

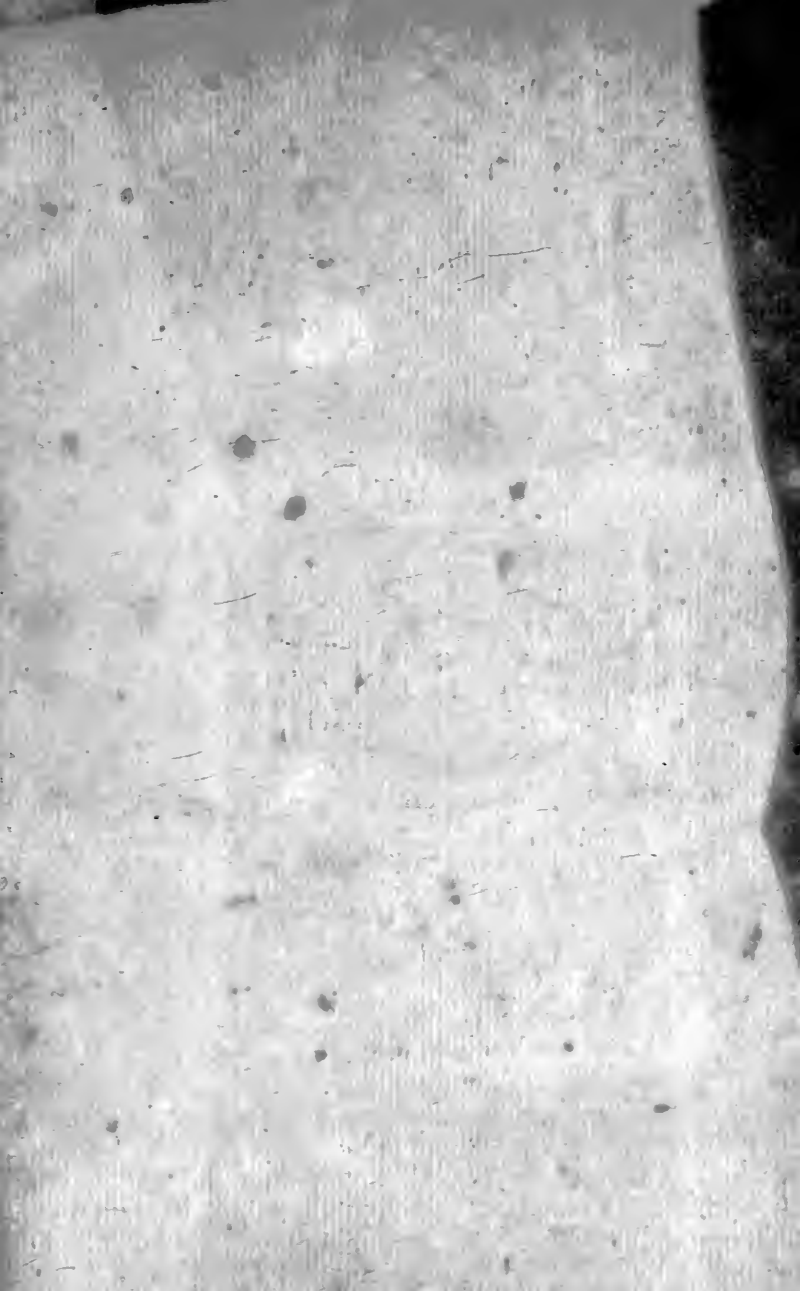


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Justice of the Peace

IN SENATE

T H E
JUSTICE of the PEACE,

A N D

PARISH OFFICER.

BY RICHARD BURN, CLERK;

One of His MAJESTY'S Justices of the Peace for the
County of WESTMORLAND.

The **Second Edition**, with the STATUTES and
adjudged CASES continued to the present Time.

In T W O V O L U M E S.

V O L. I. 104839

In the SAVOY:

Printed by HENRY LINTOT, Law-Printer to the King's Most
Excellent Majesty; for A. MILLAR, in the Strand.

