon the application aforesaid, to deliver over such accused person or persons to the Civil Magistrate, or to be aiding and assisting to the Officers of Justice in apprehending such person or persons, such officer or officers so offending, shall be cashiered. *October 24, 1786.*

Any officer or soldier, accused of a crime punishable by the known laws of the land —

To be delivered over to the civil magistrate.

1786. — Chapter 38.

[September Session, ch. 8.]

AN ACT TO PREVENT ROUTS, RIOTS, AND TUMULTUOUS ASSEMBLIES, AND EVIL CONSEQUENCES THEREOF.

Chap. 38.

Whereas the provision already made by Law, for the preventing routs, riots and tumultuous assemblies, and the evil consequences thereof, has been found insufficient :

Preamble.

Proclamation to
be made among
rioters.

Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, that from and after the publication of this Act, if any persons to the number of twelve, or more, being armed with clubs, or other weapons ; or if any number of persons, consisting of thirty or more, shall be unlawfully, routously, riotously or tumultuously assembled, any Justice of the Peace, Sheriff or Deputy Sheriff of the County, or Constable of the Town, shall among the rioters, or as near to them as he can safely come, Command Silence, while Proclamation is making; and shall openly make Proclamation, in these or the like words :

COMMONWEALTH OF *Massachusetts*.

Form.

By virtue of An Act of this Commonwealth, made and passed in the year of OUR LORD, One thousand seven hundred and eighty six, entitled, “ An ACT for suppressing routs, riots, and tumultuous assemblies, and the evil consequences thereof,” I am directed to charge and command, and I do accordingly charge and command, *all persons*, being here assembled, immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pains inflicted by the said ACT.

GOD Save the COMMONWEALTH.

If the persons
assembled do
not disperse,
— officers em-
powered, &c.

And if such persons, assembled as aforesaid, shall not disperse themselves within one hour after proclamation made, or attempted to be made, as aforesaid, it shall be lawful for every such officer to command sufficient aid, and he shall seize such persons, who shall be had before a Justice of the Peace ; and the aforesaid Justice of the Peace, Sheriff or Deputy Sheriff, is hereby further empowered, to require the aid of a sufficient number of persons in arms, if any of the persons assembled as aforesaid shall appear armed : And if any such person or persons shall be killed or wounded, by reason of his or their resisting the persons endeavouring to disperse or seize them, the said Justice, Sheriff, Deputy Sheriff, Constable and their assistants, shall be indemnified and held guiltless.

And be it further Enacted, that if any person, being commanded by such Justice, Sheriff, Deputy Sheriff or Constable, as aforesaid, shall refuse or neglect to afford the assistance required, and shall be convicted thereof upon the oath of either of the said Officers, so command-

1786. — CHAPTER 38.

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ing, or other legal evidence, he shall forfeit and pay a sum not less than *forty shillings*, nor exceeding *ten pounds*, to be recovered by indictment, or presentment, before the Supreme Judicial Court, or any Court of General Sessions of the Peace, according to the aggravation of the Offence; to be paid into the Public Treasury, for the use of the Commonwealth.

Penalty for refusing to assist the Sheriff or other officer.

And Be it further enacted, that all persons, who for the space of one hour after Proclamation made, or attempted to be made, as aforesaid, shall unlawfully, routously, riotously and tumultuously continue together, or shall willfully let, or hinder, any such Officer, who shall be known, or shall openly declare himself to be such, from making the said Proclamation, shall forfeit all their lands, tenements, goods and chattels, to this Commonwealth, or such part thereof as shall be adjudged by the Justices, before whom such Offence shall be tried, to be applied towards the support of the Government of this Commonwealth; and shall be whipt thirty nine stripes on the naked back, at the Public whipping-post, and suffer imprisonment for a term not exceeding twelve months, nor less than six months; and once every three months during the said imprisonment, receive the same number of stripes on the naked back, at the public whipping post as aforesaid. And if any such person or persons, so riotously assembled, shall demolish or pull down, or begin to demolish or pull down, any dwelling house, or other house, or parcell thereof; any house, built for public uses; any barn, mill, malt house, store house, shop or ship, he or they shall suffer the same pains and penalties, as are before provided in this Act.

Punishment for unlawfully continuing together one hour after proclamation made.

Provided always, that where there shall appear any circumstances, to mitigate or alleviate any of the offences against this Act, in the judgment of the Court, before which such offence shall be tried, it shall and may be lawful, for the Justices of such Court, to abate the whole of the punishment of whipping, or such part thereof, as they shall judge proper; any thing in this Act, to the contrary notwithstanding.

Proviso.

And be it further enacted, that this Act shall be read, at the opening of every Court of General Sessions of the Peace, by the Clerk of the said Court, and at the anniversary meeting of each town, within this Commonwealth, by the town Clerk thereof, in *March* or *April*, annually:

Times when this act shall be read.

And no person shall be prosecuted, for any offence contrary to this Act, unless prosecution be commenced within twelve months after the offence committed.

October 28, 1786.

1786. — Chapter 39.

[September Session, ch. 9.]

Chap. 39. AN ACT, PROVIDING FOR THE MORE EASY PAYMENT OF THE SPECIE TAXES, ASSESSED PREVIOUS TO THE YEAR ONE THOUSAND SEVEN HUNDRED AND EIGHTY-FOUR.

Preamble.

Whereas it appears from a statement of the Treasury, That there is a considerable sum in specie, due on the outstanding Taxes, assessed previous to the year one thousand seven hundred and eighty four: And whereas from the great scarcity of cash, it is expedient, that some more easy and convenient mode should be adopted, for the speedy completing the collections thereof, than the mode heretofore practised:

Towns, &c. that are deficient, permitted to pay the balances due, in the species of articles expressed.

Be it therefore enacted, by the Senate and House of Representatives, in General Court Assembled, and by authority of the same, That the inhabitants of the several Towns, Districts, and other places, in this Commonwealth, who are deficient in the payment of the said Taxes, be, and they are hereby permitted to pay all the balances due on the several specie Taxes which were assessed previous to the year one thousand seven hundred and eighty four, (including the balances which remained due on the Beef Taxes) either in cash, or in the several species of articles hereinafter expressed, in the manner, at the several places, and the prices hereinafter enumerated, and established at each, — to wit:

Articles received at the town of Boston.

At a Store, or other convenient place, to be appointed in the Town of Boston, the following articles, at the respective prices annexed thereto viz.

Good merchantable Beef, at twenty shillings per hundred.

Good barrelled Beef, well salted and packed, according to Law, at two pounds eight shillings per barrel.

Good merchantable Pork, at four pence per pound.

Good barrelled Pork, in barrels of two hundred and twenty pounds each, well packed and salted, at three pounds fifteen shillings per barrel.



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L A W S
OF THE
T E R R I T O R Y
OF THE
U N I T E D S T A T E S ,
NORTH-WEST OF THE RIVER OHIO;

PASSED AT THE FIRST SESSION OF THE GENERAL ASSEMBLY, BEGUN AND HELD AT
CINCINNATI, ON MONDAY, THE SIXTEENTH DAY OF SEPTEMBER, A. D. ONE
THOUSAND, SEVEN HUNDRED AND NINETY-NINE:

ALSO,

CERTAIN LAWS ENACTED BY THE GOVERNOR AND JUDGES OF THE TERRITORY, FROM
THE COMMENCEMENT OF THE GOVERNMENT TO DECEMBER, ONE THOUSAND,
SEVEN HUNDRED AND NINETY TWO;

WITH AN APPENDIX

CONTAINING RESOLUTIONS, THE ORDINANCE OF CONGRESS FOR THE GOVERNMENT OF
THE TERRITORY, THE CONSTITUTION OF THE UNITED STATES, AND THE LAW
RESPECTING FUGITIVES.

VOL I.

Published by Authority.

CINCINNATI,

FROM THE PRESS OF CARPENTER & FINDLAY,
PRINTERS TO THE TERRITORY,
MDCCC.

ACTS
PUBLISHED BY THE
GOVERNOR AND JUDGES
OF THE
TERRITORY
OF THE
UNITED STATES,
NORTH-WEST OF THE RIVER OHIO,
FROM THE COMMENCEMENT OF THE GOVERNMENT, TO DECEMBER,
ONE THOUSAND, SEVEN HUNDRED AND NINETY-TWO.

OATHS, 1788

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ACTS, &c.

CHAPTER I.

A LAW respecting Oaths of Office, published by his excellency Arthur St. Clair, esquire, governor of the Territory of the United States, north-west of the river Ohio, and by the honorable Samuel Holden Parsons, and James Mitchell Varnum, esquires, judges, at the city of Marietta, in the Territory aforesaid, upon the second day of September, in the thirteenth year of the independence of the said United States, and of our Lord one thousand, seven hundred and eighty-eight.

EVERY person appointed to any civil office in the territory, and commissioned by the governor, shall, previously to his entering upon the exercise of his office, take the following oath, viz. I, A B, being appointed to the office of do solemnly swear, that I will well and truly execute the duties of my said office, according to the best of my skill and understanding, without fraud or partiality. So help me God.

Every person appointed to civil offices to take oath,

or

Any person appointed, as aforesaid, conscientiously scrupulous of taking an oath, shall make the following affirmation, previously to entering upon the duties of his office, viz. I, A B, being appointed to the office of do solemnly, sincerely and truly declare and affirm, that I will well and truly execute the duties of my said office, according to the best of my skill and understanding, without fraud or partiality; and this I declare and affirm under the pains and penalties of perjury.

affirmation,

[6]

And that all oaths of office, or declarations and affirmations prescribed as aforesaid, shall be taken before the governor, or such person or persons as shall by him be appointed and commissioned for that purpose, and certified upon the commission of the person taking the same. And in case of the absence of the governor, the said oath, or declaration and affirmation may be taken before, and certified by either of the judges of the territory.

before the governor.

AR. ST. CLAIR,
SAML. H. PARSONS,
JAMES M. VARNUM.

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CHAPTER II.

A LAW respecting Crimes and Punishments, published by his excellency Arthur St. Clair, esquire, governor, and the honorable Samuel Holden Parsons, and James Mitchell Varnum, esquires, judges of the territory of the United States, north-west of the river Ohio, at the city of Marietta, the sixth day of September, in the thirteenth year of the independence of the United States, and of our Lord, one thousand, seven hundred and eighty-eight.

Treason.

What offences shall **I**F any person belonging to, residing in, or protected by the laws of this territory, shall levy war against the United States, or against this territory, or shall knowingly and wilfully aid or assist any enemies at war against the United States, or this territory, by joining the armies or fleets of such enemies, or by enlisting, persuading or procuring others to join said fleets or armies, or by furnishing such enemies with arms, or ammunition, or provisions, or any other articles for their aid or comfort, or by carrying on a treasonable and treacherous correspondence with them, or

[7]

be deemed treasonable. shall form, or be any way concerned in forming any combination, plot or conspiracy for betraying the United States, or this territory, into the hands or power of any foreign enemy, or shall give or attempt to give or send any intelligence to any such enemy for said purpose, the person or persons so offending shall be deemed guilty of treason, and, upon conviction thereof, shall suffer the pains of death, and shall, moreover, forfeit all his, her or their estate, real and personal, to this territory.

Murder.

Murder. If any person or persons shall, with malice aforethought, kill or slay another person, he, she, or they, so offending, shall be deemed guilty of murder, and, upon conviction thereof, shall suffer the pains of death.

Manslaughter.

Manslaughter. If any person or persons shall wilfully kill or slay another person, without malice aforethought, he, she, or they, so offending, shall be

CRIMES AND PUNISHMENTS, 1788

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deemed guilty of manslaughter, and, upon conviction thereof, shall be punished as at the common law hath heretofore been used and accustomed. *Provided nevertheless*, That if any person in the just and necessary defence of his own life, or the life of any other person, shall kill or slay another person attempting to rob or murder in the field or highway, or to break into a dwelling house, if he cannot with safety to himself, otherwise take the felon or assailant, or bring him to justice, he shall be holden guiltless.

Burglary.

If any person or persons shall, in the night season, break open and enter any dwelling house, shop, store or vessel, in which any person or persons dwell or reside, with a view and intention of stealing and purloining therefrom, he, she or they, so offending, shall be deemed guilty of burglary, and,

**Burglary,
what crimes
deemed,**

how punished;

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upon conviction thereof, shall be whipped, not exceeding thirty-nine stripes, and find sureties for good behaviour for a term not exceeding three years; and upon default of sureties, shall be committed to gaol for a term not exceeding three years, or until sentence be performed.

If the person or persons, so breaking and entering any dwelling-house, shop, store or vessel, as aforesaid, shall actually steal and purloin therefrom, he, she or they, so offending, upon conviction thereof, shall, moreover, be fined in treble the value of the articles stolen; one third of such fine to be to the territory, and the other two thirds to the party injured.

and fined.

If the person or persons so breaking and entering any dwelling-house, shop, store or vessel as aforesaid, shall commit, or attempt to commit any personal abuse, force or violence, or shall be so armed with any dangerous weapon or weapons as clearly to indicate a violent intention, he, she or they, so offending, upon conviction thereof, shall, moreover, forfeit all his, her or their estate, real and personal, to this territory, out of which, the party injured shall be recompensed as aforesaid, and the offender shall also be committed to any gaol in the territory for a term not exceeding forty years.

**Forfeiture
on persons
breaking
houses, &c.**

And if the death of any innocent person should ensue from the breaking and entering any dwelling house, shop, store or vessel, as

**What cases
deemed wilful
murder.**

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aforesaid, in any of the instances aforesaid, the person or persons so breaking and entering shall be deemed guilty of wilful murder. And all persons aiding and assisting in breaking and entering any dwelling house, shop, store or vessel as aforesaid, or in any of the crimes consequent thereupon, as before pointed out, shall be deemed principals.

What crimes
deemed
rob-

Robbery.

If any person or persons shall unlawfully and forceably take from the person of another in the

[9]

berry, and
how punished.

field or highway, any money, goods or chattels, he, she or they so offending, shall be deemed guilty of robbery, and upon conviction thereof, shall suffer as in the first instance of burglary.

Robbery,
how punished.

Whoever shall commit such robbery with personal abuse or violence, or be armed, at the time with any dangerous weapon or weapons, so as clearly to indicate an intention of violence, he, she or they, so offending, upon conviction thereof, shall moreover suffer as in the second instance of burglary. And in case any person or persons robbing or attempting to rob, as aforesaid, shall kill or slay any person or persons defending him, her or themselves, or others, or his, her or their property against such robber or robbers, or person or persons, attempting to rob, or in pursuing and endeavoring to apprehend and secure such person or persons so robbing or attempting to rob, he, she or they, so offending, shall be deemed guilty of wilful murder. And all aiders and abettors in any robbery as aforesaid, and in any of the crimes consequent thereupon, as before pointed out, shall be deemed principals.

AR. ST. CLAIR,
SAML. H. PARSONS,
JAMES M. VARNUM.

Riots and unlawful Assemblies.

Fines on
unlawful
assemblies
&c.

If three or more persons shall assemble together with intention to do any unlawful act, with force and violence, against the person or property of another, or to do any other unlawful act, against the peace and to the terror of the people; or, being lawfully assembled, shall agree with each other to do any unlawful act as aforesaid, and shall make any movement or preparation therefor, the persons so



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A
COLLECTION
OF
ALL SUCH
ACTS
OF THE
GENERAL ASSEMBLY
OF
VIRGINIA,
OF A PUBLIC AND PERMANENT NATURE, AS
ARE NOW IN FORCE;

WITH A
NEW AND COMPLETE INDEX.

TO WHICH ARE PREFIXED THE DECLARATION OF RIGHTS,
AND CONSTITUTION, OR FORM OF GOVERNMENT.

PUBLISHED PURSUANT TO AN ACT OF THE GENERAL ASSEMBLY,
PASSED ON THE TWENTY-SIXTH DAY OF JANUARY, ONE
THOUSAND EIGHT HUNDRED AND TWO.

RICHMOND,
PRINTED BY SAMUEL PLEASANTS, JUN. AND HENRY PAGE:
M,DCCC,III.

IN THE SEVENTEENTH YEAR OF THE COMMONWEALTH. 187

1702.

I, A. B. do swear, that my removal into the State of Virginia, was with no intent of evading the laws for preventing the further importation of slaves, nor have I brought with me any slaves, with an intention of selling them, nor have any of the slaves which I have brought with me, been imported from Africa, or any of the West India Islands, since the first day of November, one thousand seven hundred and seventy-eight. So help me GOD.

Nor to any persons claiming slaves by descent, marriage or devise; nor to any citizens of this Commonwealth, being now the actual owners of slaves within any of the United States and removing such hither; nor to travellers and others making a transient stay, and bringing slaves for necessary attendance, and carrying them out again. a

V. NO negro or mulatto shall be a witness, except in pleas of the Commonwealth against negroes or mulattoes, or in civil pleas, where negroes or mulattoes alone shall be parties. a †

VI. NO slave shall go from the tenements of his master or other person with whom he lives, without a pass, or some letter or token, whereby it may appear that he is proceeding by authority from his master, employer, or overseer: If he does, it shall be lawful for any person to apprehend and carry him before a Justice of the Peace, to be by his order punished with stripes, or not, in his discretion. a

VII. AND if any slave shall presume to come and be upon the plantation of any person whatsoever, without leave in writing from his or her owner, or overseer, not being sent upon lawful business, it shall be lawful for the owner or overseer of such plantation, to give or order such slave ten lashes on his or her bare back for every such offence. b

VIII. NO negro or mulatto whatsoever shall keep or carry any gun, powder, shot, club, or other weapon whatsoever, offensive or defensive, but all and every gun, weapon, and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person, and upon due proof thereof made before any Justice of the Peace of the County or Corporation where such seizure shall be, shall by his order be forfeited to the seizer for his own use; and moreover, every such offender shall have and receive by order of such Justice, any number of lashes not exceeding thirty-nine, on his or her bare back, well laid on, for every such offence. b

IX. PROVIDED nevertheless, That every free negro or mulatto, being a house-keeper, may be permitted to keep one gun, powder and shot; and all negroes and mulattoes, bond or free, living at any frontier plantation, may be permitted to keep and use guns, powder, shot, and weapons, offensive or defensive, by license from a Justice of Peace of the County wherein such plantation lies, to be obtained upon the application of free negroes or mulattoes, or of the owners of such as are slaves. b

X. EVERY person other than a negro, of whose grand-fathers or grand-mothers any one is, or shall have been a negro, although all his other progenitors, except that descending from the negro, shall have been white persons, shall be deemed a mulatto; and so every such person who shall have one fourth part or more of negro blood, shall in like manner be deemed a mulatto. c

XI. RIOTS, routs, unlawful assemblies, trespasses and seditious speeches by a slave or slaves, shall be punished with stripes, at the discretion of a Justice of the Peace, and he who will, may apprehend and carry him, her, or them, before such Justice. d

XII. AND to prevent the inconveniences arising from the meetings of slaves, Be it further enacted, That if any matter, mistress, or overseer of a family, shall knowingly permit or suffer any slave not belonging to him or her, to be and remain upon his or her plantation above four hours at any one time, without leave of the owner or overseer of such slave, he or she so permitting, shall forfeit and pay three dollars for every such offence; and every owner or overseer of a plantation, who shall so permit or suffer more than five negroes or slaves, other than his or her own, to be and remain upon his or her plantation or quarter at any one time, shall forfeit and pay one dollar for each negro or slave above that number; which said several forfeitures shall be to the informer, and recoverable with costs, before any Justice of Peace of the County or Corporation where such offence shall be committed. e

And of citizens claiming slaves by descent, devise, or marriage, or being now the owners & removing them from another State, and travellers carrying them out again.

In what cases negroes or mulattoes may or may not be witnesses. Slaves not to go from home, without passes.

Coming on the plantations of others without leave from their masters, may be whipped.

Negroes and mulattoes not to keep or carry arms.

Except those living on the frontiers licensed by the justices of the peace.

Who shall be deemed mulattoes.

Punishment of slaves for riots, unlawful assemblies, seditious speeches, &c.

No person shall permit the slaves of others to remain on his plantation.

(a) 1:83, ch. 77, sec. 2, 3. † Altered by act of Dec. sess. 1800, ch. 70; negroes or mulattoes, bond or free, are by that act made legal witnesses against each other. (b) 23, Geo. 2, ch. 31, sec. 17, 18, 19. (c) 1:83, ch. 77, sec. 2. (d) 46, ch. 77, sec. 4. (e) 22, Geo. 2, ch. 31, sec. 12.



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C H A P.
XLII.

Suffex county, under the penalty of Ten Shillings, and the wear to be destroyed by the order of any justice of the said county.

C H A P. XLIII. a.

An ACT for the trial of Negroes.

Two justices and six freeholders empowered to try all offences committed by Negroes, &c.

SECTION I. **B**E it enacted by the honorable Patrick Gordon, esq. Lieutenant Governor of the counties of New-Castle, Kent, and Suffex, upon Delaware, and province of Pennsylvania, by and with the advice and consent of the Representatives of the freemen of the said counties, in General Assembly met, and by the authority of the same, That from and after the publication of this act, it shall and may be lawful for two Justices of the Peace of this government, who shall be particularly commissioned by the Governor for that service within the respective counties thereof, and six of the most substantial freeholders of the neighbourhood, (a) to hear, examine, try and determine all such offences committed by any Negro or Mulatto slaves within this government, which said freeholders shall be by warrant, under the hands and seals of the respective justices, commissioned as aforesaid, directed to some Constable of the said county, be summoned to appear at such time and place as the said justices shall appoint, which said freeholders the said justices shall solemnly swear or attest well and truly to give their assistance and judgment together with the said justices, upon the trial of such Negroes or Mulattoes; which freeholders, or any four of them, being qualified as aforesaid, shall hold a court at the Court-House in the said respective counties where the crime is committed, for the hearing, trying, determining and convicting

(a) So much of this act as gives power to the two justices and six freeholders to try, determine and convict any slave for a crime punishable with death, is repealed by an act passed February 30, 1789, chap. 104. b, and trial there directed to be by jury in the Court of General Quarter-Sessions of the Peace for the county of the county; the expence of trial to be paid by the county, in terms of the act.

victim of such Negro or Negroes, or Mulatto slaves, as shall be before them charged or accused of committing any murder, manslaughter, buggery, burglary, robbery, rape, attempts of rape, or any other high and heinous offences, committed, acted or done in any the respective counties within this government, as aforesaid.

CHAP.
XLIII.

SECT. 2. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said court of justices and freeholders as aforesaid, to examine, try, hear, judge, determine, convict, acquit or condemn, according to their evidence, any Negro or Negroes, or Mulatto slaves, for any the crimes or offences aforesaid, or any other high or capital offences, upon due proof to them made, to pronounce such judgment or sentence as is agreeable to law, and the nature of the offence, and to order execution of the said judgment or sentence accordingly, or otherwise to acquit, free and discharge such Negro or Negroes, or Mulatto slaves, in case the evidence shall not be sufficient for a conviction therein.

Who may acquit or condemn, according to their evidence, and order execution, &c.

SECT. 3. *And be it further enacted,* That upon the conviction of any Negro or Mulatto slave, belonging to any of the inhabitants of this government, for any capital cause for which the party convicted shall suffer death, the said justices and freeholders, before whom they were convicted, shall immediately value the said slave or slaves, and in case the Negro or Mulatto slave shall be put to death, that the two-thirds of the appraised value of such slave to be executed, shall be paid to the master or owner of such slave by the County Treasurer out of the public levy, to be raised in the same manner as the county levies.

Slaves condemned to death, to be valued, and two-thirds of the value paid to the master, &c.

SECT. 4. *And be it further enacted by the authority aforesaid,* That where such Negro or Negroes, or Mulatto slaves shall be convicted, and such judgment or sentence shall be pronounced by the respective justices and freeholders as aforesaid, and a warrant by them, or any four of them, one of which to be one that sat upon the trial, signed, sealed and delivered to the High Sheriff of the county where the fact was committed, for the execution of such Negro or Mulatto, the same shall be duly executed, or caused to be
duly

Sheriff to cause the sentence to be executed.

C H A P.
XLIII.

Penalty on justices or freeholders neglecting their duty herein.

Punishment of slaves attempting to commit rapes;

or convicted of stealing, &c.

Punishment of slaves presuming to carry arms, &c.

Punishment of Negroes meeting in companies.

duly executed by the said Sheriff, according to the directions of such warrant, on pain of being disabled to act any longer in that post or office; and if any of the said justices or freeholders neglect or refuse to do their duty herein, they shall be liable to be fined by the justices at their next Court of General Quarter Sessions of the same to be held for the said county, in any sum not exceeding Five Pounds, for the use of the Governor towards the support of government, to be levied by distress and sale of the goods and chattels of such justices or freeholders so refusing as aforesaid.

SECT. 5. *And be it further enacted by the authority aforesaid,* That if any Negro or Mulatto slave within this government, shall attempt to commit a rape on a white woman or maid, they shall be tried in manner aforesaid, and shall be punished by standing four hours in the pillory at the Court-House on some court day, with both his ears nailed to the pillory, and before he be taken down from the same, shall have both his ears cut off close to his head. And if any Negro or Mulatto slave shall be convicted before two Justices of the Peace in this government, of stealing, or fraudulently taking or carrying away any goods, living or dead, the master or owner of such Negro or Mulatto slave, if such goods shall not be found, shall make satisfaction to the party wronged, and pay all costs, to be levied by distress and sale of the said master's or owner's goods and chattels, and the Negro or Mulatto, so offending, to be whipped as the said justices shall adjudge and appoint.

SECT. 6. *And be it further enacted by the authority aforesaid,* That if any Negro or Mulatto slave shall presume to carry any guns, swords, pistols, fowling-pieces, clubs, or other arms and weapons whatsoever, without his master's special licence for the same, and be convicted thereof before a Magistrate, he shall be whipt with twenty-one lashes, upon his bare back.

SECT. 7. *And be it further enacted by the authority aforesaid,* That if any Negroes, above the number of six in one company, not belonging to one owner, shall meet together, and upon no lawful business of their masters or owners, and being convicted thereof, by the

the view of one Justice of the Peace, or the testimony of one credible witness, such Negro or Negroes so offending shall be publicly whipped at the discretion of one Justice of the Peace, not exceeding twenty-one lashes, each Negro.

CHAP.
XLIII.

C H A P. XLIV, a.

An ACT against adultery and fornication. (a)

FOR the preservation of virtue and chastity among the people of this government, and to prevent the heinous sins of adultery and fornication.

SECTION 1. *BE it enacted by the honorable Patrick Gordon, esq. Lieutenant Governor of the counties of New-Castle, Kent, and Sussex, upon Delaware, and province of Pennsylvania, by and with the advice and consent of the Representatives of the freemen of the said counties, in General Assembly met, and by the authority of the same, That whosoever shall commit adultery, and be thereof legally convicted, shall forfeit and pay the sum of Fifty Pounds, one moiety thereof to the use of the Governor for the support of government, and the other moiety to the use of the poor of the county where the same is committed, or otherwise to be publicly whipt with twenty-one lashes on his or her back, well laid on, at the common whipping post, at the election of the party convicted.*

Penalty of committing adultery.

SECT. 2. *Provided always, That the testimony of either of the parties concerned in committing the adultery, shall not be sufficient to convict the other, without further evidence, that shall at least amount to violent presumption.*

SECT. 3. *And be it further enacted by the authority aforesaid, That if any person shall commit fornication, and be thereof legally convicted, such person or persons shall receive twenty-one lashes on his or her bare back, well*

Penalties on fornicators.

(a) See an act supplementary hereto passed February 9th, 1796, chap. 128, whereby many of the provisions in this act are repealed and supplied.



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[105]

see, so far as he knoweth or believeth, up to the date of such account, and moreover, his account of fees received, shall be fairly stated and compared by the auditor with the books of his office, before the account shall be paid; and if the register of the land office, shall at any time fail to account according to the directions of this act, for the space of six months, he shall forfeit and pay the sum of two thousand pounds, to be recovered by motion in the name of the governor for the time being, in any court of record, by the attorney general, on thirty days previous notice; and in all cases of motions for money due from the register, the *onus probandi* shall lie on the defendant.

How it shall be examined.

Penalty for failing to render account.

How recoverable.

§ 4. And be it further enacted, That on receiving each survey into the register's office the fees established by law that will accrue on the same, including the issuing the grant thereupon, shall be paid down; and if the register shall credit any person, he shall account for the fees so credited, in the same manner as if they had been received.

Register accountable where he credits any fees.

§ 5. Whereas in some instances, grants have issued in the names of persons who were deceased prior to the date of the grant, and cases of the same nature may happen in future. Be it enacted, that in all such cases, the land conveyed, shall descend to the heir, heirs or devisees, in the same manner as it would do, had the grant issued in the life time of such decedent.

When a grant issues to a decedent, the land shall descend &c.

§ 6. And be it further enacted, That the composition money due on settlement rights granted to certain poor persons, hereafter to be returned to the register's office, be paid in specie to the register, and by him paid into the public treasury, except where the money hath been paid into the treasury of Virginia.

Composition money to be paid in specie.

§ 7. The register of the land office, and the secretary of state, shall furnish fuel, presses, books, and other necessary implements for the use of their said offices; an account of which being presented to and approved of by the governor, shall be paid by the treasurer, on a warrant from the auditor.

Implements of office allowed to register and secretary of state.

CHAP. LIV.

An Act to reduce into one the several acts respecting SLAVES, FREE NEGROES, MULATTOES and INDIANS.

Approved February 8, 1795.

§ 1. **B**E it enacted by the General Assembly, That no persons shall henceforth be slaves, who shall within this commonwealth, except such as were so slaves.

Who shall be deemed slaves.

[106]

on the seventeenth day of October, in the year one thousand seven hundred and eighty five, and the descendants of the females of them.

In cases they may be witnesses. § 2. No negro or mulatto, shall be a witness except in pleas of the commonwealth, against negroes or mulattoes, or in civil pleas where negroes or mulattoes alone shall be parties.

Not to go from home without passes. § 3. No slave shall go from the tenements of his master or other person with whom he lives without a pass or some letter or token, whereby it may appear that he is proceeding by authority, from his master, employer or overseer; if he does it shall be lawful for any person to apprehend and carry him before a justice of the peace, to be by his order punished with stripes or not, in his discretion.

Coming on the plantation of others without leave from their masters may be whipped. § 4. And if any slave shall presume to come and be upon the plantation of any person whatsoever, without leave in writing from his or her owner, or overseer, not being sent upon lawful business, it shall be lawful for the owner or overseer of such plantation to give or order such slave, ten lashes on his or her bare back, for every such offence.

Not to keep or carry arms. § 5. No negro, mulatto, or Indian whatsoever, shall keep or carry any gun, powder, shot, club, or other weapon whatsoever, offensive or defensive, but all and every gun, weapon and ammunition found in the possession or custody of any negro, mulatto, or Indian, may be seized by any person and upon due proof thereof made before any justice of the peace of the county where such seizure shall be, shall by his order, be forfeited to the seizer for his own use, and moreover every such offender shall have and receive by order of such justice any number of lashes not exceeding thirty nine, on his or her bare back, well laid on for every such offence.

Except those living on frontiers licensed by justices of the peace. § 6. *Provided nevertheless*, That every free negro, mulatto or Indian, being a house keeper may be permitted to keep one gun, powder and shot, and all negroes, mulattoes and indians, bond or free, living at any frontier plantation, may be permitted to keep and use guns, powder, shot and weapons offensive or defensive, by license from a justice of peace of the county wherein such plantations lie, to be obtained upon the application of free negroes mulattoes, or indians, or by the owners of such as are slaves.

Riots, routs &c. § 7. Riots, routs, unlawful assemblies, trespasses and seditious speeches by a slave or slaves shall be punished with stripes at the discretion of a justice of



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Sargont's Code

[44]

Mississippi Territory

(Seal)

A Law for the regulation of Slaves

No slave shall go from the tenements of his master, or other person with whom he lives, without a pass, or some letter or token, whereby it shall fully appear that he is proceeding by authority, from his master, employer or overseer; if he does it shall be lawful for any person to apprehend, and carry him before a justice of the peace, to be by his order punished by stripes or not, in his discretion.

If any slave shall presume to come, and be upon the plantation, of any person whatsoever, without licence in writing from his or her owner or overseer, not being sent upon lawful business, it shall be lawful for the owner or overseer of such plantation, to give or order such slave, ten lashes on his or her bare back for every such offence.

No negro, or mulatto whatsoever, shall keep or carry any gun, powder, shot, club, or other weapon whatsoever, offensive or defensive, but all and every gun, weapon and ammunition found in the possession, or custody of any negro or mulatto, may be seized by any person, and upon due proof thereof made before any justice of the peace, of the county where such seizure shall be, shall by his order be forfeited to the seizer, for his own use, and moreover every such offender shall have and receive, by order of such justice, any number of lashes not exceeding thirty nine, on his or her bare back, well laid on for every such offence.

Provided nevertheless, that the commanding officers of legions, may grant in their respective counties, permission in writing to any free negro or mulatto, being a house keeper, to carry arms and ammunition, for any time, not exceeding twelve months and revocable at pleasure; and to any slave or slaves, the like privilege, on application of their owner, showing sufficient cause, in the opinion of the said commanding officer, why such indulgence should be granted. And the commanding officers of legions, shall make report to the commander in chief, within one month after the date, of all licences granted in pursuance of this law.

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New Jersey - Legislature

LAWS

OF THE

STATE OF NEW-JERSEY.

Revised and Published

UNDER THE AUTHORITY OF THE LEGISLATURE.



TRENTON:

PRINTED, FOR THE STATE, BY JOSEPH JUSTICE.

1821.

LAWS OF NEW-JERSEY.

473

the money therein directed to be made, within ninety days after receiving such warrant, he shall, for every offence, forfeit and pay one hundred dollars, to be recovered, with costs, by action of debt, by the treasurer, or the county or township collector, as the case may require, for the use of the state, and shall also be amerced by the court of common pleas of the county, to the amount of the sum in the said warrant mentioned, with interest and costs; which amercement shall have the force and effect of a judgment, whereon execution shall instantly, and without any further proceedings, be issued against the goods and chattels, lands, tenements, hereditaments and real estate of the sheriff so amerced.

1799.

he shall not execute the warrant agreeably to law.

39. *And be it enacted*, That if the sheriff shall not execute the writ of execution agreeably to this act, or shall not pay the money therein directed to be made, within ninety days after receiving such execution, he shall, for every offence, forfeit and pay one hundred dollars, to be recovered, with costs, by action of debt, by the treasurer, or the county or township collector, as the case may require, for the use of the state; and shall also be amerced by the court, out of which such execution issued, to the amount of the sum in the said execution mentioned, with interest and costs; which amercement shall have the force and effect of a judgment, whereon execution shall instantly, and without any further proceedings, be issued against the goods and chattels, lands, tenements, hereditaments and real estate of the sheriff so amerced.

Sheriff, how to be proceeded against, if he shall not execute the writ of execution agreeably to law.

40. *And be it enacted*, That every act and every clause of any act within the purview of this act, be, and they are hereby repealed; but such repeal shall not extend to or affect any assessment, tax, penalty, suit, judgment, warrant of distress, or writ of execution, made, arising, commenced, entered, or issued under any act or clause hereby repealed; but that the same shall be collected, prosecuted, enforced and proceeded upon, in the like manner as if this act had not been made.

Former acts repealed, but such repeal not to affect antecedent taxes, judgments, warrants and executions.

See the act designating taxable property, March 9, 1801.

AN ACT to describe, apprehend and punish disorderly persons.

PAT. 410.

Passed the 10th of June, 1799.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That all paupers, who shall unlawfully return to the city or township, from which they were legally removed, without a certificate from the city or township to which they belong, or who shall leave their places of legal settlement; and all persons, who shall go about from door to door, or place themselves in streets, highways or passages, to beg, crave charity, or collect alms, or who shall wander abroad and lodge in taverns, inns, beer-houses, out-houses, houses of entertainment, market-houses, barns or other

Who shall be adjudged to be disorderly persons.

1789.

places, or in the open air, and not give a good account of themselves, or who shall wander abroad, and beg or solicit charity, under pretence of being or having been soldiers, mariners, or seafaring men, or of loss by fire, or other casualty, or of loss by the Indians, or by war, or other pretence or thing; and all persons who shall leave, or threaten to leave their families to be maintained by the city, township or county, or to become chargeable thereto, or who, not having sufficient property or means for their subsistence or support, shall live idle, or not engage in some honest employment, or not provide for themselves or families; and all persons who shall use, or pretend to use, or have any skill in physiognomy, palmistry, or like crafty science, or who shall pretend to tell destinies or fortunes; and all runaway servants or slaves, and all vagrants or vagabonds, common drunkards, common night-walkers, and common prostitutes, shall be deemed and adjudged to be disorderly persons.

Further description of disorderly persons.

2. *And whereas* divers ill disposed persons are frequently apprehended, having upon them implements for house-breaking, or offensive weapons, or are found in or upon houses, warehouses, stables, barns or out-houses, areas of houses, coach-houses, smoke-houses, enclosed yards, or gardens belonging to houses, with intent to commit theft, misdemeanors or other offences; and although their evil purposes are thereby manifested, the power of the justices of the peace to demand of them sureties for their good behaviour hath not been of sufficient effect to prevent them from carrying their evil purposes into execution; *Be it further enacted*, That if any person shall be apprehended, having upon him or her any picklock, key, crow, jack, bit, or other implement, with an intent to break and enter into any dwelling-house, ware-house, stable, barn, coach-house, smoke-house or out-house; or shall have upon him or her any pistol, hanger, cutlass, bludgeon, or other offensive weapon, with intent to assault any person; or shall be found in or upon any dwelling-house, ware-house, stable, barn, coach-house, smoke-house or out-house, or in any enclosed yard or garden, or area belonging to any house, with an intent to steal any goods or chattels, then he or she shall be deemed and adjudged to be a disorderly person.

Disorderly persons may be apprehended without a warrant, and, on conviction, committed to the work-house.

3. *And be it enacted*, That it shall be the duty of every constable, and lawful for any other person, to apprehend, without warrant or process, any disorderly person of the description aforesaid, and to take him or her before any justice of the peace of the county, where apprehended; and it shall be the duty of the said justice to commit such disorderly person, when convicted before him, by the confession of the offender, or by the oath or affirmation of one or more witness or witnesses, to the work-house of the city, town or county, there to be kept at hard labor for any time not exceeding three calendar months.

Justices to issue process against disorderly persons.

4. *And be it enacted*, That it shall be the duty of every justice of the peace, of the proper county, to issue, on information, or his own view, his warrant or process to apprehend any disorderly person, within the intent and meaning of this act.



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grants, deeds, or mesne conveyances not being proved and registered within this state, it shall and may be lawful for such person or persons to prove and register his, her, or their grants, deeds or mesne conveyances.

Sec. 2. *Be it enacted*, That this act shall be in force until the end of the next stated session of the general assembly.

C H A P. XXI.

AN ACT to amend an act, entitled, "An act to ascertain the boundaries of land, and for perpetuating testimony.—PASSED NOVEMBER 6, 1801.

BE it enacted by the General Assembly of the State of Tennessee, That all the privileges, benefits, and advantages arising under or accruing to others, by virtue of an act, entitled, "An act to ascertain the boundaries of land, and for perpetuating testimony, passed at Knoxville in the year 1799, shall extend to the citizens resident south of French Broad and Holston, and between the rivers Big Pigeon and Tennessee, holding or claiming, or that may hold or claim land by right of occupancy, so far as may respect their rights to, or the conditional or boundary lines of their respective claims or rights of occupancy and pre-emption in that tract of country, any thing in the proviso to the fourth section of said recited act to the contrary notwithstanding.

C H A P. XXII.

AN ACT for the restraint of idle and disorderly persons.—PASSED NOVEMBER 13, 1801.

WHEREAS it becomes necessary for the welfare of the community, to suppress wandering, disorderly and idle persons :

Section 1. *BE it enacted by the General Assembly of the State of Tennessee*, That any person or persons who have no apparent means of subsistence, or neglect applying themselves to some honest calling for the support of themselves and families, every person so offending, who shall be found sauntering about neglecting his business, and endeavoring to maintain himself by gaming or other undue means, it shall and may be lawful for any justice of the peace of the county wherein such person may be found, on due proof made, to issue his warrant for such offending person, and cause him to be brought before said justice, who is hereby empowered, on conviction, to demand security for his good behaviour, and in case of refusal or neglect, to commit him to the goal of the county, for any term not exceeding five days, at the expiration of which time he shall be set at liberty if nothing criminal appears against him, the said offender paying all charges arising from such imprisonment; and if such person shall be guilty of the like offence from and after the space of thirty days, he, so offending, shall be deemed a vagrant, and be subject to one month's imprisonment, with all costs accruing thereon, which if he neglects or refuses to pay, he may be continued in prison until the next court of the county, who may proceed to try the said offender, and if found guilty by a verdict of a jury of good and lawful men, said court may proceed to hire the offender for any space of time not exceeding six months, to make satisfaction for all costs, but if such person or persons so offending, be of ill fame, so that he or they cannot be hired for the costs, nor give sufficient security for the same and his future good behaviour, in that case it shall and may be lawful for the said court to cause the offender to receive not exceeding thirty nine lashes, on his bare back, after which he shall be set at liberty, and the costs arising thereon shall become a county charge; which punishment may

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be inflicted as often as the person may be guilty, allowing thirty days between the punishment and the offence.

Sec. 2. *Be it enacted*. That it shall not be lawful for any person or persons of ill fame or suspicious character, to remove him or themselves from one county to another in this State, without first obtaining a certificate from some justice of the peace of said county or captain of his company, setting forth his intention in removing, whether to settle in said county, or if travelling, to set forth his business and destination, and if such traveller should be desirous to stay in any county longer than ten days, he shall first apply to some justice of said county for leave, and obtain a certificate for that purpose, setting forth the time of his permission, and if such person shall be found loitering in said county after the expiration of his permit, or fail to obtain the same agreeable to the true intent and meaning of this act, such person or persons so offending, may be apprehended by any person or persons, and carried before some justice of the peace, who may enquire into his character and business; and fine him at his discretion, not exceeding ten dollars; but if said traveller shall be found on examination, to be a person of ill fame, and there is reason to suspect he is loitering in said county for evil purpose, attempting to acquire a living by gambling, or other bad practices, such justice shall have power to commit any person of like character, until he shall find good and sufficient security for his good behaviour, for any time not exceeding ten days, and said justice of the peace or court of the county shall proceed against such offender, in the same manner as is heretofore prescribed for vagrants.