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T O

Sir JAMES LOWTHER

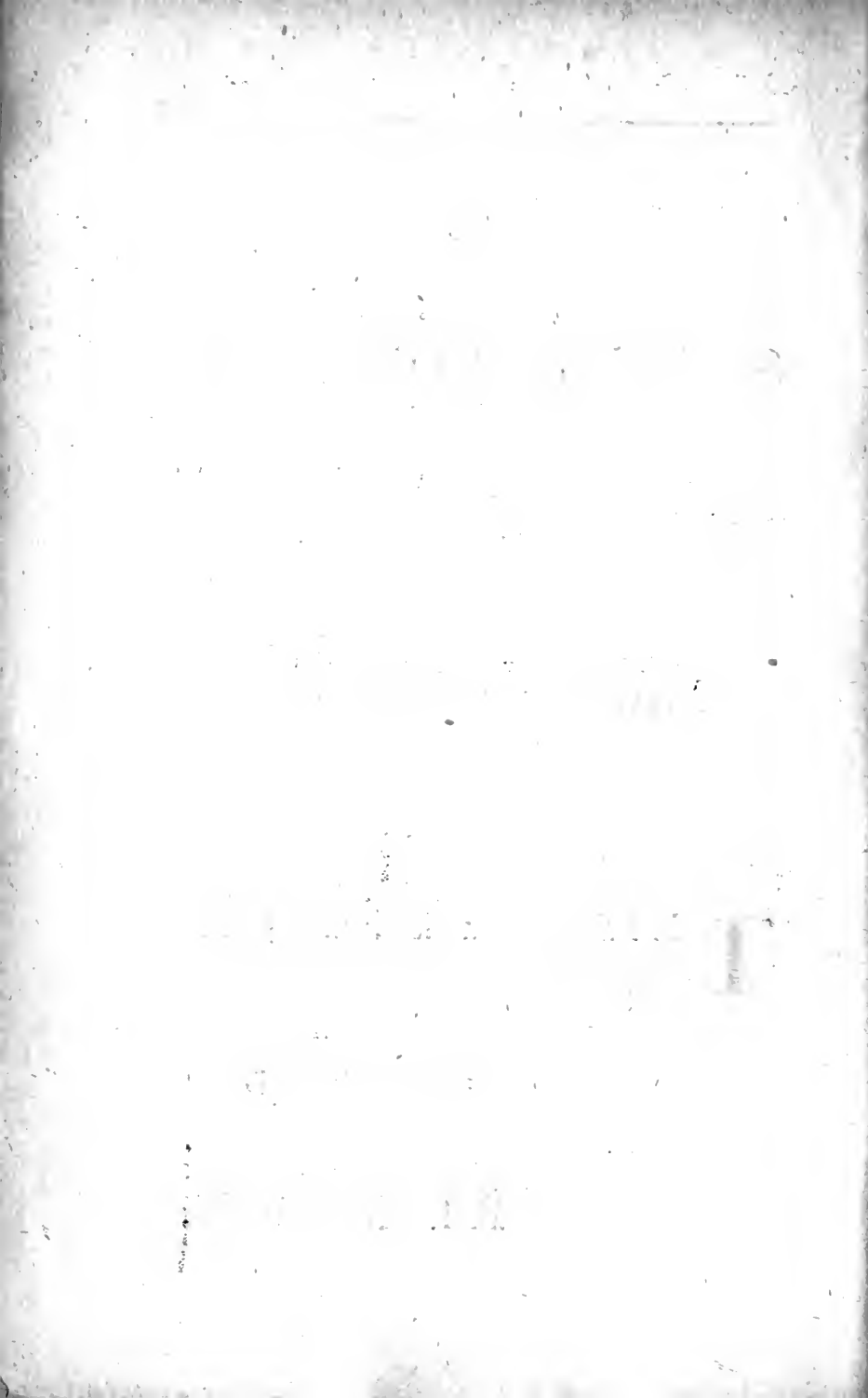
O F

LOWTHER, Baronet,

THIS BOOK is humbly de-
dicated,

By the author,

RI. BURN.



THE UNIVERSITY OF CHICAGO

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T H E
P R E F A C E
T O T H E
F I R S T E D I T I O N .

TH E author proposeth in this book to render the laws relating to the subjects it treats of, a little more intelligible than hath hitherto been done.

The method he makes use of is various.