Sec. 3. *Be it enacted*. That all and every keeper or keepers, exhibitor 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 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.

Sec. 4. *Be it enacted*. That it shall not be lawful for any house keeper to harbor any idle person of the character aforesaid, for any longer time than is heretofore specified, under the penalty of 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.

Sec. 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.

Sec. 6. *Be it enacted*. That if any person or persons shall publicly ride or go armed to the terror of the people, or privately carry any dirk, large knife, pistol or any other dangerous weapon, to the fear or terror of any person, it shall be the duty of any judge or justice, on his

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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 goal and if such person or persons shall continue so to offend, he or they shall not only forfeit their recognizances, but be liable to an indictment, and be punished as for a breach of the peace, or riot at common law.

Sec 7. *Be it enacted*, That if any person or persons shall unlawfully cut out or disable the tongue, put out an eye, slit a nose, bite or cut off a nose, ear or lip, or cut off or disable any limb or member, or stab any person whatsoever, in doing so, to maim, wound or disfigure in any of the manners before mentioned, such person or persons so offending their counsellors, aiders and abettors, knowing of, and privy to the offence, shall be and are 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.

Sec 8. *Be it enacted*, That all fines inflicted by this act, shall be one half to him that will sue for the same, and the other half to the use of the county.

Sec. 9. *Be it enacted* That all laws and parts of laws, which come within the meaning and purview of this act, are hereby repealed.

C H A P. XXIII.

An ACT to authorise the several county courts of pleas and quarter sessions to remit and mitigate fines and forfeitures on recognizances as therein mentioned — (PASSED OCT. DECEMBER 12, 1831.)

Section 1. *BE it enacted by the General Assembly of the State of Tennessee*, That the several courts of pleas and quarter sessions in this State, shall have power to remit or mitigate all fines by them inflicted, and all forfeitures on recognizances, previous to entering final judgment thereon: *Provided*, a majority, or any number not less than nine of the justices of said county be present when such remittance or mitigation shall be made.

Sec 2. *Be it enacted*, That so much of any other act as comes within the purview and meaning of this act is hereby repealed.

C H A P. XXV.

An ACT concerning administrations granted on the estates of persons dying intestate, therein mentioned — (PASSED NOVEMBER 10, 1831.)

WHEREAS heretofore the courts of pleas and quarter sessions, during the being of the temporary government called Franklin, granted administrations on the estates of persons who died intestate, and have issued letters of administration accordingly, in virtue and by authority of which, the persons so administering, have proceeded to administer upon the goods and chattels, rights and credits of their intestates respectively: And whereas it will contribute to the peace and quiet of families, that administrations on such estates, so as aforesaid granted, be deemed and declared valid,

Sec 1. *BE it enacted by the General Assembly of the State of Tennessee*, That all administrations granted by any of the said courts of pleas and quarter sessions, and letters of administration by any of the aforesaid courts issued, on the estate or estates of any person who died intestate, and all proceedings in virtue of such letters of administration had and done, of, and concerning any such estate, agreeably to, and in conformi-



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SLAVES.

Penalty for failure.

in like manner, and put up the same in the clerk's office and at the court house door in the manner and time as the clerks aforesaid; and any clerk or sheriff neglecting or failing so to do, shall forfeit and pay any sum not exceeding three hundred dollars, at the discretion of the court, on motion of the prosecuting attorney, by giving said clerk or sheriff ten days notice; and the amount so collected of the said clerks or sheriffs shall be paid into the county treasury for the use of said county.—*lb. approved Oct. 29, 1827.*

Deputy goal-
or.

Sec. 8. The sum allowed by law to deputy goalers shall in no case be allowed to such deputy except for the time he may actually have some person or persons in custody; and in that event such allowance shall be at the rate only of one hundred and fifty dollars per annum.—*lb. approved Nov. 3, 1825.*

SLANDER.

Charging a
person with
adultery.
Def. may
plead gener-
issue, &c.
Proviso.

Sec. 1. It shall be and is hereby declared to be actionable to publish maliciously in any manner whatever, that any person has been guilty of fornication or adultery and the defendant may plead the general issue and give the truth of the charge in evidence for justification: *Provided*, That nothing in this act contained shall be so construed as to affect any person for any transaction or thing done or performed previous to the taking effect of the same.—*L. M. T. passed 20th Jan. 1816.*

SLAVES.

Leaving
home with-
out leave.

Sec. 1. No slave shall go from the tenements of his master, or other person with whom he lives without a pass, or some letter or token whereby it may appear that he is proceeding by authority from his master, employer or overseer; if he does, it shall be lawful for any person to apprehend and carry him before a justice of the peace, to be by his order punished with stripes or not in his discretion.*—*L. L. T. passed 1st October 1804.*

How punished.

Sec. 2. If any slave shall presume to come, and be

* See post sec. 27.

SLAVES.

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upon [the plantation] of any person whatsoever without leave in writing from his or her owner or overseer, not being sent upon lawful business, it shall be lawful for the owner or overseer of such plantation, to give or order such slave ten lashes on his or her bare back for every such offence.—*lb.*

Coming on any plantation, &c.
Punished by stripes.

Sec. 3. No slave or mulatto whatsoever, shall keep or carry a gun, powder, shot, club or other weapon whatsoever, offensive or defensive; but all and every gun weapon and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person and upon due proof made before any justice of the peace of the district [county] where such seizure shall be, shall by his order be forfeited to the seizer, for his own use, and moreover, every such offender shall have and receive by order of such justice any number of lashes not exceeding thirty nine on his or her bare back well laid on for every such offence.—*lb.*

Not to keep a gun, &c.
Arms and ammunition may be seized.
Slave punished by stripes.

Sec. 4. Every free negro or mulatto, being a house-keeper may be permitted to keep one gun, powder and shot; and all negroes or mulattoes bond or free, living at any frontier plantation, may be permitted to keep and use guns, powder shot and weapons, offensive and defensive, by license from a justice of the peace of the district [county] wherein such plantation lies, to be obtained upon the application of free negroes or mulattoes, or of the owners of such as are slaves.—*lb.*

Free negro may carry gun, &c.
And all negroes in certain cases.

Sec. 5. All riots, routs unlawful assemblies and seditious speeches by a slave or slaves, shall be punished with stripes, at the discretion of a justice of the peace and he who will may apprehend and carry him, her or them before such justice.—*lb.*

Riots, &c.
How punished.

Sec. 6. To prevent the inconvenience arising from the meetings of slaves, if any master mistress or overseer of a family shall knowingly permit or suffer any slave not belonging to him or her, to be and remain on his or her plantation, above four hours at any one time, without leave of the owner or overseer of such slave, he or she so permitting shall forfeit and pay three dollars for every such offence and every owner or overseer of a plantation, who shall so permit or suffer more than five negroes or slaves, other than his or her own,

Meetings of slaves.
Persons permitting slave to remain &c.
Or at any time not more than 5.

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we, William Henry Harrison, governor, and Thomas T. Davis, Henry Vander Burgh, and John Griffin, judges in and over the Indiana Territory, have hereunto set our hands at Vincennes, the first day of October, one thousand eight hundred and four, and of the Independence of the United States the twenty-ninth.

WILLIAM HENRY HARRISON,
THOMAS TERRY DAVIS,
HENRY VANDER BURGH,
JOHN GRIFFIN;

A LAW

Entitled a law, respecting Slaves.

BE it enacted by the governor and judges of the Indiana Territory authorized and empowered by an act of congress, to make laws for the district of Louisiana, and it is hereby enacted by the authority of the same,

§ 1st. That no negro or mulatto, shall be a witness, except in pleas of the United States against negroes or mulattoes, or in civil pleas where negroes alone shall be parties.

§ 2nd. And be it further enacted, That no slave shall go from the tenements of his master, or other person with whom he lives without a pass, or some letter or token, whereby it may appear that he is proceeding by authority from his master, employer or overseer if he does it shall be lawful for any person to apprehend and carry him before a

justice of the peace to be by his order punished with stripes, or not, in his discretion.

§ 3rd. And be it further enacted That if any slave shall presume to come, and be upon the plantation of any person whatsoever, without leave in writing from his or her owner or overseer, not being sent upon lawful business, it shall be lawful for the owner or overseer of such plantation, to give or order such slave ten lashes on his or her bare back for every such offence.

§ 4th. And be it further enacted, That no slave or mulatto whatsoever, shall keep or carry any gun, powder, shot, club, or other weapon whatsoever, offensive or defensive, but all and every gun weapon and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person, and upon due proof thereof made before any justice of the peace of the district where such seizure shall be, shall by his order be forfeited to the seizer, for his own use, and moreover every such offender shall have and receive by order of such justice any number of lashes not exceeding thirty-nine on his or her bare back, well laid on for every such offence,

§ 5th. And be it further enacted, That every free negro or mulatto, being a house keeper, may be permitted to keep one gun, powder and shot ; and all negroes and mulattoes, bond or free, living at any frontier plantation, may be permitted to keep and use



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any officer before named shall take greater fees than are herein before expressed and limited for any service to be done in his office, or if such officer shall charge, demand, and take any fees herein before ascertained for services not actually rendered, every officer so offending shall forfeit and pay to the party injured fifty dollars, to be recovered in any court having competent jurisdiction, and it shall be lawful for any person to refuse payment of fees to any officer, who will not make out a bill of particulars, signed by him if required, and also a receipt, or discharge, signed by him, of the fees paid.

Penalty on officers violating this act.

Officer to furnish bill of fees, if required, and also a receipt.

PHILANDER SMITH, *Speaker of the House of Representatives.*

JOHN ELLIS, *President of the Legislative Council.*

APPROVED, March the 6th, 1805.

CATO WEST, *Secretary of the Mississippi Territory, acting as Governor of the same.*

AN ACT

Respecting Slaves.

Sec. 1. **BE** it enacted, by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That no slave be admitted a witness against any person, in any matter cause or thing whatsoever, civil or criminal, except in criminal cases, in which the evidence of one slave shall be admitted for or against another slave.

In what case slaves may be witnesses.

Sec. 2. *And be it further enacted,* That no slave shall go from the tenements of his master, or other person with whom he lives, without a pass,

Slaves not to go from home without pass.

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or some letter or token, whereby it may appear that he is proceeding by authority from his master, employer or overseer ; if he does, it shall be lawful for any person to apprehend and carry him before a justice of the peace, to be by his order punished with stripes, or not, in his discretion, not exceeding twenty stripes.

Not upon the
plantation of any
person without
leave in writing.

Sec. 3. *And be it further enacted,* That if any slave shall presume to come and be upon the plantation of any person whatsoever, without leave in writing from his or her owner or overseer, not being sent upon lawful business, it shall be lawful for the owner or overseer of such plantation to give or order such slave ten lashes on his or her bare back, for every such offence.

Slaves not to
carry offensive
or defensive weapons.

Sec. 4. *And be it further enacted,* That no slave shall keep or carry any gun, powder, shot, club, or other weapon whatsoever offensive or defensive, except the tools given him to work with, or that he is ordered by his master, mistress or overseer to carry the said articles from one place to another, but all, and every gun, weapon or ammunition found in the possession or custody of any slave, may be seized by any person, and upon due proof thereof made before any justice of the peace of the county or corporation, where such seizure shall be made, by his order, be forfeited to the seizer for his own use ; and moreover, every such offender shall have and receive by order of such justice, any number of lashes not exceeding thirty nine, on his bare back for every such offence : *Provided nevertheless,* That any justice of the peace may grant, in his proper county, permission in writing, to any slave, on application of his master, or overseer to carry and use a gun and ammunition within the limits of his said master's or owner's plantation, for a term not exceeding one year, and recoverable, at any time within such term, at

In what cases
they may get
leave to carry
guns.

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the discretion of said justice. And to prevent the inconveniences arising from the meeting of slaves,

Sec. 5. *Be it further enacted*, That if any master, mistress or overseer of a family shall knowingly permit or suffer any slave not belonging to him or her, to be and remain in or about his or her house or kitchen, or upon his or her plantation above four hours at any one time, without leave of the owner, or overseer of such slaves, he or she so permitting, shall forfeit and pay ten dollars for every such offence, and every owner or overseer of a plantation who shall so permit or suffer more than five negroes or slaves, other than his or her own, to be and remain upon his or her plantation or quarter at any one time, shall forfeit and pay ten dollars for each negro or slave above that number, which said several forfeitures shall be to the informer, and recoverable with costs, before any justice of the peace of the county or corporation where such offence shall be committed. *Provided always*, That nothing herein contained shall be construed to prohibit the negroes or slaves of one and the same owner, though seated at different quarters, from meeting with their owners' or overseers' leave, upon any plantation to such owner belonging, nor to restrain the meeting of slaves on their owner's or overseer's business at any public mill, nor to prohibit their meeting on any other lawful occasion by licence in writing from their owner, or overseer, nor their going to church, and attending divine service, on the Lord's day, and between sun-rising and sun-setting.

Penalty on persons permitting slaves, not their own, to remain on their plantations.

Sec. 6. *And be it further enacted*, That riots, routs, unlawful assemblies, trespasses, and seditious speeches by a slave or slaves shall be punished with stripes, not exceeding thirty-nine, at the discretion of a justice of the peace; and he who will, may

Riots, &c. by slaves, how punishable.

ACTS AND RESOLVES
OF
MASSACHUSETTS.

1804-1805.

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ACTS, 1804. — CHAPTER 81.

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other Towns within this Commonwealth are required by law to choose in the Months of March or April annually; And the Officers so chosen shall be qualified as other Town Officers are.

Approved March 8, 1805.

1804. — Chapter 81.

[January Session, ch. 35.]

AN ACT TO PROVIDE FOR THE PROOF OF FIRE ARMS MANUFACTURED WITHIN THIS COMMONWEALTH.

Whereas no provision hath been made by law for the proof of Fire Arms manufactured in this Commonwealth by which it is apprehended that many may be introduced into use which are unsafe and thereby the lives of the Citizens be exposed, to prevent which

Preamble.

SECT. 1ST. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same* That the Governor by and with the advice and consent of the Council be and he hereby is empowered to appoint in any part of this Commonwealth where the Manufacture of fire Arms is carried on, suitable persons to be provers of fire arms not exceeding two in any County who shall be sworn to the faithful discharge of their trust, whose duty it shall be to prove all Musket Barrels and Pistol barrels which being sufficiently ground bored and breeched shall be offered to him to be proved — who shall prove the Musket barrels twice in manner following vizt. first with a charge consisting of one eighteenth part of a pound of Powder, one ounce of which in a five & an half inch Howitz at an elevation of forty five degrees will carry a twenty four pound shot, eighty Yards — with a ball suited to the bore of the barrel — the second proof to be with a charge consisting of one twenty second part of the same powder with a ball suited to the bore of the barrel, and shall prove the pistol barrels once with a charge consisting of one twenty second part of a pound of Powder, one ounce of which in a five and half inch Howitz at an elevation of forty five degrees, will carry a twenty four pound shot seventy Yards, with a ball suited to the bore of the barrel — which said powder and ball it shall be the duty of the prover to provide — And if the said musket and pistol barrels shall stand the proof aforesaid and shall in no respect fail, then it shall be the duty of the said prover to

Provers of fire-arms to be appointed.

Method of proving.

Proof marks

stamp the same on the upper side and within one and an half inches of the breech of said barrels with a stamp consisting of the initial letters of the provers name & over those letters the letter P. also in the line of the said initial letters and further up said barrel the figures designating the Year of our Lord in which the proof is made and over the said figures the letter M. which said letters and figures shall be so deeply impressed on said barrel as that the same cannot be erased or disfigured and shall be in the form following ^PAB ^M1805 and when any barrels shall burst or shall in any manner fail in the proving as aforesaid so that in the opinion of the prover they are unfit for use they shall not be stamped but the said prover shall suffer the owner to take them away — & any prover so proving musket or pistol barrels as aforesaid shall be entitled to recieve from the owner for each musket barrel thirty three Cents, and for each pistol barrel twenty five Cents, whether the same stand proof and are Stamped or not.

Fees.

Penalty for
not having
arms proved.

SEC. 2D. *And be it further enacted*, that if any person after the first day of June next shall manufacture within this Commonwealth any musket or pistol without having the barrels proved and stamped as aforesaid, except such as are or may be Manufactured in the Armory of the United States, or in fulfilment of some contract made and entered into or that may hereafter be made and entered into for the Manufacturing of fire arms for the United States, shall forfeit and pay for every such Musket or pistol the sum of ten dollars to be recovered in an action of Debt before any Court proper to try the same by any person who shall sue for and recover the same to his own use.

Penalty for
selling or buy-
ing arms not
proved.

SEC. 3D. *And be it further enacted* that if any person after the said first day of June next, shall sell and deliver or shall knowingly purchase any Musket or Pistol which shall have been manufactured within this Commonwealth after the said first day of June next, which shall not have the marks of proof above required the person so selling and the person so purchasing, shall each forfeit the sum of Ten Dollars, to be recovered by action of debt before any Court proper to try the same to the use of any person who shall sue for and recover the same.

Penalty for
forging stamp.

SEC. 4TH. *And be it further enacted*, that if any person, shall falsely forge or alter the stamp of any prover

ACTS, 1804. — CHAPTER 82.

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of Fire arms, so appointed as aforesaid impressed on any musket or Pistol Barrel pursuant to this Act, and be convicted thereof before the Supreme Judicial Court he shall be punished by fine not exceeding Fifty Dollars nor less than twenty dollars, according to the nature and aggravation of the offence.

Approved March 8, 1805.

1804. — Chapter 82.

[January Session, ch. 26.]

AN ACT TO INCORPORATE A NUMBER OF THE INHABITANTS IN THE TOWN OF LIMINGTON, IN THE COUNTY OF YORK, INTO A SEPERATE RELIGIOUS SOCIETY, BY THE NAME OF THE FIRST BAPTIST SOCIETY IN LIMINGTON.

SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That Ebenezer Clarke, James Marrs, Solomon Stone, William Chick, Barzillai Small, Nathaniel Clark, Paul Gray, James Sawyer, John Gray, Ebenezer Sawyer, Jeremiah Small, Lemuel Sawyer, Peter Chick, James Small, Daniel Rounds, Amos Chase, Robert Hooper, David Nason, Jonathan Nason, Daniel Small, Frethe Spencer, John Lord, John Sutton, Stephen Webber, George Stone, James Lord, John Andrews, John Finnix, Enoch Nason, Nathaniel Adams, Benjamin Norton, Edward Norton, John Greenlaw, Amos Thompson, Joseph Sawyer, William Sawyer, Ebenezer Walker, William Wentworth, Hurd Hubbard, James Heard, Joshua Durgon, Levi Cole, William Manning, George Finnix, Isaac Small, Ezekiel Small, Jacob Small, Josiah Chase, Thomas Spencer, Abraham Parker, Amos Chase Junior, Nathan Chick, and Jonathan Nason Junior, members of said Religious Society, with their polls and estates, be, and they are hereby incorporated by the name of the First Baptist Society in Limington, with all the privileges and immunities which parishes or Religious Societies in this Commonwealth are by Law intitled to, *provided however,* that all such persons, shall be holden to pay their proportion of all Monies assessed in said town of Limington for Parochial purposes, previous to the passing of this Act.

Persons incorporated.

Corporate name.

SEC. 2D. *And be it further enacted,* that any person in said town of Limington who may at any time within one year from the passing of this Act, actually become a Member of, and unite in religious worship with the said

Method of joining the society.



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November,
1809.
CHAP.
CXXXVIII.

10. Of for-
ging deeds,
wills, bonds,
notes, &c.

V. Punish-
ments of
offences af-
fecting the
public pol-
ice.
1. Of polyg-
amy.

tablished within this state, or which is or may be established by law in any of the United States, or any person who shall be in any manner concerned in the altering, forging or counterfeiting, any note of any bank now existing within this state, or of any bank which may hereafter be established within this state, or any person who may pass within this state forged or counterfeited note or notes, knowing them to be such, purporting to be the genuine notes of a bank regularly constituted within this state by the United States, or within any of them, or any person who may pass as genuine any note, purporting to be a note of a bank which does not exist, shall be deemed a felon, and shall on being duly convicted thereof, be sentenced to undergo a confinement in the penitentiary for a period not less than five nor more than ten years, to be treated as hereindirected. 10th. Any person who shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly act or assist in falsely making, forging, altering or counterfeiting, any deed, will, testament or codicil, bond, writing obligatory, bill of exchange, promissory note for the payment of money or property, endorsement or assignment of any bond, writing obligatory, bill of exchange, acquittance or receipt, for money or property, or any acquittance or receipt, either for money or property, with intention to defraud any person whomsoever, or shall utter or publish as true, any false, forged, altered or counterfeited deed, will, testament or codicil, bond, writing obligatory, bill of exchange, promissory note for the payment of money or property, endorsement or assignment of any bond, writing obligatory, bill of exchange, acquittance or receipt for money or property, shall be deemed a felon, and on being thereof duly convicted, shall be sentenced to undergo a confinement in the said penitentiary for a period of time not less than five nor more than ten years, to be dealt with as herein after mentioned.

VII. AND BE IT ENACTED, That the offences herein after mentioned, affecting the public police, shall be punished in manner following ; that is to say, 1st. Whosoever being married, shall, the first husband or wife, as the case may be, being alive, marry any person or persons, shall undergo a confinement in the penitentiary for a period not less than one year nor more than nine years ; provided, that nothing herein contained shall extend to any person whose husband or wife shall be continually remaining beyond the seas seven years together, or shall absent himself or herself seven years together, in any part within the United States, or elsewhere, the one of them not knowing the other to be living at that time, and if such offender be a man, his first wife shall, on his conviction, be forthwith endowed of one third part of his real estate, which she shall hold as tenant in dower, the assignment of which shall be made as prescribed by law in other cases of dower, and she shall have the like remedy for the recovery thereof ; and she shall also, on his conviction, be forthwith entitled to one third part of his personal estate, in the same manner as if such hus-

EDWARD LLOYD, Esq. GOVERNOR.

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band had died intestate and she had survived him, which third part shall be divided and allotted to her in the same manner as distribution is made of the personal estate of intestates; and if the said offender be a man, he shall, on conviction, forfeit his claim or title as tenant by the courtesy, and also all his claim or title to any estate personal or mixed, which he may have in right of his first wife; and if the said offender be a woman, she shall on conviction, forfeit her claim to dower of the estate of her first husband, and also her distributory share of his personal estate, which she would be entitled to if he had died intestate, and she had survived him. 2d. Every person who shall be duly convicted of keeping any E O table, or any other kind of gaming table, billiard-tables excepted, at which the games of Pharo, Equality, or any other game of chance shall be played for money, or of keeping any bank, and inducing or permitting any person to bet against the said bank, or of strolling about the country from place to place, and deriving a support and maintenance chiefly from horse-racing or gaming, shall be sentenced to undergo a confinement in the said penitentiary for a period not less than three months nor more than two years, to be dealt with as the law directs. 3d. Every commanding officer, captain or master, of any vessel, who shall be duly convicted of wilfully importing in the same into this state, from any foreign country, and not any part of the United States, any felon, convict, or any slave, knowing him or her to be such, and every person duly convicted of bringing into this state, by land or water, any negro or mulatto from any foreign country, not a part of the United States, with intent to sell and dispose of such negro or mulatto within this state as a slave, shall be sentenced to undergo a confinement in the said penitentiary for a period of time not less than one year nor more than five years, to be treated as herein after directed. 4th. If any person shall be apprehended, having upon him or her any picklock, key, crow, jack, bit or other implement, with an intent feloniously to break and enter into any dwelling-house, ware-house, stable or out-house, or shall have upon him or her any pistol, hanger, cutlass, bludgeon or other offensive weapon, with intent feloniously to assault any person, or shall be found in or upon any dwelling-house, ware-house, stable or out-house, or in any enclosed yard or garden, or area belonging to any house, with an intent to steal any goods or chattels, every such person shall be deemed a rogue and vagabond, and, on being duly convicted thereof, shall be sentenced to undergo a confinement in the said penitentiary for a period of time not less than three months nor more than two years, to be treated as the law prescribes. 5th. Any person who has been convicted and condemned to serve and labour as a criminal, and who may escape and be found in this state, shall be deemed a fugitive felon, and being thereof convicted by a duly authenticated record from the court of the state in which such convic-

November,
1809.
CHAP.
CXXXVIII.

2. Of keeping E. O. or any other gaming table, billiard tables excepted, &c.

3. Of importing felons, convicts, or slaves.

4. Of rogues and vagabonds.

5. Of fugitive felons.



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XXI. YEAR OF THE COMMONWEALTH.

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CHAPTER LXXXIX.

1812.

An ACT to prevent persons in this Commonwealth from wearing concealed arms, except in certain cases.

Approved February 3, 1813.

BE it enacted by the General Assembly of the Commonwealth of Kentucky, That any person in this commonwealth who shall hereafter wear a pocket pistol, dirk, large knife, or sword in a cane, concealed as a weapon, unless when travelling on a journey, shall be fined in any sum not less than one hundred dollars; which may be recovered in any court having jurisdiction of like sums, by action of debt, or on the presentment of a grand jury; and a prosecutor in such presentment shall not be necessary. One half of such fine shall be to the use of the informer, and the other to the use of this commonwealth.

This act shall commence and be in force from and after the first day of June.

CHAPTER XC.

An ACT to amend the Militia Law.

Approved February 3, 1813.

SEC. 1. *BE it enacted by the General Assembly of the Commonwealth of Kentucky,* That if any non-commissioned officer, musician or private, failing to march, or furnishing an able-bodied substitute in his place, when ordered and lawfully called on, or leaving the service without a discharge from the proper officer, shall be considered as a deserter, and treated as followeth, to wit: Any person may apprehend such deserter, and deliver him to the officer commanding such detachment, or any recruiting officer within this commonwealth, and take his receipt for the same; which receipt shall describe the name of such deserter, and the length of time he was to serve, and by whom he was delivered; which receipt shall be assignable; and the reward for taking and so delivering such deserter as aforesaid, shall be a credit for a tour or tours of duty for the length of time such deserter was bound to serve; and said deserter shall serve out the term of time aforesaid before he shall

Persons failing to perform tour of duty considered a deserter.



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Render account greeable to the assessment; and the said trustees shall at the end of the time for which they were elected, render an account of the same to the parish judge, and should any sums be unappropriated, the same shall be paid into the hands of the parish judge in trust for the succeeding trustees, and in case of default of the trustees whose term of time is thus expired, it shall be the duty of the parish judge to summon them to a settlement, enter judgment and issue execution for arrearages if necessary.

Clerk and collector. Sect. 3. *And be it further enacted*, That the trustees shall appoint one clerk and one collector, whose term of service shall expire at the same time with that of the trustees, which said officers shall be entitled to such fees as the said trustees may deem proper to allow them.

STEPHEN A. HOPKINS,

Speaker of the house of representatives.

J. POYDRAS,

President of the senate,

APPROVED, March 25th, 1813.

WILLIAM C. C. CLAIBORNE,

Governor of the state of Louisiana.

AN ACT

Against carrying concealed weapons, and going armed in public places in an unnecessary manner.

Preamble Whereas assassination and attempts to commit the same, have of late been of such frequent occurrence as to become a subject of serious alarm to the peaceable and well disposed inhabitants of this state; and whereas the same is in a great measure to be attributed to the dangerous and wicked practice of carrying about in public places concealed and deadly weapons, or going to the same armed in an unnecessary manner, therefore;

Penalty for carrying concealed weapons. Sect. 1. *Be it enacted by the senate and house of representatives of the state of Louisiana, in general assembly convened*, That from and after the passage of this act, any person who shall be found with any concealed weapon, such as a dirk, dagger, knife, pistol or any other deadly weapon concealed in his bosom, coat or in any other place about him that do not appear in full open view, any person so offending, shall on conviction thereof before any justice of the peace, be subject to pay a fine not to exceed fifty dol-

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esclaves) et pour son usage, d'une piastre sur chaque mille piastres, suivant le tableau des taxes; et les administrateurs, à l'expiration du terme pour lequel ils auront été élus, en rendront compte au juge de la paroisse, et, s'il restait en caisse des fonds disponibles, ils seront versés entre les mains du juge de paroisse qui les gardera jusqu'à la nomination d'autres administrateurs, et si lesdits administrateurs, à l'expiration du terme pour lequel ils auront été élus, négligeaient de rendre le compte susdit, il sera du devoir du juge de paroisse de les sommer de rendre leurs comptes et de les poursuivre en justice et de lancer contre eux des mandats d'exécution pour les sommes arriérées, s'il le juge nécessaire.

Rédiction de compte.

Peines pour défaut.

SECT. 3. Et il est de plus décrété, Que lesdits administrateurs nommeront un commis et un collecteur de taxe, dont le temps de service finira en même temps que celui des administrateurs et qui auront droit à la compensation que les administrateurs jugeront à propos de leur accorder.

Commis et collecteur.

Compensation.

STEPHEN A. HOPKINS,

Orateur de la Chambre des Représentans,

J. POYDRAS,

Président du Sénat.

Approuvé le 25 Mars 1813.

WM. C. C. CLAIBORNE,

Gouverneur de l'Etat de la Louisiane.

ACTE

Pour défendre de porter des armes cachées et de se présenter armé d'une manière inutile dans les endroits publics.

Vu qu'il s'est commis dernièrement des assassinats et qu'il a été essayé d'en commettre d'autres de manière à causer de sérieuses alarmes aux habitans paisibles et bien disposés de cet état, et vu qu'on doit en grande partie attribuer la cause de ces assassinats à la coutume pernicieuse et condamnable de porter dans des endroits publics, des armes cachées et dangereuses, ou de s'y rendre armé d'une manière inutile,

Preambule.

SECT. 1^{ère}. Il est décrété par le sénat et la chambre des Représentans de l'Etat de la Louisiane réunis en Assemblée Générale, Qu'à dater de la passation de cet acte, toute personne qui sera trouvée armée d'aucune arme cachée, tels que poignard, dague, couteau, pistolet ou toute autre arme meurtrière dans son habit ou ailleurs sur lui et qui ne seront point ostensibles, toute personne coupable de cette convention, sera, sur conviction du fait, devant un juge de paix, condamné à une amende qui n'excédera pas

Peines contre ceux qui portent des armes cachées.

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How dis- lars nor less than twenty dollars, one half to the use
tributed. of the state, and the balance to the informer; and
For the should any person be convicted of being guilty of a
second of- second offence before any court of competent jurisdic-
fence. tion, shall pay a fine not less than one hundred dol-
lars to be applied as aforesaid, and be imprisoned for
a time not exceeding six months.

Penalty Sect. 2. *And be it further enacted*, That should
for stabbing any person stab or shoot, or in any way disable ano-
2c. ther by such concealed weapons, or should take the
life of any person, shall on conviction before any com-
petent court suffer death, or such other punishment
as in the opinion of a jury shall be just.

Suspect- any officer has good reason to believe that any person
ed persons or persons have weapons concealed about them, for
may be the purpose of committing murder, or in any other
searched. way armed in such a concealed manner, on proof
thereof being made to any justice of the peace, by
the oath of one or more credible witnesses, it shall
be the duty of such judge and justice to issue a war-
rant against such offender and have him searched,
and should he be found with such weapons, to fine
him in any sum not exceeding fifty dollars nor less
than twenty dollars, and to bind over to keep the
peace of the state, with such security as may appear
necessary for one year; and on such offender failing to
give good and sufficient security as aforesaid; the
said justice of the peace shall be authorised to com-
mit said offender to prison for any time not exceeding
twenty days.

Fine.
Sureties
of the
peace.

STEPHEN A. HOPKINS,
Speaker of the house of representatives,
J. POYDRAS,
President of the senate.
APPROVED, March 25th, 1816.
WILLIAM C. C. CLAIBORNE,
Governor of the state of Louisiana,

AN ACT

*To establish a permanent seat of justice in and for
the parish of St. Tammany.*

Commis- Sect. 1. *Be it enacted by the senate and house of*
sioners. *representatives of the state of Louisiana, in general*
assembly convened, That Thomas Spell, Robert Bar-
dony, Benjamin Howard, Joseph Hertraire and Ben-



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464 COMMONWEALTH FIRE ARMS. Feb. 28, 1814.

Town incor- county of Essex, by the name of Lynnfield," be, and the
porated. same hereby is incorporated into a town, by the name of
Lynnfield, with all the powers, privileges, and immunities,
and liable to all the duties and requisitions of other towns
in this Commonwealth.

[Approved by the Governor, February 28, 1814.]

CHAP. CXCII.

An Act in addition to an act, entitled "An act to provide
for the proof of Fire Arms, manufactured within this
Commonwealth."

Manner of proving. SEC. 1. **B**E it enacted by the Senate and House of
Representatives, in General Court assembled, and by the
authority of the same, That from and after the passing of
this act, all musket barrels and pistol barrels, manufactured
within this Commonwealth, shall, before the same shall be
sold, and before the same shall be stocked, be proved by
the person appointed according to the provisions of an act,
entitled "An act to provide for the proof of Fire Arms,
manufactured within this Commonwealth," to which this
is an addition, in manner following, viz : with a charge of
powder equal in weight to the ball which fits the bore of
the barrel to be proved ; and the powder used in such proof
one ounce thereof in a howitzer of four and a half inch
caliber, at an elevation of forty-five degrees, shall be of
sufficient power to carry a twelve pound shot one hundred
and thirty yards ; or one ounce thereof in a howitzer of
five and a half inch caliber, at an elevation of forty-five de-
grees, shall be sufficient to carry a twenty-four pound shot
eighty yards, and the ball used in such proof shall be suit-
ed to the bore of the barrel to be proved as aforesaid.

Restrictions. SEC. 2. *Be it further enacted,* That if any person or
persons, from and after the passing of this act, shall man-
ufacture, within this Commonwealth, any musket or pis-
tol, or shall sell and deliver, or shall knowingly purchase
any musket or pistol, without having the barrels first prov-
ed according to the provisions of the first section of this
act, marked and stamped according the provisions of the
first section of the act to which this is an addition ; or if

LYNN MECHANICKS BANK.

Feb. 28, 1814.

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any person or persons shall sell, stock or finish, or shall knowingly purchase any musket barrel or pistol barrel manufactured within this Commonwealth, which shall not have been first proved, marked and stamped according to the provisions aforesaid, the person or persons who shall so manufacture, sell and deliver, or knowingly purchase any musket or pistol without causing the same to be first proved, marked and stamped as aforesaid, and the person or persons who shall sell, stock or finish, or shall knowingly purchase any musket barrel or pistol barrel, which shall not have been proved, marked and stamped as aforesaid, shall severally forfeit the sum of ten dollars, to be recovered by an action of debt before any court proper to try the same, by any person who shall sue for and recover the same, to his own use: *Provided however*, That the foregoing provisions and penalties shall not extend to any muskets or pistols, or musket or pistol barrels, manufactured in any armoury of the United States, for their use, or in execution of any contract made or to be made with the United States, for the manufacture of fire arms.

Forfeitures.

Proviso.

SEC. 3. *Be it further enacted*, That the second and third sections of the act to which this is in addition, and also so much of the first section thereof as prescribes the mode of proving musket barrels and pistol barrels, and the power of the powder to be used in such proof, be, and the same are hereby repealed.

Sections repealed.

[Approved by the Governor, February 28, 1814.]

CHAP. CXCI.

An Act to incorporate The President, Directors and Company of the Lynn Mechanicks Bank.

SEC. 1. **B**E it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That Daniel Silsbe, Joseph Fuller the third, John D. Atwell, Thomas Rich, Samuel Brimblecum, Micajah Burrill, Parker Mudge, Oliver Fuller, Jonathan Conner, John Alley, jr. Stephen Oliver, John Mudge, and Jonathan Bachellor, their associates, successors, and assigns shall be, and hereby are created a Cor-

Persons incorporated.

E. MERTON COULTER

A COMPILATION
OF THE
Laws
OF THE
Coulter
STATE OF GEORGIA,

PASSED BY THE LEGISLATURE
SINCE THE YEAR 1810 TO THE YEAR 1819, INCLUSIVE.

COMPRISING

ALL THE LAWS PASSED WITHIN THOSE PERIODS, ARRANGED UNDER APPROPRIATE HEADS, WITH NOTES OF
REFERENCE TO THOSE LAWS, OR PARTS OF LAWS, WHICH ARE AMENDED OR REPEALED.

TO WHICH ARE ADDED,

SUCH CONCURRED AND APPROVED

RESOLUTIONS,

AS ARE EITHER OF GENERAL, LOCAL, OR PRIVATE MOMENT.

CONCLUDING WITH

A COPIOUS INDEX TO THE LAWS,

AND

A SEPARATE ONE TO THE RESOLUTIONS.

By LUCIUS Q. C. LAMAR, Esq.

AUGUSTA:

PUBLISHED BY T. S. HANNON.

1821.

E. MERTON COULTER

TENTH DIVISION.

(No. 380.)

Offences against the public morality, health, and police.

1. If any person shall have two wives, or two husbands, at one and the same time, knowing of the living and existence of such wife or husband, he or she shall, on conviction, be sentenced to pay a fine not exceeding five hundred dollars, and to undergo an imprisonment at hard labour, in the penitentiary, for any time not exceeding three years, as the jury may recommend; and the second marriage shall be void; but long absence of the wife or husband, and no information of the fate of such husband or wife, shall, at the discretion of the jury, be cause of acquittal of the person indicted.

For having two wives or two husbands at the same time, offender how punished.

2. If any man or woman, being unmarried, shall knowingly marry the husband or wife of another person, such man or woman shall, on conviction, be sentenced to pay a fine not exceeding five hundred dollars, and to undergo an imprisonment at hard labour, in the penitentiary, for any time not exceeding three years, as the jury may recommend: but if the persons guilty of these offences are not able to pay the said fines, then the punishment shall be imprisonment at hard labour, in the penitentiary, for a term not exceeding five years, as the jury may recommend.

A single person knowingly marrying the wife or husband of another, how punished.

3. If any person shall commit incestuous fornication or adultery, or intermarry within the degrees of consanguinity or affinity established by law, he or she shall, on conviction, be sentenced to pay a fine not exceeding five hundred dollars, and to undergo an imprisonment in the penitentiary, for a period of time not exceeding two years, if such imprisonment in the penitentiary shall be recommended to the court by the jury.

Incest.

Punishment thereof.

4. Any justice of the peace, mayor, intendant, in any county, or of any city in this state, who of his own knowledge, or on information to him on oath made, of any free white woman having a bastard child, which it is probable will become chargeable to the county or city, he may thereupon cause a warrant, under his hand and seal, directed to the sheriff or a constable of said county or city where the case may arise, and oblige the offender to be brought before him, to give security to the Inferior Court of the county in the sum of one thousand dollars, for the support and education of such child or children till the age of fourteen years, or to discover, on oath, the father of such bastard child; which being done, the said justice, mayor, intendant or alderman, shall issue his warrant in like manner, to bring before him the person sworn to be the father of such child or children, who, on refusing to give such security as may be required for the support and education of such child or children, until he, she or they shall arrive at the age of fourteen years, and also pay, or give security to pay, all expenses incurred at

Justices of the peace, &c. shall compel the mother of a bastard child (which would probably become chargeable on the county) to give security for its support, &c. or to disclose on oath the father of such child. The reputed father required to give security.

and upon his refusal or failure to give such security, he shall be committed and indicted as a vagrant, and on conviction, shall be imprisoned in the penitentiary, at hard labour, for such period of time as the jury may recommend to the court. (No. 380.)

19. If any person shall be apprehended, having upon him or her any picklock, key, crow, jack, bit or other implement, with intent feloniously to break and enter into any dwelling-house, ware-house, store, shop, coach-house, stable or out-house, or shall have upon him any pistol, hanger, cutlass, bludgeon, or other offensive weapon, with intent feloniously to assault any person, or shall be found in or upon any dwelling-house, ware-house, store, shop, coach-house, stable or out-house, with intent to steal any goods or chattels; every such person shall be deemed a rogue and vagabond, and on conviction, shall be sentenced to undergo an imprisonment in the common jail of the county, or in the penitentiary, at hard labour, for such period of time as the jury shall recommend to the court.

Rogues and vagabonds, who shall be deemed such.

Their punishment.

20. All other offences against the public morals, health, police or economy, shall be punished by fine or imprisonment in the common jail of the county, at the discretion of the court, or in the penitentiary, in such manner, and for such period of time, as juries may recommend.

General clause.

ELEVENTH DIVISION.

Offences committed by cheats and swindlers, and offences against the public trade.

1. If any person, by false representations of his own respectability, wealth, or mercantile correspondence and connections, shall obtain a credit, and thereby defraud any person or persons of money, goods, chattels or any valuable thing, or if any person shall cause or procure others to report falsely of his honesty, respectability, wealth or mercantile character, and by thus imposing on the credulity of any person or persons obtain a credit, and thereby fraudulently get into possession of goods, wares, merchandize, or any valuable thing, shall be deemed a cheat and swindler, and, on conviction, shall be sentenced to restore the property so fraudulently obtained, if it can be done, and also to pay a fine at the discretion of the court, and moreover to undergo an imprisonment in the penitentiary, at hard labour, for any period of time not exceeding three years, as the jury may recommend.

Cheats and swindlers.

How punished.

2. Any person using any deceitful means (other than those which have been mentioned in this code) or practices in matters of fraud, shall be deemed a cheat and swindler, and, on conviction, shall be sentenced to make such restitution to the party defrauded and cheated as the court may direct; and also be fined, and undergo an

General clause as to cheating and swindling.

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By HENRY S. GEYER.

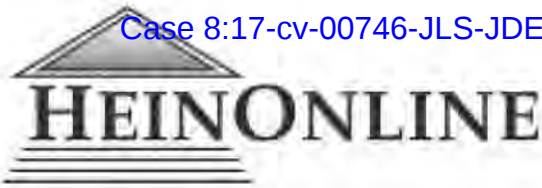
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.....
1818.