The first thing regarded is the order of *time*. Thus in the Poor laws; first is set forth the appointment of *overseers*; next the several branches of their duty, in finding *settlements* for the poor — in *removing* them to such settlements — in making *rates* for their relief — in *relieving* and otherwise ordering them — and last of all, in *accounting* at the expiration of their office. — Then again, in treating of *settlements*, it occurs, to consider distinctly, and as near to the said order as may be, ten different kinds of settlements — by *birth* — by the *parents* settlement — by *apprenticeship* — by *service* — by *marriage* — by *inhabiting forty days after notice* — by paying *parish rates* — by serving a *parish office* — by *renting 10l. a year* — and by a person's *own estate*. — In like manner, in treating of the *rates*, first is set forth the course of *laying*

the assessment — then the *allowance* thereof by the justices — *publishing* the same in the church — *appeal* against the rates at the sessions — levying the same by *distress* — and finally, *commitment* where no distress can be had.

Thus to exhibit another instance — In the article of the *Woollen manufacture*, which makes up a considerable part of the justice of the peace his duty, and of the officers subordinate to him, there is such a number and variety of statutes, that authors are generally overwhelmed with them. To avoid which perplexity, the laws are here digested in order, according to the natural progress of that business; from the shearing of the sheep, to the exportation of the wool manufactured; under the several heads of *winding of wool* by the shearer — laws to prevent its *exportation* — *working of cloth* — *fulling* — *measuring* — *dying* — *stretching* — *dressing* — *exporting*.

Where there is no priority in point of time; the next method is that of Lord Coke, to frame a definition which takes in the whole subject, and then explain the several parts of such definition in their order. Thus *Grand larceny* is defined to be, *A felonious and fraudulent taking and carrying away by any person of the mere personal goods of another, above the value of 12d.* In the handling of which, the several branches of the definition are explained in the order as they stand: *viz. A felonious and fraudulent taking — and carrying away — by any person — of the mere personal goods — of another — above the value of 12d.* Under which heads the general learning relating to that whole title is comprehended.

The like method is pursued in treating of the *commission of the peace*, the form of an *indictment*, the form of an *order of removal*, and other articles.

In general, it is provided, that one thing shall clear the way for another, and the subsequent paragraphs explain the preceding.

Under the influence of which conduct, the author hath attempted to bring together under one general title, divers articles relating to the same subject, which in the common books are broken and detached under various separate titles; hoping thereby, that what hath hitherto been thought introductory of confusion, may tend to render the subject more perspicuous, in exhibiting the whole under one comprehensive view. Thus the laws relating to the *game*, which are above forty in number, and are interspersed in the common books under about thirteen different titles, are here digested under one general title *Game*, to which the reader shall have recourse for the knowledge of whatsoever belongeth to that subject. For example, if any person would be satisfied, what penalty the law hath provided for *tracing bares in the snow*; by recurring to the general title concerning the game, he will find the game distinguished into three kinds, the *four footed game*, the *winged game*, and the game of *fish*: The *four footed game*, are distributed into the several species of *deer*, *bares*, and *conies*; under which head concerning *bares*, he will readily find what is desired. In like manner, the *winged game* are subdivided into several branches, concerning *hawks and hawking* — *swans* — *partridges and pheasants* — *pigeons* — *wild ducks, wild geese, and other water fowl* — *grouse or moor game*

game — *herons* — and *other fowl*; each of which have their peculiar laws.

In these large comprehensive titles, care is likewise taken, to be as particular as may be without injuring the connexion in the statutes, by inserting the whole law by it self, relating to each separate article. The benefit of which will appear by the following instance: If a person would know, what number of horses or beasts in a cart or waggon are allowed by the statutes for the preservation of the roads; let him take what treatise at present he pleases concerning the highways, he must read over the whole, before he shall be sure that he hath found all which the law hath enacted concerning the same; and such is often the inaccuracy and confusion, that when he hath perused the whole, perhaps he may be still to seek. For as to this instance before us, there have been regulations made concerning the same, by ten different acts of parliament, at very different times. Before he can have any competent knowledge thereof, he must lay all these ten acts together; and when he shall have done this, he will find amongst them so many repeals, and revivals, and explanations, and amendments, that it will even then be no easy matter to conclude with certainty how the law doth stand as to that article. To spare the reader all which trouble, the author hath in this and all other the like instances, laid the whole law together relating thereunto, or at least all that hath occurred to him, or which he hath thought it material to insert. So that the reader may receive satisfaction in a very small compass, as to what he shall be inquiring about, or at least he may be satisfied in this, that if he doth not find it

THE HISTORY OF THE

REIGN OF

CHARLES THE FIRST

BY

JOHN BURNET

ESQ.