- Punished by stripes.** ten lashes on his or her bare back for every such offence. *ib. ib. ib.*
- Not to keep gun &c.** Sec. 3. No slave or mulatto whatsoever, shall keep or carry a gun, powder, shot, club or other weapon whatsoever, offensive or defensive; but all and every gun weapon and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person and upon due proof made before any justice of the peace of the district [county] where such seizure shall be, shall by his order be forfeited to the seizor, for his own use, and moreover, every such offender shall have and receive by order of such justice any number of lashes not exceeding thirty nine on his or her bare back well laid on for every such offence. *ib. p. 13-14. ib.*
- Arms and ammunition may be seized.**
- Slave punished by stripes.** Sec. 4. Every free negro or mulatto, being a house-keeper may be permitted to keep one gun, powder and shot; and all negroes or mulattoes bond or free, living at any frontier plantation, may be permitted to keep and use guns, powder shot and weapons, offensive and defensive, by license from a justice of the peace of the district [county] wherein such plantation lies, to be obtained upon the application of free negroes or mulattoes, or of the owners of such as are slaves. *L. L. T. pt. 1. p. 14.*
- Free negro may carry one gun, &c.**
- And all negro's, &c. may carry guns in certain cases.**
- Riots, routs, &c.** Sec. 5. All riots, routs unlawful assemblies and seditious speeches by a slave or slaves, shall be punished with stripes, at the discretion of a justice of the peace and he who will may apprehend and carry him, her or them before such justice. *ib. p. 15. ib.*
- Punished by stripes.**
- Meetings of slaves.** Sec. 6. To prevent the inconvenience arising from the meetings of slaves, if any master mistress or overseer of a family shall knowingly permit or suffer any slave not belonging to him or her, to be and remain on his or her plantation, above four hours at any one time, without leave of the owner or overseer of such slave, he or she so permitting shall forfeit and pay three dollars for every such offence and every owner or overseer of a plantation, who shall so permit or suffer more than five negroes or slaves, other than his or her own, to be and remain upon his or her plantation, or quarter at any other time, shall forfeit and pay one dollar for each negro or slave above that number, which said several forfeitures shall be to the informer, and be recoverable before any justice of the peace of the district [county,] with costs, where such offence shall be com-
- Persons permitting any slaves to remain, &c.**
- Or at any time not more than 5.**



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CHAPTER XXIII.

AN ACT to prohibit the wearing of concealed weapons.

APPROVED, January 14, 1820.

SEC. 1. *BE it enacted by the General Assembly of the State of Indiana, That* any person wearing any dirk, pistol, sword in cane, or any other unlawful weapon, concealed, shall be deemed guilty of a misdemeanor, and on conviction thereof, by presentment or indictment, shall be fined in any sum not exceeding one hundred dollars, for the use of county seminaries: *Provided however,* that this act shall not be so construed as to affect travellers:

Persons
wearing con-
cealed weap-
ons indicta-
ble

Proviso

CHAPTER XXIV.

AN ACT supplemental to "an act for the appointment of County Surveyors."

APPROVED, January 14, 1820.

SEC. 1. *BE it enacted by the General Assembly of the State of Indiana, That* whenever hereafter any dispute may arise about the division of any land within this state, wherein the county surveyor of the county, where the lands lie, may be a party, or in any manner interested, it shall be lawful for the Circuit Court on application of either par-

County sur-
veyor inter-
ested in par-
tition Circuit
court to ap-
point survey-
or

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[40]

ty, to appoint some suitable person in said county, whose duty it shall be to proceed to divide the same, for which service, the person so appointed, shall be entitled to the same fees as county surveyors are entitled to, for similar services.

CHAPTER XXV.

AN ACT authorizing the arrest and securing fugitives from justice.

APPROVED, January 14, 1820.

Fugitives
from justice
to be appre-
hended

Justice to is-
sue his war-
rant and pro-
ceedings
thereon

Fugitive to
be commit-
ted

SEC. 1. *BE it enacted by the General Assembly of the State of Indiana, That if any person shall commit any crime in any of the United States, or the territories thereof, and shall flee into this state, it shall be lawful for any Judge of the Supreme or Circuit Court, or justice of the peace, within this state, on the oath or affirmation of any person charging such fugitive with a crime, to issue his warrant, and cause such fugitive to be arrested, and brought before him, and after hearing the proofs and allegations for and against such fugitive, if in the opinion of such Judge or justice, the proof is evident, or presumption strong, as to the guilt of the person charged, it shall be the duty of such Judge or Justice, to commit such fugitive from justice, to the common jail of the county, where such arrest may be made, for any length of time, not exceeding one month,*

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(2). Revised Statutes of the State of Maine, Passed October 22, 1840. Hallowell, Glazier, Masters & Smith.

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SECT. 4. Any person, guilty of unlawfully assembling or of a riot, may alone be indicted and convicted thereof; provided, it be alleged in the indictment, and proved on trial, that three or more persons were engaged therein; and, if known, they must be named, or, if unknown, that fact must be alleged.

CHAP. 159.
One person may be convicted without the others.

SECT. 5. If any persons, to the number of twelve or more, any of them being armed with clubs or other dangerous weapons, or if any persons, to the number of thirty or more, whether armed or not, shall be unlawfully, riotously or tumultuously assembled in any city or town, it shall be the duty of the mayor and each of the aldermen of such city, and of each of the selectmen and constables of such town, and every justice of the peace living in such town, and also of the sheriff of the county and his deputies, to go among the persons, so assembled, or as near to them, as may be with safety, and, in the name of the state, to command all persons, so assembled, immediately and peaceably to disperse; and, if the persons so assembled shall not thereupon immediately and peaceably disperse, it shall be the duty of each of said magistrates and officers, to command the assistance of all persons then present, in arresting and securing in custody, the persons so unlawfully assembled, so that they may be proceeded with, according to law.

Duty of magistrates, sheriffs, &c. when there is an unlawful assembly of twelve or more persons.
1821, 17, § 1.

SECT. 6. If any person shall refuse to assist in arresting the persons so unlawfully assembled, or shall refuse immediately to disperse upon being commanded so to do, as mentioned in the preceding section, he shall be deemed one of such unlawful or riotous assembly, and shall be punished by fine, not exceeding five hundred dollars, and imprisonment in the county jail, not more than one year.

Refusal to assist in arresting offenders, or to disperse, if commanded.
1821, 17, § 1.

SECT. 7. If any such magistrate or other officer, having notice of any such unlawful or tumultuous assembly, in the city or town where he dwells, shall refuse or neglect immediately to execute his duty, in relation thereto, as provided in the fifth section of this chapter, he shall be punished by a fine, not exceeding three hundred dollars.

Neglect of duty by magistrates or other officers.

SECT. 8. If any persons, so riotously or unlawfully assembled, shall, upon command as aforesaid, refuse or neglect to disperse without unnecessary delay, any two of the magistrates or officers, before mentioned, may require the aid of a sufficient number of persons, in arms or otherwise, and shall proceed in such manner as they may judge expedient, to suppress such riotous or tumultuous assembly, and to arrest and secure the persons composing the same, that they may be proceeded with according to law.

Power of magistrates, &c. if persons assembled do not disperse.

SECT. 9. When an armed force shall be called out, as provided in the preceding sections, they shall obey such orders for suppressing such unlawful and riotous assembly, and for arresting and dispersing the persons engaged therein, as they may receive from the governor, or any judge of a court of record, or the sheriff of the county, or from any two of the magistrates or officers, mentioned in the fifth section.

Duty of an armed force, if called out on such an occasion.

SECT. 10. If, by reason of any efforts, made as before mentioned, to suppress such riotous and unlawful assembly, or to arrest and secure the persons composing the same, who have refused to disperse, though the number remaining be less than twelve, any

If any person be killed or wounded, magistrates and officers held guiltless.



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shall place the same on file with the indictment, and subjoin to the record of the sentence a brief abstract of the sheriff's return on the warrant. CHAP. 168.

CHAPTER 169.

OF PROCEEDINGS FOR PREVENTION OF CRIMES.

- | | |
|---|--|
| <p>SECT. 1. Of the commencement of criminal proceedings.</p> <p>2. Magistrates may require sureties for the peace and good behavior.</p> <p>3. Of the examination of the complainant.</p> <p>4. When a warrant may issue.</p> <p>5. In certain cases sureties required, for keeping the peace, &c. without binding to appear at any court.</p> <p>6. Party to be discharged, on complying.</p> <p>7. On refusal, to be committed to the county jail; but still entitled to a hearing on his appeal.</p> <p>8. Proceedings, if the complaint be not sustained. Costs, if malicious or frivolous.</p> | <p>SECT. 9. When party, complained of, shall pay costs.</p> <p>10. Appeal to the next district court.</p> <p>11. Proceedings upon the appeal.</p> <p>12. Consequences, if the appellant fail to prosecute.</p> <p>13. Recognizance may be taken, after commitment.</p> <p>14. Return of such recognizance.</p> <p>15. When magistrate may require sureties, without a formal complaint.</p> <p>16. Persons going armed, without reasonable cause.</p> <p>17. Power of court, to remit the penalty of a recognizance.</p> <p>18. Sureties on recognizances may surrender their principals, as in case of bail in civil actions.</p> |
|---|--|

SECTION 1. No person shall be held to answer in any court for an alleged crime or offence, other than contempt of court, unless upon an indictment by a grand jury, except in the following cases: Of the commencement of criminal proceedings.

First. When a prosecution by information is expressly authorized by statute.

Second. In proceedings before a municipal or police court, or a justice of the peace.

Third. In proceedings before courts martial.

SECT. 2. The justices of the supreme judicial court, of the district court, justices of municipal courts and police courts in vacation, as well as in open court, and justices of the peace, in their respective counties, 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 be of the good behavior, or both, in the manner provided in this chapter. Magistrates may require sureties for the peace and good behavior.

SECT. 3. Any such magistrate, on complaint made to him, that any person has threatened to commit an offence against the person or property of another, shall examine the complainant on oath, and also any witnesses who are produced, and reduce the complaint to writing, and cause the complainant to subscribe the same. Of the examination of the complainant.

SECT. 4. If there should appear to such magistrate, on an examination of the facts, that there is just cause to apprehend and fear the commission of such offence, he shall issue a warrant under his hand and seal, containing a recital of the substance of the com- When a warrant may issue.
1821, 76, § 1.

CHAP. 169.

In certain cases, sureties required, for keeping the peace, &c., without binding to appear at any court.
1821, 76, § 1.
1 Fairf. 325.

Party to be discharged, on complying
1821, 76, § 1.
On refusal, to be committed to the county jail, but still entitled to a hearing on his appeal.
1821, 76, § 1.

Proceedings, if the complaint be not sustained. Costs, if malicious or frivolous.

When party, complained of, shall pay costs.

Appeal, to the next district court.

Proceedings upon the appeal.

Consequences, if the appellant fail to prosecute.

Recognizance

plaint, and commanding the officer to whom the same may be directed, forthwith to arrest the person complained of, and bring him before such magistrate or court, having jurisdiction of the case.

SECT. 5. When the person, complained of, is brought before the magistrate, he may be required, after his defence has been heard, to enter into a recognizance with sufficient sureties, in such sum as shall be ordered, to keep the peace towards all the people of the state, and especially towards the person requiring the security, for such term as the magistrate may order, not exceeding one year, but shall not be bound over to any court, unless he is also charged with some specific and other offence, for which he ought to be held to answer at such court.

SECT. 6. If the person complained of shall comply with the order of such magistrate, he shall be discharged.

SECT. 7. If the person shall refuse or neglect so to recognize, the magistrate shall commit him to the county jail during the period for which he was required to find sureties, or till he shall so recognize; and the magistrate shall state in the warrant the cause of commitment, and also the time and the sum for which security was required. The magistrate shall also return a copy of the warrant to the district court, next to be holden in the same county, and such court shall have cognizance of the case in the same manner, as if the party accused had appealed to said court.

SECT. 8. When the magistrate, on examination of the facts, shall not be satisfied, that there is just cause to fear the commission of any such offence, he shall immediately discharge the party complained of; and, if the magistrate shall judge the complaint unfounded, malicious or frivolous, he may order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and officer for their fees, as for his own debt.

SECT. 9. When the person complained of is required to give security for the peace, or for his good behavior, 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 discharged.

SECT. 10. Any person, aggrieved by the order of such judge of a municipal or police court, or justice of the peace, in requiring him to recognize as aforesaid, may, on giving the security required, appeal to the next district court in the same county.

SECT. 11. When an appeal is taken from an order of such justice or court, the magistrate shall require such witnesses, as he may think necessary, to recognize for their appearance at the court appealed to; and such court may affirm the order of the judge or justice, or discharge the appellant, or require him to recognize anew with sufficient sureties, as the court may deem proper; and make such order as to the costs, as may be deemed reasonable.

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

SECT. 13. Any person committed for not finding sureties or

refusing to recognize, as required by the court or magistrate, may be discharged by any judge or justice of the peace, on giving such security, as was required.

CHAP. 169.

may be taken after commitment.

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

Return of such recognizance.

SECT. 15. Whoever, in the presence of any magistrate, mentioned in the second section of this chapter, or before any court of record, shall make any affray or threaten to kill or beat another, or commit any violence against his person or property, or shall 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 the good behavior for a term, not exceeding three months, and, in case of refusal, may be committed to prison as before directed.

When magistrate may require sureties, without a formal complaint, &c.

SECT. 16. Any person, going armed with any dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without a reasonable cause to fear an assault on himself, or any of his family or property, may, on the complaint of any person having cause to 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.

Persons going armed, without reasonable cause. 1821, 76, § 1.

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

Power of court, to remit the penalty of a recognizance. 1821, 50, § 4.

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

Sureties on recognizances may surrender their principals as in case of bail in civil actions.

CHAPTER 170.

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

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



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1831 180 .

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, , 1831 180 .

Chicago 17th ed.
", " Indiana - Revised Laws, 15th Session : 180-199

AGLC 4th ed.
" Indiana - Revised Laws, 15th Session 180

OSCOLA 4th ed.
" 1831 180 Please note: citations are provided as a general guideline.
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THE
REVISED LAWS
OF
INDIANA,

IN WHICH ARE COMPRISED ALL SUCH ACTS OF A GENERAL
NATURE AS ARE IN FORCE IN SAID STATE;

ADOPTED AND ENACTED BY THE

GENERAL ASSEMBLY

AT THEIR FIFTEENTH SESSION.

TO WHICH ARE PREFIXED

*THE DECLARATION OF INDEPENDENCE, THE CONSTITUTION OF
THE U. S., THE CONSTITUTION OF THE STATE OF INDIANA,*

AND

SUNDRY OTHER DOCUMENTS, CONNECTED WITH THE POLITICAL HISTORY
OF THE TERRITORY AND STATE OF INDIANA.

ARRANGED AND PUBLISHED BY
AUTHORITY OF THE GENERAL ASSEMBLY.

INDIANAPOLIS:

PRINTED BY DOUGLASS AND MAGUIRE.

1831.

- probate courts shall hold their said terms on the Mondays succeeding the termination of such term of the said circuit courts, so interfering as aforesaid: *Provided*, That in the counties of Vigo, Knox and Gibson, the said courts shall hold their terms on the first Mondays in February, April, June, October and December, and the second Mondays in August in each and every year.
- Proviso. Terms in Vigo, Knox and Gibson. Power in will to sell is a power to convey. Proceedings now instituted shall progress to judgment, &c. P. business to be done as now until &c.
- SEC. 56. In all cases where a power or direction is given in any last will and testament or codicil, to sell real estate, it shall be taken and construed as a power to sell and convey; and an administrator with the will annexed, shall have all the power that the executor appointed by the will would have had, if he had executed the will.
- SEC. 57. All suits, pleas, complaints, bills in chancery, petitions and proceedings, which may be pending when this act takes effect, in any of the circuit courts, in any way relating to idiots, lunatics, decedents estates or last wills or testaments, shall progress to final judgment or decree in the circuit court where they were commenced, or are now pending, in the same manner as if this act had not passed; and all probate business shall continue to be done and transacted, as it now is in the several counties, until the probate judge is elected and qualified and ready to act.

CHAPTER XXVI.

An Act relative to Crime and Punishment.

[APPROVED, FEBRUARY 10, 1831.]

- Treason. SEC. 1. *Be it enacted by the General Assembly of the state of Indiana*, That every person duly convicted of treason, shall suffer death.
- Murder. SEC. 2. That every person of sound memory and discretion, who shall unlawfully kill any reasonable creature in being, and under the peace of this state, with malice aforethought, and be duly convicted thereof, shall be deemed guilty of murder, and suffer death.
- Manslaughter. SEC. 3. That every person, who without malice, either express or implied, shall unlawfully kill any other [another] person, either voluntarily upon a sudden heat, or involuntarily, but in the commission of some unlawful act, shall be deemed guilty of manslaughter, and upon conviction thereof, shall be imprisoned at hard labor in the state prison, for not less than two nor more than twenty-one years, and be fined in a sum not exceeding one thousand dollars.
- Burglary. SEC. 4. That every person, who shall in the night time

Vending spirits without license.

SEC. 56. That every person, not being licensed according to law to vend spiritous liquors by retail, who may barter or sell any spiritous liquor, to be drank in his or her house, out house, yard or garden, or who may barter or sell any such spiritous liquor, by a less quantity than a quart at a time, shall be fined in any sum not less than two, nor more than twenty dollars.

Failing to put up list of tavern rates, &c.

SEC. 57. That if any licensed tavern keeper shall directly or indirectly, ask, demand or receive, any greater price or higher rates, for any article furnished in the way of his business, than may be fixed and published by him in his schedule of tavern rates, or who shall knowingly neglect, for one whole day, to keep up in the most public room in his tavern, a fair list of the aforesaid rates so by him fixed and published, he or she so offending, shall be fined in any sum not less than five dollars, nor more than fifty dollars.

Carrying concealed weapon.

SEC. 58. That every person, not being a traveller, who shall wear or carry any dirk, pistol, sword in a cane, or other dangerous weapon concealed, shall upon conviction thereof, be fined in any sum not exceeding one hundred dollars.

Adultery.

SEC. 59. That every person who shall live in open and notorious adultery or fornication, shall upon conviction thereof, be fined, if a male person, in any sum not exceeding three hundred dollars, or if a female, be imprisoned for any term of time not exceeding three months.

Lewdness.

SEC. 60. That every person who shall be guilty of open and notorious lewdness, or of any grossly scandalous and public indecency, shall upon conviction thereof, be fined in any sum not exceeding one hundred dollars.

Gaming and betting.

SEC. 61. That every person who shall play at any game or games for money, or other valuable consideration, or who shall bet on the hands or sides of such as do play, at a tavern or place licensed to vend spiritous liquors by retail, or in any out house or appendage of the same, shall on conviction thereof, be fined in any sum not exceeding seventy nor less than ten dollars, and be recognized with sufficient security, for his good behaviour for one year, which recognizance shall be forfeited by a second offence; within the time aforesaid.

Losing or winning money.

SEC. 62. That every person who shall, by playing or betting at, or upon any game or wager whatsoever, either lose or win any sum of money or article of value, shall upon conviction thereof, be fined in any sum not exceeding fifty dollars.

Deceit in gaming.

SEC. 63. That if any person by fraud, circumvention, deceit or evil practice, in playing at cards, dice or other game, or by sharing in the stakes or wager, shall win or



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Duval, John P. Compilation of the Public Acts of the Legislative Council of the Territory of Florida, Passed Prior to 1840 (1839).

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APA 7th ed.

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COMPILATION
OF THE
PUBLIC ACTS
OF THE
LEGISLATIVE COUNCIL
OF THE
TERRITORY OF FLORIDA,

PASSED PRIOR TO 1840.

BY JOHN P. DUVAL, ESQ.

TALLAHASSEE :
SAMUEL S. SIBLEY, PRINTER.

1839.

LAWS OF FLORIDA.

423

be paid out of the appropriation by congress for the year 1834, being an unexpended balance in the treasury department of the United States, to Leslie A. Thompson, the sum of four hundred and seventy-five dollars, being the amount of two warrants heretofore drawn in favour of Secundino J. Segui and John P. Booth, for services rendered the last session of the council.

To R. Heyward, two hundred and eighty-five dollars, being the amount of a draft heretofore given to R. Dinmore, Westcott, & Co., for folding and stitching the laws and journals of the last session of the council.

To Samuel B. Fitzpatrick, a former clerk of the Legislative Council, the sum of one hundred and two dollars and sixty-nine cents.

SECT. 4. *Be it further enacted*, That the governor cause to be audited and settled the accounts of Wm. Wilson, for printing the laws and journals of the present session of the council, and for publishing the same in the Floridian, according to the contract of said Wilson.

SECT. 5. *Be it further enacted*, That the governor cause to be audited and settled the accounts of the editors of the newspapers authorized to publish the laws of the present session, according to the act of congress.

[Approved, Feb. 14, 1835.]

CHAP. 860. (No. 38.) An act to prevent any Person in this Territory from carrying Arms secretly.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, it shall not be lawful for any person in this Territory to carry arms of any kind whatsoever secretly, on or about their persons; and if any dirk, pistol, or other arm, or weapon, except a common pocket-knife, shall be seen, or known to be secreted upon the person of any one in this Territory, such person so offending shall, on conviction, be fined not exceeding five hundred dollars, and not less than fifty dollars, or imprisoned not more than six months, and not less than one month, at the discretion of the jury: *Provided, however*, that this law shall not be so construed as to prevent any person from carrying arms openly, outside of all their clothes; and it shall be the duty of judges of the superior courts in this Territory, to give the matter contained in this act in special charge to the grand juries in the several counties in this Territory, at every session of the courts.