IN TWO VOLUMES.

LONDON,

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at the Press of J. STURTEVANT,

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there, he need not seek for it elsewhere in the book.

And by this method of bringing together into one general title, all those separate distinct titles, which have a mutual relation to and dependance upon each other, the author hath avoided one great inconvenience, of referring the reader from one title to another, and from that other back again to the first, and (which is not unusual in books of the like kind) perhaps losing the thing to be treated of betwixt them.

Upon which account also, where one law occurreth under two different titles, it is usual with him to insert the same under both those titles; that so the reader's attention may not be interrupted, by sending him to search other titles, and from those perhaps others again, which have no principal relation to the matter he hath in hand.

Also, upon another account, he hath sometimes made use of more words than otherwise he would have done, namely, to avoid the frequent repetition of the term *&c.*; which is a vague expression, and apt to create an uneasiness in the reader's mind, for that he cannot be satisfied from thence, how much, or how little is intended to be understood.

He hath also been somewhat large in the matter of *precedents* under divers titles; and hath endeavoured to bring them much nearer to the statutes, upon which they ought to be formed, than usually hath been done.

For all which enlargements, he hath the more space allowed to him, for that he hath not thought it necessary (as others have done) to take up near one fourth part of the book,
by

P R E F A C E.

by inserting *Blackerby's* justice at the end of it, by way of index; hoping that the method he hath pursued will render every thing of that kind impertinent and useles.

The materials which the author hath made use of, are chiefly of four kinds — The *statutes* at large — the severall treatises concerning the *pleas of the crown* — the *reports* of cases adjudged in the court of king's bench — and the books concerning the *office of a justice of the peace*.

As to the *statutes* at large, or acts of parliament; the author hath by no means thought himself at liberty, as Mr. *Dalton* and others have done, to deliver the import thereof in his own words; but hath constantly abridged the act, in the words of the act it self, leaving out as little as possible which may seem any way material. And to each distinct clause, he hath annexed the interpretation thereof, where the same hath been determined in the court of king's bench, or expounded by other good authority.

The treatises concerning the *pleas of the crown*, are those of *Stamford*, *Coke*, *Hale*, and *Hawkins*. Of the first of these, the author hath made little use, further than as he is adopted by the other three. As to which three great authorities, where the law hath been declared by Lord *Coke*, and not controverted by any other, nor altered since his time by any act of parliament, or judicial determination, the author hath given to him the preference. And where any of these differeth from the other, he hath noted the difference.

In citing of Mr. *Hawkins*, he hath not thought it allowable, as is usual with others,
to

ADAM RICH

The first thing I did was to go to the
bank and get some money out of
my pocket. I had a few dollars
left over from my last job. I
went to the bank and got out
ten dollars. I had to wait a
while for the teller to get to
me. I was a little nervous
because I had never been to
the bank before. I had heard
that the bank was a scary
place. But when I got there
I found it was just a big
building with a lot of windows.
I went to the counter and
told the teller I wanted to
get some money out of my
pocket. She gave me ten
dollars and I went home.
I was a little nervous when
I went to the bank but I
wasn't scared. I was just
a little nervous. I had never
before. I had heard that the
bank was a scary place. But
when I got there I found it
was just a big building with
a lot of windows. I went to
the counter and told the
teller I wanted to get some
money out of my pocket. She
gave me ten dollars and I
went home. I was a little
nervous when I went to the
bank but I wasn't scared. I
was just a little nervous. I
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building with a lot of windows.
I went to the counter and
told the teller I wanted to
get some money out of my
pocket. She gave me ten
dollars and I went home.

to omit the several degrees of caution and assent, with which he delivereth his opinion; as, *it seemeth*, or *it hath been said by some*, or *it seemeth to be the better opinion*, or *it seemeth to be agreed*, and the like; which are by no means arbitrary words without much meaning, but are inserted by him with the utmost deliberation and judgment.

As to the books of *reports*; where the cases therein have been considered by Mr. *Hawkins*, and the other learned persons before mentioned, the author hath judged it very proper to leave the matter there, as settled by them. As to the rest, he hath by no means thought himself of ability to proceed in Mr. *Hawkins's* manner, by laying together all the reports on the same subject, and thereupon extracting an opinion out of the whole; but hath inserted the same at large, or what he hath thought most material thereof, and left the determination thereupon to the reader's better judgment.