Secret arms prohibited.

Act to be given in charge to juries.

[Approved, Jan. 30, 1835.]



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ALWD 7th ed.

. Revised Statutes of the Commonwealth of Massachusetts Passed November 4, 1835 to which are Subjoined, as Act in Amendment Thereof, & an Act Expressly to Repeal the Acts Which are Consolidated Therein, both Passed in February 1836 (1836).

APA 7th ed.

(1836). Revised Statutes of the Commonwealth of Massachusetts Passed November 4, 1835 to which are Subjoined, as Act in Amendment Thereof, and an Act Expressly to Repeal the Acts Which are Consolidated Therein, both Passed in February 1836. Boston, Dutton & Wentworth.

Chicago 17th ed.

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THE
REVISED STATUTES

OF THE
Commonwealth of Massachusetts,

PASSED NOVEMBER 4, 1835;

TO WHICH ARE SUBJOINED,

AN ACT IN AMENDMENT THEREOF, AND AN ACT EXPRESSLY TO
REPEAL THE ACTS WHICH ARE CONSOLIDATED THEREIN,

BOTH PASSED IN FEBRUARY 1836;

AND TO WHICH ARE PREFIXED,

THE CONSTITUTIONS

OF THE

United States and of the Commonwealth of Massachusetts.

PRINTED AND PUBLISHED, BY VIRTUE OF A RESOLVE OF NOV. 3, 1835;

UNDER THE SUPERVISION AND DIRECTION OF

THERON METCALF AND HORACE MANN.



Boston:

PUBLISHED BY DUTTON & WENTWORTH, STATE PRINTERS
37 Congress Street.

1836.

748

CHAP. 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.

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

CHAPTER 134.

OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIMES

- | SECTION | SECTION |
|--|---|
| 1. Officers, authorized to keep the peace. | 13. Persons committed for not recognizing, how discharged. |
| 2. Complaint, how made. | 14. Recognizances to be transmitted to the court. |
| 3. Arrest. | 15. " when to be required, on view of the court or magistrate. |
| 4. Trial—Recognizance to keep the peace. | 16. Persons who go armed, may be required to find sureties for the peace, &c. |
| 5. Party, when to be discharged. | 17. Court may remit part of penalty forfeited. |
| 6. Refusing to recognize, to be committed. | 18. Surety may surrender his principal, who may recognize anew. |
| 7. Complainant, when to pay costs. | |
| 8. 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 1. The justices of the supreme judicial court, the justices of the court of common pleas, justices of police courts, in vaca-

Officers' authorized to keep the peace.

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.

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

Proceedings on
appeal.

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

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 com-
mitted for not
recognizing,
how discharged.

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

Recognizances
to be transmit-
ted 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 magis-
trate.

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 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 re-
mit part of pen-
alty.
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



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" Alabama - General Assembly, Called Session - 1837 : 7-8

AGLC 4th ed.
" Alabama - General Assembly, Called Session - 1837 7

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Treasurer of the State, to deposit in the Bank of the State and its several branches, all that portion of the public revenue of the United States, which he has received or which he may hereafter receive, as the portion of Alabama, in the following proportion: One fifth in the Bank of the State at Tuscaloosa, one fifth in the Branch Bank at Montgomery, one fifth in the Branch Bank at Mobile, one fifth in the Branch Bank at Decatur, and one fifth in the Branch Bank at Huntsville; taking therefor certificates of deposit, and all laws or parts of laws, contravening the provisions of this act, be and the same are hereby repealed: *Provided*, That the amount of the surplus revenue already received and which may hereafter be received, shall be deposited in said Bank and its Branches, in the above and foregoing proportions, on or before the first day of May next.

Treasurer to deposit the surplus revenue in the Bank and Branches.

Approved June 30, 1837.

No. 11.]

AN ACT

To suppress the use of Bowie Knives.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That if any person carrying any knife or weapon, known as Bowie Knives or Arkansas Tooth-picks, or either or any knife or weapon that shall in form, shape or size, resemble a Bowie Knife or Arkansas Tooth-pick, on a sudden rencounter, shall cut or stab another with such knife, by reason of which he dies, it shall be adjudged murder, and the offender shall suffer the same as if the killing had been by malice aforethought.

Penalty for carrying Bowie knives

Sec. 2. *And be it further enacted*, That for every such weapon, sold or given, or otherwise disposed of in this State, the person selling, giving or disposing of the same, shall pay a tax of one hundred dollars, to be paid into the county Treasury; and if any person so selling, giving or disposing of such weapon, shall fail to give in the same in his list of taxable property, he shall be subject to the pains and penalties of perjury.

Persons selling Bowie knives to be taxed.

Approved June 30, 1837.

[No. 12.]

AN ACT

To enlarge the prison bounds in the different counties in this State:

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the several sections of an act passed in the year 1824, requiring the Judge of the county court and commissioners of roads and revenue, to mark and lay out the bounds of prisoners, be and the same is hereby repealed; and that from and after the passage of this act, the bounds of the different counties shall be the limits within which prisoners confined for debt shall be restricted, on entering into bond, as now required by law, to keep within the prison bounds; and hereafter the plaintiffs in suits shall not be compelled to pay the sustenance and support of prisoners who take the benefit of the bounds.

Prison bounds enlarged.

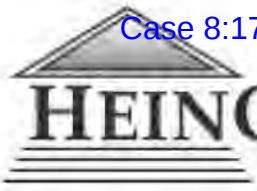
Approved June 30, 1837.

[No. 13.]

AN ACT

For the relief of the purchasers of the Sixteenth Section, Township four, Range six, West, in the county of Lawrence and for other purposes.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the President and Directors of the Branch of the Bank of the



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brought before him, and on investigating the charge, he shall discharge, bail, or commit in default of bail, as the case may require.

DIVISION VIII.

OFFENCES AGAINST THE PUBLIC PEACE, AND AFFECTING
THE SECURITY OF PERSONS AND PROPERTY.

ART. I.—RIOTS, ROUTS, &c.

SECTION

1. Punishments for riots, &c.
2. Officer to make proclamation to disperse.
3. On refusal to obey, officer to summon the posse and arrest the offenders.
4. If armed, the officer may summon the militia.
5. Persons summoned, to obey promptly.
6. Taking violent possession of real estate.
7. Acts against public health, morals or justice, or the administration of law.
8. Agreements to commit felony, and ad-

SECTION

9. Advances thereto, without actual commission.
10. Conspiracies to cheat, and advances thereto, without actual commission.
11. Conspiracies to indict, and advances thereto, without actual commission.
12. Doing any act prohibited, or failing to do any act required by law.
13. Punishment of misdemeanors, where not defined.
14. Wearing concealed weapons.

SEC. 1. If three or more persons assemble together, with the intent, or being assembled, shall agree mutually, to assist each other to do an unlawful act, with force or violence, against the person or property of another, or against the peace, or to the terror of the people, and shall accomplish the purpose intended, or do any unlawful act in furtherance of such purpose, in a violent or turbulent manner; every person so offending, or who shall aid or assist in doing any unlawful act, shall be adjudged guilty of a misdemeanor, and shall be punished by imprisonment not exceeding one year, or by fine, not exceeding five hundred dollars, or both by fine and imprisonment, at the discretion of the court.

SEC. 2. When three or more persons shall be riotously, unlawfully or tumultuously assembled, as specified in the last preceding section, it shall be the duty of every judge, justice of the peace, sheriff, coroner and constable, who shall have knowledge, or be informed thereof, to make proclamation among the persons so assembled, or as near them as he can safely come, charging and commanding them immediately to disperse themselves, and peaceably to depart to their habitations or lawful business.

SEC. 3. If upon such proclamation being made, the persons so assembled shall not immediately disperse and depart as commanded, or if they shall resist such officer, or prevent the making such procla-

CHAP. XLIV.] CRIMINAL JURISPRUDENCE.

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mation, such officer shall command those present, and the power of the county if necessary, and shall disperse such unlawful assembly, arrest the offenders, and take them before some judicial officer, to be dealt with according to law.

SEC. 4. If any person so assembled shall be armed, or make forcible resistance to the officer so making, or attempting to make such proclamation, such officer shall summon to his aid a sufficient number of the militia, or other persons in arms, to disperse such assembly, arrest the offenders, and maintain the authority of the law.

SEC. 5. All militia officers and others, who shall be summoned under the provisions of this act, shall give prompt obedience to such officer.

SEC. 6. Every person who shall take, or keep possession of any real estate by actual force or violence, without the authority of law, or who being armed with a deadly or dangerous weapon, shall by violence to any person entitled to the possession, or by putting in fear of immediate danger to his person, obtain or keep possession of any such real estate or property, without legal authority, shall on conviction be adjudged guilty of a misdemeanor, and be fined not less than fifty dollars, and be imprisoned not exceeding one year.

SEC. 7. If any person shall commit any act, injurious to the public health or public morals, or to the perversion or obstruction of public justice, or the due administration of the laws, he shall be deemed guilty of a misdemeanor.

SEC. 8. If two or more persons shall agree and conspire to commit any felony, and make some advance thereto, without committing the felony, they shall be deemed guilty of a misdemeanor.

SEC. 9. If two or more conspire to cheat any person out of any money or other property by false pretences or false tokens, and make some advance thereto, they shall be deemed guilty of a misdemeanor.

SEC. 10. If one or more persons shall contrive and intend to have any person indicted, on any false criminal charge; and make some advance thereto, although such person may not be indicted, he or they shall be deemed guilty of a misdemeanor.

SEC. 11. Where the performance of any act is prohibited, or the performance of any act is required, by any statute, and no penalty for the violation of such statute is imposed, either in the same section containing such prohibition, or requiring such act or duty, or in any other section or statute, the doing of such prohibited act, or the neglect of such required act or duty, shall be deemed a misdemeanor.

SEC. 12. Every person who shall be convicted of any misdemeanor, the punishment of which is not defined in this or some other statute, shall be punished by imprisonment, not exceeding one year, or by fine not exceeding two hundred and fifty dollars, or by fine and imprisonment both.

SEC. 13. Every person who shall wear any pistol, dirk, butcher or large knife, or a sword in a cane, concealed as a weapon, unless upon a journey, shall be adjudged guilty of a misdemeanor, and upon conviction thereof, in the county in which the said offence shall have been committed, shall be fined in any sum not less than twentyfive dollars, nor more than one hundred dollars, one half to be paid into the county treasury, the other half to the informer, and shall also be imprisoned not less than one, nor more than six months.

ART. II. — LIBEL.

SECTION

1. Definition of.
2. Punishment of.
3. The truth of the libel may be given in evidence.
4. Proclaiming a person a coward, for not fighting a duel, &c.

SECTION

5. Publisher or printer required to testify.
6. Punishment of publisher or printer refusing to testify.
7. Their testimony not to be used against themselves.

SEC. 1. A libel is a malicious defamation, expressed either by writing, printing, or by signs or pictures, or the like, tending to blacken the memory of one who is dead, or to impeach the honesty, integrity, veracity, virtue or reputation, or to publish the natural defects, of one who is living, and thereby expose him to public hatred, contempt and ridicule.

SEC. 1. Every person, whether writer, printer or publisher, convicted of the crime of libel, shall be fined in any sum not exceeding five thousand dollars, and may also be imprisoned, not exceeding one year, at the discretion of the jury who shall pass on the case; and when any such case shall be decided without the intervention of a jury, then at the discretion of the court.

SEC. 3. In all prosecutions for libel, under the provisions of the preceding sections, the truth thereof may be given in evidence in justification.

SEC. 4. If any person shall, in any newspaper, handbill or other advertisement, written or printed, publish or proclaim any other person as a coward, or use any other opprobrious or abusive language, for not



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Chicago 17th ed.
" " Georgia - Annual Session : 3-288

AGLC 4th ed.
" Georgia - Annual Session 3

OSCOLA 4th ed.
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DEADLY WEAPONS.

AN ACT to guard and protect the citizens of this State, against the unwarrantable and too prevalent use of deadly weapons.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Georgia, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passage of this act, it shall not be lawful for any merchant, or vender of wares or merchandize in this State, or any other person or persons whatsoever, to sell, or offer to sell, or to keep, or have about their person or elsewhere, any of the hereinafter described weapons, to wit: Bowie, or any other kind of knives, manufactured and sold for the purpose of wearing, or carrying the same as arms of offence or defence, pistols, dirks, sword canes, spears, &c., shall also be contemplated in this act, save such pistols as are known and used, as horse-man's pistols, &c.*

SEC. 2. *And be it further enacted by the authority aforesaid, That any person or persons within the limits of this State, violating the provisions of this act, except as hereafter excepted, shall, for each and every such offence, be deemed guilty of a high misdemeanor, and upon trial and conviction thereof, shall be fined, in a sum not exceeding five hundred dollars for the first offence, nor less than one hundred dollars at the direction of the Court; and upon a second conviction, and every after conviction of a like offence, in a sum not to exceed one thousand dollars, nor less than five hundred dollars, at the discretion of the Court.*

SEC. 3. *And be it further enacted by the authority aforesaid, That it shall be the duty of all civil officers, to be vigilant in carrying the provisions of this act into full effect, as well also as Grand Jurors, to make presentments of each and every offence under this act, which shall come under their knowledge.*

SEC. 4. *And be it further enacted by the authority aforesaid, That all fines and forfeitures arising under this act, shall be paid into the county Treasury, to be appropriated to county purposes: Provided, nevertheless, that the provisions of this act shall not extend to Sheriffs, Deputy Sheriffs, Marshals, Constables, Overseers or Patrols, in actual discharge of their respective duties, but not otherwise: Provided, also, that no person or persons, shall be found guilty of violating the before recited act, who shall openly wear, externally, Bowie Knives, Dirks, Tooth Picks, Spears, and which shall be exposed plainly to view: And provided, nevertheless, that the provisions of this act shall not extend to prevent venders, or any oth-*

DEEDS.

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er persons who now own and have for sale, any of the aforesaid weapons, before the first day of March next.

SEC. 5. *And be it further enacted by the authority aforesaid,* That all laws and parts of laws militating against this act, be, and the same are, hereby repealed.

JOSEPH DAY,
Speaker of the House of Representatives,
ROBERT M. ECHOLS,
President of the Senate.

Assented to, 25th December, 1837.

GEORGE R. GILMER, Governor.

DEEDS.

AN ACT to admit certain Deeds to be recorded and read in evidence ; and also, to prescribe the effect of certain other Deeds.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Georgia, in General Assembly met, and it is hereby enacted by the authority of the same,* That from and after the passing of this act, all Deeds for lands which may have been recorded upon the usual proof of execution, but not recorded within the time prescribed by the laws of this State, shall be admitted in evidence, without further proof; and when the originals are lost or destroyed, and that being made judicially known to the Court, copies of the same may be introduced and read in evidence, on any trial before any Court of law or equity, in this State.

SEC. 2. *And be it further enacted by the authority aforesaid,* That all Deeds executed, according to the laws of this State, but not yet recorded, may nevertheless be recorded within twelve months from the passage of this act, upon the usual proof of their execution ; and when so recorded, the same or copies thereof, when the originals are shown to be lost or destroyed, may be read in evidence without further proof.

SEC. 3. *And be it further enacted by the authority aforesaid,* That all Deeds conveying lands hereafter executed upon being attested or proved in the manner required by the laws of this State, shall be admitted to record, at any time, and after being recorded, shall be received in evidence in any Court of Law or Equity, without further proof of the execution thereof.

SEC. 4. *And be it further enacted by the authority aforesaid,* That in all cases where two or more Deeds shall hereafter be executed by the same person or persons, conveying the same



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L A W S

OF THE

STATE OF MISSISSIPPI,

PASSED AT A CALLED SESSION,

OF THE

LEGISLATURE,

HELD IN THE

CITY OF JACKSON, IN APRIL AND MAY, 1837.

—//s

JACKSON:
PRINTED BY G. R. FALL.

1837.

rate town
or city.

any corporate city or town, or any other town or public place, in this state, and shall in such fight use any rifle, shot gun, sword, sword cane, pistol, dirk, bowie knife, dirk knife, or any other deadly weapon; or if any person shall be second or aid in such fight, the persons so offending shall be fined not less than three hundred dollars, and shall be imprisoned not less than three months; and if any person shall be killed in such fight, the person so killing the other may also be prosecuted and convicted as in other cases of murder.

Certain
persons
compelled
to give
evidence.

§ 6. *Be it further enacted*, That if any person shall offend against any of the provisions of this act, such person shall be a competent witness against any other person offending in the same transaction, and may be compelled to appear and give evidence before any justice of the peace, grand jury or court, in the same manner as other witnesses, but the testimony so given shall not be used in any prosecution or proceeding civil or criminal, against the person so testifying.

Duty of
grand ju-
rors, jus-
tices, &c.

§ 7. *Be it further enacted*, That it shall be the duty of all grand jurors, justices of the peace, constables, members of boards of county police, sheriffs, and other peace officers, without delay, to give information against, and prosecute every person who shall be guilty of a violation of any of the provisions of this act, and all costs and expenses they may incur on account of the same, shall be paid on conviction, by the defendant, and if he shall be unable to pay the same, or be acquitted, then such cost and expenses shall be paid out of the state treasury.

Survivor
in a duel to

§ 8. *Be it further enacted*, That if any

LAWS OF MISSISSIPPI.

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duel shall be fought contrary to the provisions of this act, or if any person shall be guilty of fighting in any incorporate town or city, or any other town or public place in this state, and the parties or either of them shall use any rifle, shot gun, sword cane, pistol, dirk, dirk knife, bowie knife, or any other deadly weapon, contrary to the provisions of this act, and either of the parties combatant shall be killed, or shall die within ninety days of any wound received in any such duel or fight, the party surviving shall be, and he is hereby held chargeable with the payment of the debts of his antagonist so killed by him, and the estate of the party so killed shall be exonerated from the payment of such debts, until the surviving party shall be first duly prosecuted to insolvency, and the person or persons to whom the combatant so killed in such duel, or fight, shall be indebted, may prosecute to judgment and execution any action of debt or assumpsit against such surviving party, which such person could have maintained against such party so killed, and in his declaration it shall be sufficient to set forth in substance the description of the judgment, bill, bond, note, assumpsit, or account, by which the deceased in his life time was indebted to the plaintiff, and to aver that the defendant and the deceased had fought a duel contrary to the provisions of this act, or had fought in an incorporated city or town, or other town or public place in this state, and had in such fight used a rifle, shot gun, sword, sword cane, pistol, dirk, dirk knife, bowie knife, or other deadly weapon, contrary to the meaning and intent of this act, and that in such duel or fight, the defendant had unlawfully killed the deceased, or had

pay debts
of the per-
son he
kills.

given the deceased, in such duel or fight, a mortal wound, of which, within ninety days the deceased had died, and that in consideration of which the defendant had become bound to pay to the plaintiff the amount of money mentioned in such judgment, bill, bond, note, assumpsit, or account, and upon proving the same, the said plaintiff shall have verdict, judgment, and execution against the defendant, which shall appear to have been justly due, and owing from the deceased to the plaintiff, at the time of the commencement of such suit, any law usage or custom to the contrary notwithstanding.

Penalty
for unlaw-
fully using
deadly
weapons.

§ 9. *Be it further enacted,* That if any person having, or carrying any dirk, dirk knife, bowie knife, sword, sword cane, or other deadly weapon, shall, in the presence of three or more persons, exhibit the same in a rude, angry and threatening manner, not in necessary self defence, or shall in any manner unlawfully use the same in any fight or quarrel, the person or persons so offending, upon conviction thereof in the circuit or criminal court of the proper county, shall be fined in a sum not exceeding five hundred dollars, and be imprisoned not exceeding three months.

Duty of
circuit
judges.

§ 10. *Be it further enacted,* That it shall be the duty of the judges of the circuit courts to give this act in charge to the grand jury at each term of their respective courts, and that this act shall be in force and take effect from and after the fourth day of July, one thousand eight hundred and thirty-seven.

To take
effect.

Approved, May 13, 1837.



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L A W S

OF THE

STATE OF MISSISSIPPI,

PASSED AT A CALLED SESSION,

OF THE

LEGISLATURE,

HELD IN THE

CITY OF JACKSON, IN APRIL AND MAY, 1837.

—//s

JACKSON:
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1837.

LAWS OF MISSISSIPPI,

293

AN ACT to incorporate the town of Sharon, in the county of Madison, and for other purposes.

§ 1. *Be it enacted by the legislature of the* ^{Town of Sharon incorporated} *state of Mississippi,* That the town of Sharon, in the county of Madison be, and the same is hereby incorporated, and that the corporate limits of said town shall be to the four cardinal points, and form one mile and a half square, to be laid off in such manner, so that the centre of the town of Sharon, as at present laid off and surveyed, shall be the centre of the said corporate limits.

§ 2. *Be it further enacted,* That every free ^{Votes.} white male person having attained the age of twenty-one years, and shall have resided within the corporate limits of said town, four months, and twelve months within this state next preceding an election, for town officers, shall be a qualified elector and eligible to any town office.

§ 3. *Be it further enacted,* That the quali- ^{First elec- tion.} fied electors of said town, are hereby authorized to hold an election in the town of Sharon, on the first Wednesday in July next, between the hours of ten o'clock, A. M., and four o'clock P. M., for the purpose of electing five persons, as counsellors, a justice, treasurer, recorder, and constable, who shall serve until the first regular annual election, or until their successor shall be elected, and that the annual election shall be held in said town, in some suitable house on or near the public square, on the first Wednesday in January, in each and every year, between the hours of ten o'clock in the morning, and four o'clock in the evening, and that the justice of the peace elected in pursuance of this act, after being commissioned by the governor, shall by virtue of his

office, be president of the council, and be entitled to all the emoluments and immunities of other magistrates of said county, and in case of his absence any member of the council may be called to the chair and execute the duties of the president *pro tempore*.

General
powers.

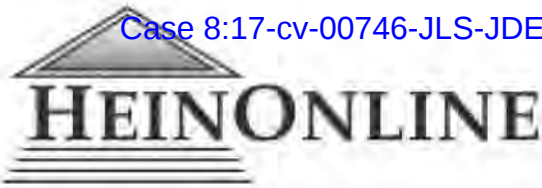
§ 4. *Be it further enacted*, That the president and counsellors shall be a body corporate and politic of the town of Sharon, by the name and style of the president and council of the town of Sharon, and as such they and their successors in office shall be capable of suing and being sued, of pleading and being impleaded, of defending and being defended, in all manner of suits and actions either in law or equity, and also receive donations, give, grant, sell, convey and contract, and do any and all other such acts which are incident to bodies corporate and politic.

By-laws.

§ 5. *Be it further enacted*, That the president and council shall have power to pass all necessary by-laws for the good order and government of said town, not inconsistent with the constitution and laws of this state, or the United States, whereby education and morality may be promoted, and the retailing and vending of ardent spirits, gambling and every species of vice and immorality may be suppressed, together with the total inhibition of the odious and savage practice of wearing dirks, bowie knives, or pistols, and in their corporate capacity they may inflict a penalty on any person for a violation of any such by-laws, not exceeding fifty dollars for any offence, recoverable with cost before any justice of the peace for said county, in the name of the president and council, for the use and benefit of said town.

Officers.

§ 6. *Be it further enacted*, That the cor-



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Chicago 17th ed.
," Tennessee - 22nd General Assembly, 1st Session : 200-201

AGLC 4th ed.
" Tennessee - 22nd General Assembly, 1st Session 200

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to perform the duties enjoined on them by the second section of an act, passed at Nashville, the 19th of February, 1836, chapter XLVIII, that it shall be the duty of the several county surveyors to do and perform said services within their respective counties, and that said county surveyors shall be allowed the same fees, and be subject to the same penalties that said principal surveyors were entitled to, and liable for, in processioning said lands, and that said county surveyors shall return a plat and certificate of each tract so processioned by them to the entry taker of the county, who shall forthwith record the same in his survey book, for which services the said entry taker shall be allowed the same fees as for other services of the same kind, and that said several tracts of land shall be liable to attachment and final judgment for all expenses in processioning and recording the same.

JOHN COCKE,

Speaker of the House of Representatives.

TERRY H. CAHAL,

Speaker of the Senate.

Passed January 18th, 1836.

CHAPTER CXXXVII.

An Act to suppress the sale and use of Bowie Knives and Arkansas Tooth Picks in this State.

Knives not to be
sold or given
away

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That if any merchant, pedlar, jeweller, confectioner, grocery keeper, or other person or persons whatsoever, shall sell or offer to sell, or shall bring into this State, for the purpose of selling, giving or disposing of in any other manner whatsoever, any Bowie knife or knives, or Arkansas tooth picks, or any knife or weapon that shall in form, shape or size resemble a Bowie knife or any Arkansas tooth pick, such merchant, pedlar, jeweller, confectioner, grocery keeper, or other person or persons for every such Bowie knife or knives, or weapon that shall in form, shape or size resemble a Bowie knife or Arkansas tooth pick so sold, given or otherwise disposed of, or offered to be sold, given or otherwise disposed of, shall be guilty of a misdemeanor, and upon conviction thereof upon indictment or presentment, shall be fined in a sum not less than one hundred dollars, nor more than five hundred dollars, and shall be imprisoned in the county jail for a period not less than one month nor more than six months.

Not to be worn

SEC. 2. That if any person shall wear any Bowie knife, Arkansas tooth pick, or other knife or weapon that shall in

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form, shape or size resemble a Bowie knife or Arkansas tooth pick under his clothes, or keep the same concealed about his person, such person shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than two hundred dollars, nor more than five hundred dollars, and shall be imprisoned in the county jail not less than three months and not more than six months.

Sec. 3. That if any person shall maliciously draw or attempt to draw any Bowie knife, Arkansas tooth pick, or any knife or weapon that shall in form, shape or size resemble a Bowie knife or Arkansas tooth pick, from under his clothes or from any place of concealment about his person, for the purpose of sticking, cutting, awing, or intimidating any other person, such person so drawing or attempting to draw, shall be guilty of a felony, and upon conviction thereof shall be confined in the jail and penitentiary house of this State for a period of time not less than three years, nor more than five years.

Penalty of drawing a knife

Sec. 4. That if any person carrying any knife or weapon known as a Bowie knife, Arkansas tooth pick, or any knife or weapon that shall in form, shape or size resemble a Bowie knife, on a sudden encounter, shall cut or stab another person with such knife or weapon, whether death ensues or not, such person so stabbing or cutting shall be guilty of a felony, and upon conviction thereof shall be confined in the jail and penitentiary house of this State, for a period of time not less than three years, nor more than fifteen years.

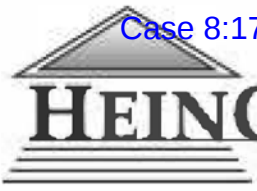
Penalty for using knife

Sec. 5. That this act shall be in force from and after the first day of March next. And it shall be the duty of the several judges of the circuit courts in this State to give the same in charge to the grand jury every term of the respective courts, and any civil officer who shall arrest and prosecute to conviction and punishment any person guilty of any of the offences enumerated in this act, shall be entitled to the sum of fifty dollars, to be taxed in the bill of costs, and the attorney general shall be entitled to a tax fee of twenty dollars in each case, when a defendant shall be convicted, and no prosecutor required on any presentment or indictment for any of the offences enumerated in this act.

Of prosecutions

JOHN COCKE,
Speaker of the House of Representatives.
TERRY H. CAHAL,
Speaker of the Senate.

Passed January 27th, 1838.



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(36)

the statute of which this is an amendment, she shall make her election either of dower or of a child's part, within twelve months after the probate of the will or granting letters of administration, or she shall be confined to her dower.

Widow may make her election of dower.

Sec. 2. That if a widow take dower, she shall be entitled only to a life estate in the real property, to return at her death, to the estate of her deceased husband for distribution; if she takes a child's part, she shall have in the property set apart to her, a fee simple estate in the real property, and an absolute title to the personal property including slaves, with power to control or dispose of the same by will, deed or otherwise.

Fee simple title in widow.

Passed February 6th 1838.—Approved 8th Feb. 1838.

No. 24. AN ACT in addition to An Act, (approved January 30th, 1835,) entitled An Act to prevent any person in this Territory from carrying arms secretly.

Venders to get license.

Monies how appropriated.

Section 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, it shall not be lawful for any person or persons in this Territory to vend dirks, pocket pistols, sword canes, or bowie knives, until he or they shall have first paid to the treasurer of the county in which he or they intend to vend weapons, a tax of two hundred dollars per annum, and all persons carrying said weapons openly shall pay to the officer aforesaid a tax of ten dollars per annum; and it shall be the duty of said officer to give the parties so paying a written certificate, stating that they have complied with the provisions of this act. Four fifths of all monies so collected to be applied by the county courts to county purposes, the other fifth to be paid to the prosecuting attorney.

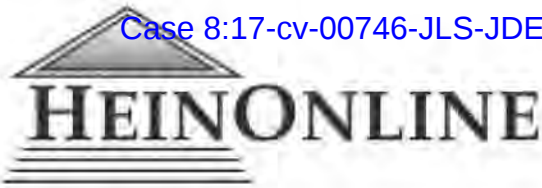
Penalty.

Sec. 2. Be it further enacted, That if any person shall be known to violate this act, he or they so offending, shall be subject to an indictment, and on conviction, to a fine of not less than two hundred nor exceeding five hundred dollars, at the discretion of the court.

Judges to charge grand juries.

Sec. 3. Be it further enacted, That it shall be the duty of the several Judges of the Superior Courts of this Territory, to give this act in charge to the grand jurors of their respective districts at each term of the court.

Passed 5th February, 1838.—Approved 10th Feb. 1838.



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#11607
Free Negroes.—Burning in Hand.—Concealed Weapons.

CHAP. 99.—An ACT to prevent free persons of colour who leave the state from returning to it in certain cases.

(Passed April 7, 1833.)

Free negroes leaving state to be educated not permitted to return.

Infants so returning how dealt with.

Adults how punished.

Commencement.

1. *Be it enacted by the general assembly,* That if any free person of colour, whether infant or adult, shall go or be sent or carried beyond the limits of this commonwealth for the purpose of being educated, he or she shall be deemed to have emigrated from the state, and it shall not be lawful for him or her to return to the same; and if any such person shall return within the limits of the state contrary to the provisions of this act, he or she being an infant, shall be bound out as an apprentice until the age of twenty-one years, by the overseers of the poor of the county or corporation where he or she may be, and at the expiration of that period, shall be sent out of the state agreeably to the provisions of the laws now in force, or which may hereafter be enacted to prohibit the migration of free persons of colour to this state; and if such person be an adult, he or she shall be sent in like manner out of the commonwealth; and if any person having been so sent off, shall thereafter return within the state, he or she so offending shall be dealt with and punished in the same manner as is or may be prescribed by law in relation to other persons of colour returning to the state after having been sent therefrom.

2. This act shall be in force from and after the first day of August next.

CHAP. 100.—An ACT abolishing the punishment of burning in the hand in all cases.

(Passed February 8, 1833.)

Burning in hand abolished.

Commencement.

1. *Be it enacted by the general assembly,* That so much of any law of this commonwealth as authorizes or inflicts the punishment of burning in the hand in any case whatever, shall be, and the same is hereby repealed. And every person who may be hereafter convicted of any offence within the benefit of clergy, shall be punished in the mode now prescribed by law, except only the burning in the hand.

2. This act shall be in force from the passing thereof.

CHAP. 101.—An ACT to prevent the carrying of concealed weapons.

(Passed February 9, 1833.)

Penalty for carrying concealed weapons.

Courts to ascertain if murders or felonies be perpetrated by concealed weapons.

1. *Be it enacted by the general assembly,* That if any person shall hereafter habitually or generally keep or carry about his person any pistol, dirk, bowie knife, or any other weapon of the like kind, from the use of which the death of any person might probably ensue, and the same be hidden or concealed from common observation, and he be thereof convicted, he shall for every such offence forfeit and pay the sum of not less than fifty dollars nor more than five hundred dollars, or be imprisoned in the common jail for a term not less than one month nor more than six months, and in each instance at the discretion of the jury; and a moiety of the penalty recovered in any prosecution under this act, shall be given to any person who may voluntarily institute the same.

2. *And be it further enacted,* That if any person shall hereafter be examined in any county or corporation court upon a charge of murder or felony, perpetrated by shooting, stabbing, maiming, cutting or wounding, and it shall appear that the offence charged was

in fact committed by any such weapon as is above mentioned, and that the same was hidden or concealed from or kept out of the view of the person against whom it was used, until within the space of one half hour next preceding the commission of the act, or the infliction of the wound, which shall be charged to have caused the death, or constituted the felony, it shall be the duty of the examining court to state that the fact did so appear from the evidence; and if the court shall discharge or acquit the accused, such discharge or acquittal shall be no bar to an indictment for the same offence in the superior court having jurisdiction thereof, provided the same be found within one year thereafter. And whether the accused shall be by such court sent on for further trial or discharged, it shall be lawful to charge in the indictment that the offence was committed in any of the modes herein before described; and upon the trial it shall be the duty of the jury (if they find the accused not guilty of the murder or felony) to find also whether the act charged was in fact committed by the accused, though not feloniously, and whether the same was committed or done with or by means of any pistol, dirk, bowie knife, or other dangerous weapon, which was concealed from or kept out of the view of the person on or against whom it was used, for the space before mentioned, next preceding such use thereof; and if the jury find that the act was so committed, they shall assess a fine against the accused, and it shall be lawful for the court to pronounce judgment as in cases of misdemeanor.

Acquittal no bar to indictment in superior court.

Offence how charged in indictment.

Verdict of jury will contain.

Penalty.

3. This act shall be in force from and after the first day of June next.

Commencement.

CHAP. 102.—An ACT to extend the act for the temporary relief of the banks of this commonwealth.
[Passed February 20, 1837.]

1. *Be it enacted by the general assembly*, That the first, second and seventh sections of the act passed on the twenty-fourth day of June, eighteen hundred and thirty-seven, entitled, "an act for the temporary relief of the banks of this commonwealth, and for other purposes," shall be, and the same are hereby continued in force till the twentieth day of March next.

Laws for temporary relief of banks extended. See post ch. 103. Act extra session 1837, pp. 3, 4, § 1, 2, 7.

2. *Be it further enacted*, That so much of the provisions of the act, entitled, "an act increasing the banking capital of the commonwealth," passed March the twenty-fifth, eighteen hundred and thirty-seven, as relates to the Bank of Virginia, the Farmers bank of Virginia, and the Bank of the Valley of Virginia, shall be and the same is hereby suspended until the first day of April next.

Part of act increasing banking capital suspended. Acts 1830-7, pp. 68-74.

3. This act shall commence and be in force from the passage thereof.

Commencement.

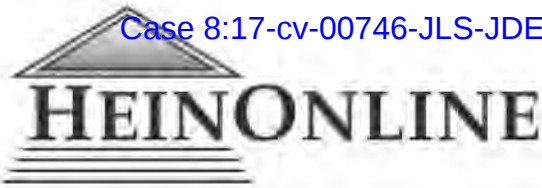
CHAP. 103.—An ACT further to extend the act for the temporary relief of the banks of this commonwealth.
[Passed March 10, 1838.]

1. *Be it enacted by the general assembly*, That the first, second and seventh sections of the act passed on the twenty-fourth day of June, eighteen hundred and thirty-seven, entitled, "an act for the temporary relief of the banks of this commonwealth," be and the same is hereby continued in force till the expiration of the present session of the legislature, any law to the contrary notwithstanding.

Laws for temporary relief of banks further extended.

2. This act shall be in force from its passage.

Commencement.



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, , 1838 67 .

Chicago 17th ed.
," Alabama - General Assembly, Annual Session : 67-68

AGLC 4th ed.
" Alabama - General Assembly, Annual Session 67

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1839.

shall appoint such officers as they may think proper and remove the same for improper conduct or neglect of duty.

Sec. 2. *And be it further enacted,* The said Trustees or body corporate shall be privileged to purchase, accept of and be invested with all manner of property, either real, personal, or mixed, to them and their successors in office, to have and to hold the same for the proper use and benefit of said Academy; *Provided,* the whole value of said property shall never exceed twenty thousand dollars. Trustees may hold property

Sec. 3. *And be it further enacted,* That when any vacancy may occur by death, resignation, or otherwise, of any of the Trustees of said Academy, the survivors or residue of said Trustees, shall fill the same in such manner as shall be pointed out by the by-laws and regulations of said corporation; and that a majority of said board of Trustees shall be competent to transact all business pertaining to said corporation, and their acts shall be as binding and valid as if the whole board were present. Vacancies how filled.

Sec. 4. *And be it further enacted,* That all property owned by said Trustees in their aforesaid corporate capacity, shall be and it is hereby declared free from all taxation. Property not taxable.

Approved Feb. 1st, 1839.

[No. 76.]

AN ACT

To declare Chockolocco Creek a public highway from Davis' to Bagleys Mills in the County of Talladega.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Chockolocco Creek from Davis' to Bagleys Mills in the County of Talladega is hereby declared a public highway.

Sec. 2. *And be it further enacted,* That if any person or persons, shall obstruct the navigation of said creek, by building milldams, felling trees, or in any other way, such person or persons, shall forfeit and pay the sum of five hundred dollars; one half to the State, and the other half to any person who may sue for the same, recoverable before any court of law having jurisdiction of the same and shall also forfeit and pay all damages which any person or persons, may sustain by reason of such obstructions, recoverable in like manner, and all such obstructions may be removed by order of the County or Circuit Court of Talladega county as a public nuisance.

Approved Feb. 1, 1839.

[No. 77.]

AN ACT

To suppress the evil practice of carrying weapons secretly.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That if any person shall carry concealed about his person any species of fire arms, or any bowie knife, Arkansas tooth-pick, or any other knife of the like kind, dirk, or any other deadly weapon, the person so offending, shall on conviction thereof, before any court having competent jurisdiction, pay a fine not less than fifty nor more than five hundred dollars, to be assessed by the jury trying the case; and be imprisoned for a term not exceeding three months, at the discretion of the Judge of said court.

1839.

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Judges to
give this law
a charge to
arg

Sec. 2. *And be it further enacted*, That it shall be the duty of the Judges of the several Circuit Courts of this State to give this act specially in charge to the Grand Juries, at the commencement of each term of said Courts.

Sec. 3. *And be it further enacted*, That the Secretary of State shall cause this act to be published for three months in the papers of Mobile, Montgomery, Tuscumbia, Huntsville, Wetumpka and Tuscaloosa, which publishers shall be paid out of any money in the Treasury not otherwise appropriated. Approved Feb. 1, 1839.

[No. 78]

AN ACT

To incorporate the town of Mooresville in the county of Limestone.

Incorporation

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the town of Mooresville, in the county of Limestone, be and the same is hereby incorporated, including all the territory within one fourth of a mile in every direction, from the store house of White and Dewoody in said town.

Trustees to
be elected.

Sec. 2. *And be it further enacted*, That all free white male persons of said town living and residing within the limits of said incorporation above the age of twenty-one years, are hereby authorised to vote for and elect persons residing in said town, or corporate limits as trustees of said corporation, a majority of whom shall constitute a quorum to do business who are empowered to superintend the police of said town by passing such by-laws not contrary to the laws of the United States and of this State as they may think proper for the Government of said town, and for the suppression and removal of nuisances, within the above mentioned boundaries.

Assess taxes.

Sec. 3. *And be it further enacted*, That said trustees or a majority of them, are hereby authorised to assess such taxes on all property lying within the limits of said corporation as they may think proper, for all the purposes of a proper police and necessary revenue therefor.

Trustees to
elect President.

Sec. 4. *And be it further enacted*, That the said trustees shall meet on the day next succeeding the election and choose from among themselves a President who shall preside and keep order at all meetings of the trustees; and the President of said trustees is hereby vested with all the powers and privileges of a Justice of the peace within the corporate limits of said town, and at the same time and place, the said trustees shall elect a treasurer for the corporation and a constable, and the said constable so elected shall be vested with all the powers, privileges, and duties of a constable within the corporate limits aforesaid, and to whom the taxes aforesaid shall be given in on oath, and who shall collect and pay over the same to the treasurer of said town within ten days after the same is collected.

To elect Treasurer & constable.

Elections
when held.

Sec. 5. *And be it further enacted*, That the election of trustees shall be held on the second Monday in March 1839, and forever thereafter, on the same day in each succeeding year, from eleven o'clock, A. M. to four o'clock P. M., under the direction of a Justice of the Peace of said county; and two house-holders or free-holders residing within the limits aforesaid.



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1839 384 .

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Chicago 17th ed.
", " Mississippi - Adjourned Session : 384-387

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" Mississippi - Adjourned Session 384

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L A W S

OF THE

STATE OF MISSISSIPPI :

PASSED AT AN ADJOURNED SESSION

OF THE LEGISLATURE,

HELD IN THE

CITY OF JACKSON,

FROM JANUARY 7, TO FEBRUARY 16, A. D. 1839.

JACKSON :

B. D. HOWARD, STATE PRINTER.

1839.

CHAPTER 168.

AN ACT to Incorporate the Town of Emery, in the County of Holmes.

Incorporation.

Limits.

SECTION 1. *Be it enacted, by the Legislature of the State of Mississippi,* That the town of Emery, in the county of Holmes, be, and the same is hereby, incorporated, and that the corporate limits of the said town shall run to the four cardinal points, and form one mile square, to be laid off in such manner so that the centre of the said town, as at present laid off and surveyed, shall be the centre of the said corporate limits.

Qualifications of voters, &c.

SEC. 2. *And be it further enacted,* That every free white male person, having attained the age of twenty-one years, and having resided in the state twelve months, and in the corporate limits of said town four months next preceding an election for town officers, shall be a qualified elector, and eligible to any town office.

Election of town-officers, when.

SEC. 3. *And be it further enacted,* That the qualified electors of said town are hereby authorized to hold an election in the said town of Emery, on the first Monday in March next, between the hours of ten o'clock a. m. and four o'clock p. m., for the purpose of electing five persons as aldermen; also, a mayor, treasurer, recorder, and constable; who shall serve until the first regular annual election, or until their successors are duly elected and qualified; and that the annual election shall be held in said town on the first Wednesday of January in each and every year, between the hours of ten o'clock in the morning and four o'clock in the

Term of service.

Annual elections, when held, &c.

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evening ; and that the mayor elected in pursu-
ance of this act shall be commissioned by the
governor as a justice of the peace ; he shall
preside at each meeting of the board of mayor
and aldermen of said town, and by virtue of his
office shall have power to perform all such du-
ties, and receive like emoluments and immuni-
ties, as are performed and received by other
magistrates in the said county ; but in case of
his absence from any meeting of the said board
of aldermen, any member thereof may be call-
ed to the chair, and execute the duties of the
president, pro tempore.

Mayor to be
commissioned
by gover-
nor.
Duties, &c.

In absence
of mayor,
who to pre-
side.

SEC. 4. *And be it further enacted,* That the
said mayor and aldermen shall be a body cor-
porate and politic, by the name and style of the
mayor and aldermen of the town of Emery ; and,
as such, they and their successors in office shall
be capable of suing and being sued, of plead-
ing and being impleaded, of defending and be-
ing defended, in all manner of suits and actions
either in law or equity ; and also receive dona-
tions, purchase, give, grant, sell, convey, and
contract, and do any and all other such acts as
are incident to bodies corporate and politic.

Body corpo-
rate and po-
litic—name
and style.

Privileges,
liabilities &c

SEC. 5. *And be it further enacted,* That said
mayor and aldermen shall have power to pass
all necessary by-laws for the good order and
government of said town, not inconsistent with
the constitution and laws in this state and the
United States, whereby education and morality
may be promoted, and the retailing and vend-
ing of ardent spirits, gambling, and every spe-
cies of vice and immorality, may be suppress-
ed, together with the total inhibition of the o-
dious and savage practice of wearing dirks and
bowie-knives or pistols ; and in their corporate

Powers of
mayor and
aldermen.

capacity they may inflict a fine or penalty on any person for a violation of any such by-laws, not exceeding fifty dollars for any offence, recoverable, with costs, before any justice of the peace for said county, in the name of said corporation, for the use and benefit of said town.

State laws,
legalizing
sale of liquor
or gaming,
not to apply
to town.

Authority
not to be gi-
ven to sell
liquor or to
game, unless
upon peti-
tion, &c.

And that no law of the state, now in force, or that hereafter may be passed, legalizing either retailing or vending spirituous liquors, or any species of gaming, shall apply in any respect to said corporation; nor shall the said mayor and aldermen have power by any by-laws to authorize any person to sell spirituous liquors either in large or small quantities, or to authorize any species of gaming in said corporation, unless upon petition, signed by at least three-fourths of the citizens of said town.

District en-
titled to jus-
tice and con-
stable.

SEC. 6. *And be it further enacted,* That the corporate limits of said town of Emery are hereby declared to be a district entitled to a justice of the peace and constable; and the said mayor and constable, when elected and commissioned by the governor, shall each be subject to perform all the duties, and receive all such profits, as are performed and received by other justices of the peace and constables of this state.

Duties and
emoluments

Mayor to pre-
scribe duties
of treasurer
& recorder.

SEC. 7. *And be it further enacted,* That the duties, responsibilities, and compensation, of the treasurer and recorder, shall be prescribed by the said mayor and aldermen.

Town tax.

SEC. 8. *And be it further enacted,* That for the purposes of revenue, the said mayor and aldermen may tax such property as is liable to taxation under the existing laws of this state: *Provided,* such tax shall not exceed fifty cents on each white poll, fifty cents on each slave,

Proviso.

LAWS OF MISSISSIPPI.

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and twelve and one-half cents on every hundred dollars' worth of other personal and real estate, within the limits of said town, in any one year; and the money so raised shall be appropriated, by the said mayor and aldermen, exclusively for the use and benefit of said town.

SEC. 9. *And be it further enacted*, That the citizens of said town, subject to road duties, shall be exempt from such duties beyond its corporate limits; and the said mayor and aldermen may release them from such labor within said limits, upon their paying an equivalent therefor, not to exceed nine dollars in any one year.

Citizens exempt from road duties out of corporation.

May be released from working on streets, upon paying equivalent.

SEC. 10. *And be it further enacted*, That if from any cause the said board should not be constituted as contemplated by this act, any three citizens of said town may call a meeting, at any time, for the purposes of such election, by giving ten days' previous notice, by advertisement set up in said town; and such election shall be as valid as though it had been held on the regular appointed days therefor.

Should be constituted, &c. three citizens may call meeting, &c.

Validity of election.

SEC. 11. *And be it further enacted*, That when said board has been organized, the said mayor may call a meeting at any time, by giving five days' notice; that a majority shall constitute a quorum; that in case of a tie, the mayor shall give the casting vote; and that the said board shall have power to fill all vacancies which may occur in their body from one annual election to the next succeeding one.

When board organized, mayor may call meeting

Quorum.

Mayor to give casting vote in ties. Board to fill vacancies.

SEC. 12. *And be it further enacted*, That this act shall take effect and be in force from and after its passage.

When act to take effect.

Approved, February 15, 1839.



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OF THE
S T A T E O F M I S S I S S I P P I,
P A S S E D A T A R E G U L A R S E S S I O N
OF THE LEGISLATURE,
H E L D I N T H E
C I T Y O F J A C K S O N,
I N T H E M O N T H S O F J A N U A R Y A N D F E B R U A R Y, A. D. 1840.

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1840.

LAWS OF MISSISSIPPI.

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words five years, be, and the same is hereby, repealed.

Sec. 5. *And be it further enacted*, That this act be in force from and after its passage.

Approved February 18th, 1840.

CHAPTER 111.

AN ACT to incorporate the Town of Hernando, in the County of De Soto.

SECTION 1. *Be it enacted by the Legislature of the State of Mississippi*, That the town of ^{Town incor-} Hernando, in the county of De Soto, be, and ^{porated.} the same is hereby, incorporated and bounded as follows, to wit; The whole of Section thir- ^{Boundary} teen, in township three, and range eight, West, ^{of town.} and the West half of Section eighteen, township three, and range seven. West.

Sec. 2. *Be it further enacted*, That every free white male person, having attained the ^{Qualifica-} age of twenty-one years, and having resided in ^{tions of} the State twelve months, and in the corporate ^{Electors.} limits of said town four months next preceding an election for town officers, shall be a qualified elector and eligible to any town office.

Sec. 3. *Be it further enacted*, That the Sheriff of said county, for the time being, is hereby ^{Duty of} authorized to hold an election in said town of ^{Sheriff to} Hernando, on the first Monday in July next, ^{hold first} (by giving ten days previous notice,) between ^{Election for} the hours of ten o'clock, A. M., and four ^{town offi-} o'clock, P. M., for the purpose of electing five ^{cers; when,} persons as aldermen; also, one mayor, treasu- ^{&c.}

rer, recorder and constable, who shall serve until their successors are duly elected and qualified; and that the annual election shall be held in said town on the first Monday in July in each and every year, between the hours of ten o'clock in the morning and four o'clock in the evening, and that the mayor elected in pursuance of this act shall be commissioned by the Governor as a justice of the peace; he shall preside at each meeting of the Board of mayor and aldermen of said town, and by virtue of his office shall have power to perform all such duties, and receive like emoluments and immunities as are performed and received by other magistrates in said county; but in case of his absence from any meeting of the said Board of Aldermen, any member thereof may be called to the chair.

Mayor to be comm'd. a Justice of the peace.

Absence of the mayor at any meeting.

Sec. 4. *Be it further enacted*, That the said mayor and aldermen shall be a body corporate and politic, by the name and style of the mayor and aldermen of the town of Hernando; and, as such, they and their successors in office shall be capable of suing and being sued, of pleading and being impleaded, of defending and being defended, in all manner of suits and actions, either in law or equity, and also receive donations, purchases, give, grant, sell, convey and contract, and do any and all other such acts as are incident to bodies corporate and politic.

Name and style in law.

Powers.

Sec. 5. *Be it further enacted*, That said mayor and aldermen shall have power to pass all necessary by-laws for the good order and government of said town, not inconsistent with the constitution and laws of this State, and the United States, whereby education and mo-

Power to pass by-laws, etc.

LAWS OF MISSISSIPPI.

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rality may be promoted, and the retailing and vending ardent spirits, gambling, and every species of vice and immorality may be suppressed, together with the exhibition of the orders and savage practice of wearing dirks and bowie knives or pistols; and, in their corporate capacity, they may inflict a fine or penalty on any person for a violation of such by-laws, not exceeding fifty dollars for any offence, recoverable, with costs, before their mayor or any justice of the peace for said county, in the name of said corporation, for the use and benefit of said town.

Punish-
ments and
fines.

Sec. 6. *Be it further enacted*, That the corporate limits of said town of Hernando are hereby declared to be a district, entitled to a justice of the peace and constable; and that said mayor and constable, when elected and commissioned by the Governor, shall each be subject to perform all the duties and receive all such profits, as are performed and received by other justices of the peace and constables of this State.

Corporate
limits.

Mayor and
Constable
to be com-
missioned.

Sec. 7. *Be it further enacted*, That the duties, responsibilities, and compensation of the treasurer and recorder, shall be prescribed by the said mayor and aldermen.

Treasurer's
duties and
compensa-
tion.

Sec. 8. *Be it further enacted*, That for the purposes of revenue, the said mayor and aldermen may tax such property as is liable to taxation under the existing laws of this State; *Provided*, such tax shall not exceed fifty cents on each white poll, fifty cents on each slave, and twelve and one half cents on every hundred dollars' worth of personal or real estate within the limits of said town, in any one year; and the money so raised shall be appro-

Town rev-
enue--how
to be raised.

Limits of
Tax.

Manner of
appropria-
ting money

priated by the said mayor and aldermen, exclusively, for the use and benefit of said town.

Citizens of town exempt from Road duties.

Sec. 9. *Be it further enacted*, That the citizens of said town, subject to road duties beyond its corporate limits, shall be exempt from such duties beyond its corporate limits; and the said mayor and aldermen may release them from such labour within said limits, upon their paying an equivalent therefor, not to exceed nine dollars in any one year.

Terms of release from labor.

Should the Board from any cause not be organized,—then, three citizens may cause an election to be held.

Sec. 10. *Be it further enacted*, That if from any cause the said Board should not be constituted as contemplated by this act, any three citizens of said town may call a meeting at any time for the purpose of such election, by giving ten days previous notice, by advertisement set up in said town; and such election shall be as valid as though it had been held on the regular appointed days therefor.

Mayor may call meetings of the Board.

Sec. 11. *Be it further enacted*, That when said Board has been organized, the said mayor may call a meeting at any time by giving five days notice; that a majority shall constitute a *quorum*; that in case of a tie, the mayor shall give a casting vote; and that the said Board shall have power to fill all vacancies which may occur in their body, from one annual election to the next succeeding one.

Contravening acts, repealed.

Sec. 12. *And be it further enacted*, That all acts and parts of acts coming within the meaning and purview of the provisions of this act, shall be null and void.

Approved February 18, 1840.



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ACTS

PASSED AT THE ANNUAL SESSION OF THE

GENERAL ASSEMBLY,

OF THE

STATE OF ALABAMA;

BEGUN AND HELD IN THE CITY OF TUSCALOOSA, ON THE FIRST
MONDAY IN NOVEMBER, 1840.

ARTHUR P. BAGBY, GOVERNOR.

J. L. F. COTTRELL, PRESIDENT OF THE SENATE.

SAMUEL WALKER, SPEAKER OF THE HOUSE OF REPRESENTATIVES.

R. A. BAKER, SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Tuscaloosa:

HALE & PHELAN, PRINTERS.

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1841.

CHAPTER SEVENTH.

Of Miscellaneous Offences.

Unchartered
banking
companies.

Section 1. It shall be unlawful for any person or persons, or any company, corporation, or unchartered banking association, to make, emit, issue, or put in circulation, any note, bill, bond, draft, check, or post note, or paper of any name or description whatsoever, to answer the purpose of money, or for general circulation, and for every such note, bill, bond, draft, check, post note, or other paper so made, emitted, issued, or put in circulation, such person or persons, and each and every individual of said company, corporation, or unchartered banking association, so making, issuing, emitting, or putting in circulation, such note, bill, bond, draft, check, post note, or other paper, shall be held to be guilty of a misdemeanor, and shall be liable to be indicted therefor, and, upon conviction, shall be fined for every such offence at the discretion of the jury trying the same, not less than one hundred, nor more than five hundred dollars, and that upon failure to pay the fine, shall be imprisoned in the county jail for a term not exceeding twelve months.

Signing, notes
or bills.

Section 2. If any person or persons shall sign any note, bill, bond, draft, check, post note, or any paper of other name or description whatsoever, as cashier or president, or under any other name, or in the name of any company, incorporation, or unchartered banking association, to be put in circulation to answer the purposes of money, such president, or cashier, or other person, under any other name, so signing said note, bill, bond, draft, check, post note, or paper as aforesaid, shall be deemed guilty of a misdemeanor, and shall be liable to be indicted, and, upon conviction, shall be fined for every such offence, in a sum not less than one hundred, nor more than five hundred dollars, at the discretion of the jury trying the same, and the signatures of the person or persons so charged, to the note, bond, bill, draft, check, post note, or paper aforesaid, shall be taken and held to be proof of such signing, unless the fact of signing be denied on oath by the defendant.

Passing off or
circulating
notes or bills.

Section 3. It shall be unlawful for any person or persons, within the limits of this State, to pass off, issue, emit, or put in circulation, any note, bill, bond, check, draft, or post note, of any incorporation, company, or unchartered banking association; and any person or persons violating the provisions of this section, shall be deemed guilty of a misdemeanor, and shall be liable to be indicted, and upon conviction, shall be fined for every such note, bill, bond, check, draft, post note, or other paper so issued, emitted, passed off, or put in circulation, not less than twenty, nor more than one hundred dollars, at the discretion of the jury trying said offence.

Section 4. Every one who shall hereafter carry concealed about his person, a bowie knife, or knife or instrument of the like kind or description, by whatever name called, dirk or any other deadly

weapon, pistol or any species of fire arms, or air gun, unless such person shall be threatened with, or have good cause to apprehend an attack, or be travelling, or setting out on a journey, shall on conviction, be fined not less than fifty nor more than three hundred dollars: It shall devolve on the person setting up the excuse here allowed for carrying concealed weapons, to make it out by proof, to the satisfaction of the jury; but no excuse shall be sufficient to authorize the carrying of an air gun, bowie knife, or knife of the like kind or description.

Carrying concealed weapons.

Section 5. If any person shall at the same election vote more than once for the same candidate for the same office, or for different candidates for the same office, either in the same or in different precincts, or vote when he is not legally authorized so to do, he shall upon conviction, be adjudged guilty of a misdemeanor, and fined in the sum of two hundred dollars, and be imprisoned in the county jail not exceeding one year.

Illegal voting.

Section 6. Every apothecary, druggist, or other person, who shall sell and deliver any arsenic, corrosive sublimate, prussic acid, or other substance, either solid or liquid, usually denominated poisonous, without having the word 'poison,' written or printed on a label attached to the vial, box or parcel, in which the same is sold, or shall sell and deliver any tartar emetic, without having the true or common name thereof written or printed upon a label attached to the vial, box or parcel containing the same, shall upon conviction, be adjudged guilty of a misdemeanor, and punished by a fine not exceeding one hundred dollars.

Apothecaries selling poisonous drugs without label.

Section 7. Every apothecary, druggist, or other person, who shall give, sell or deliver, any of the drugs described in the preceding section, or any other drug or medicine, poisonous in its nature, to any slave, without an order in writing from the owner or manager of such slave, designating the drug or medicine, either by name, or the effect to be produced by it, he or she so offending, shall on conviction, be held guilty of a misdemeanor, and punished by a fine not exceeding two hundred dollars, and may also be imprisoned not exceeding three months.

Selling to slaves.

Section 8. Every person who shall buy, sell or receive from any slave, any commodity of any kind or description, without the leave or consent of the master, owner, or overseer of such slave, verbally or in writing, expressing the articles permitted to be sold or bartered, first obtained, shall on conviction, be fined in a sum not less than ten, nor more than one hundred dollars, and may be imprisoned not more than three months.

Trading with slaves.

Section 9. Every sheriff, coroner, constable, clerk, or justice of the peace, who shall within three days after demand made, fail or refuse to pay over any money received or collected by him in his official capacity, shall be deemed guilty of a misdemeanor, and on conviction, shall be fined in a sum not less than one half, and not exceeding the entire amount received or collected: *Provided*, that the party entitled to such money, shall remain in the county, or

Officers failing to pay money collected.

Proviso.



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L A W S

OF THE

STATE OF MISSISSIPPI.

CHAPTER 1.

AN ACT to provide for the Revenue of the State.

SECTION 1. *Be it enacted by the Legislature of the State of Mississippi,* That the following taxes shall be assessed and collected within this state, viz: an ad valorem tax of one-fourth of one per cent. on all lands in this state not exempted by the ordinance admitting the state into the Union, or specially exempted by the provisions of this act, on all money loaned at interest by individuals, or employed by them in the purchase of notes, bonds, checks or bills of credit of any description, whatever, as security for money advanced, on all goods, wares and merchandize, sold by regular merchants, on all bank stock subscribed for in any incorporated bank in this state, which shall not have paid a bonus for its charter, or have been exempted by the provisions thereof, except stock subscribed for and

What property liable to taxation.

owned by the state, or some incorporated literary or charitable institution. An ad valorem tax of two and one-half per cent. on all merchandize sold by an auctioneer or transient vender of goods, an ad valorem tax of one per cent. on each pleasure carriage, watch and clock, kept for use, and one dollar on each and every Bowie Knife; a tax of one cent upon each head of cattle over the number of twenty, owned by any one individual; a tax of five hundred dollars on each billiard table set up or kept for public use; a poll tax of fifty cents on every free white male between the ages of twenty-one and fifty years; of five dollars on each and every free colored male between the ages of twenty-one and fifty years, and of seventy-five cents on each and every slave between the ages of five and sixty.

Property
exempt
from taxa-
tion.

Sec. 2. *Be it further enacted*, That all land appropriated to the use of any incorporated college, or other seminary of learning, or occupied by any church for public worship, or by any school house, court house or jail, or appropriated to the use of any poor house or house of correction, or belonging to to any public library or incorporated charitable institution, shall be exempt from taxation.

Fiscal year
when to
commence.

Sec. 3. *Be it further enacted*, That the fiscal year shall commence on the first day of March, and all taxable property brought into this state, or acquired by any individual between the first day of January, and the first day of March of each year, shall be subject to be taxed for that year, in the county in which the same may be situated.

Sec. 4. *Be it further enacted*, That be-

ERRATA—page 52, instead of 'one per cent. on each pleasure carriage and clock, kept for use,' read "an advalorem tax of one-h

A
NEW DIGEST
OF THE STATUTE LAWS

OF THE

STATE OF LOUISIANA,

FROM THE CHANGE OF GOVERNMENT TO THE YEAR 1841, INCLUSIVE.

COMPILED

BY

HENRY A. BULLARD,

One of the Judges of the Supreme Court of Louisiana,

AND

THOMAS CURRY,

LATE REPORTER OF THE DECISIONS OF THE SUPREME COURT, AND NOW JUDGE OF THE
NINTH DISTRICT.

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NEW ORLEANS.

1842.

put to death in pursuance of such judgment, before the whole record of the proceedings in such case be certified by the clerk of the same court under the seal thereof to the governor of this State, nor until a warrant shall be issued by the governor under the seal of the State, with a copy of the record thereunto annexed, directed to the sheriff of the court wherein the said sentence or judgment was passed, commanding the said sheriff to cause the execution to be done on the person so condemned as aforesaid, in all things according to the judgment against him or her; and it shall be the duty of the sheriff to whom such warrant shall be directed, to execute the same in due form of law.

58. SEC. II. It shall be the duty of the clerk of the court in which such judgment shall have been rendered, to make out a true copy of the record of all proceedings in such case, and to transmit the same without delay to the governor of this State, and should the said record be received by the governor during the recess of the senate, he may, whenever he shall deem the same proper, delay awarding any warrant of execution until the end of the next session.

An Act against carrying concealed weapons, and going armed in public places in an unnecessary manner, approved March 25, 1813.

59. SEC. I. That from and after the passage of this act, any person who shall be found with any concealed weapon, such as a dirk, dagger, knife, pistol, or any other deadly weapon concealed in his bosom, coat, or in any other place about him, that do not appear in full open view, any person so offending, shall, on conviction thereof, before any justice of the peace, be subject to pay a fine not to exceed fifty dollars, nor less than twenty dollars, one half to the use of the State, and the balance to the informer; and should any person be convicted of being guilty of a second offence before any court of competent jurisdiction, shall pay a fine not less than one hundred dollars, to be applied as aforesaid, and be imprisoned for a time not exceeding six months.

[Section 2d repealed by the 11th section of the act of March 19, 1818.]

60. SEC. III. When any officer has good reason to believe that any person or persons have weapons concealed about them for the purpose of committing murder, or in any other way armed in such a concealed manner, on proof thereof being made to any justice of the peace, by the oath of one or more credible witnesses, it shall be the duty of such judge and justice to issue a warrant against such offender and have him searched, and should he be found with such weapons, to fine him in any sum not exceeding fifty dollars, nor less than twenty dollars, and to bind over to keep the peace of the State, with such security as may appear necessary for one year; and on such offender failing to give good and sufficient security as aforesaid, the said justice of the peace shall be authorized to commit said offender to prison for any time not exceeding twenty days.