And here it may be requisite, that the reader be admonished, not to expect that the book shall be more perfect, than the materials of which it is composed. All the books of reports are not of equal authority. Some, as those of *Keble*, *Salkeld*, *Lord Raymond*, and many others, are approved or allowed by the Judges: others, which are perhaps not of less internal authority, have not received that sanction; such, for instance, are those of *Lord Coke*. During the greatest part of his present Majesty's reign, no authentick collection of reports hath been published, of cases adjudged in matters relating to the subjects of this book. Herein the author could do no otherwise than make use of the materials he hath. Such are, particularly,

particularly, *Andrew's reports*, and two volumes of *Sessions cafes* published without the author's name. Of these it may be observed, that in the main they do agree very well with books of good authority, where they happen to report the same cafes; and have no appearance of wilful falsification in cafes not reported elsewhere. But for these, or any other, the author himself voucheth not: And, as he doth not add to their credit, so he doth not detract from it; but leaveth every author (as he needs must) to answer for himself. For he hath made it an invariable rule, upon all occasions, to cite his authorities, what such soever they be; and, in all material instances, in the very words of the original authors: that so, what may be of good authority in it self, shall not be rendred less so by his handling of it. And where no authority is alledged, he desires the reader will look upon it as such, namely, as having no authority; the same being nothing else but the author's own private observations, which are submitted to every reader's judgment, to approve or reject as he shall see cause.

The books of authority concerning the *office of a justice of the peace*, are those of *Fitzherbert*, *Crompton*, *Lambard*, and *Dalton*; the last of which was published in the reign of king *James* the first: since which time, no book under that title hath been allowed as sufficiently authentick. And even the additions which have been made to *Dalton* since his death, seem to have no better claim to an uncontrollable authority, than other collections which have not obtained it. And *Dalton* himself is much injured in the modern editions,
in

In like manner as was observed before of Mr. *Hawkins*, by delivering that as absolute, which Mr. *Dalton* published under the several degrees of assent or doubtfulness before mentioned; and which the author, in justice to Mr. *Dalton*, hath restored.

Where *Dalton* hath adopted *Lambard*, *Crompton*, and *Fitzberbert* (which he doth most frequently in their own words) the author hath thought it sufficient to cite *Dalton's* single authority. And generally, in all other cases, where authors are agreed, he hath judged it unnecessary to alledge more than one or two good vouchers.

Concerning the other books of this kind, which have been published since *Dalton's* time, it is unnecessary to enlarge; since of the most of them the author hath made no use, and of the rest very sparingly; and he will not seek to recommend his own book, by finding fault with others before him.

Orton, Westmorland,
Sept. 29. 1754.

A D V E R.

ADVERTISEMENT

Concerning this

SECOND EDITION.

THREE things herein the author hath chiefly attended to: 1. To continue the statutes to this present time, 2. To authenticate divers cases of slender authority, by the sanction of Sir *John Strange*; whose reports of cases adjudged during the reigns of his late and present majesty, have supplied in some measure the deficiency which was in that part of the law before. 3. To take somewhat a larger scope in investigating matters of antiquity; herein presuming to differ from Lord *Coke* and other authorities of the law: being led therein by his learned and ingenious friend Dr. *Morton* of *Leicester-fields*; to whom upon the like account he expressed his acknowledgments in the postscript to the former edition,

Sep. 29. 1755.

I N T R O -

STATEMENT

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INTRODUCTION

THE HISTORY OF THE
CITY OF BOSTON

FROM THE FIRST SETTLEMENT
TO THE PRESENT TIME

BY

JOHN B. HENNING

OF THE
CITY OF BOSTON

IN TWO VOLUMES

VOLUME I

BOSTON
PUBLISHED BY
J. B. HENNING

INTRODUCTION,

Consisting of TWO PARTS ;

CONTAINING,

I. *Certain abbreviations made use of in this work,*

II. *Some general rules to be observed, in the construction of statutes, or acts of parliament.*

I. *Certain abbreviations made use of in this work,*

IN order to keep the book within a reasonable compass, the following *abbreviations* are made use of.

1. The word *justice* is always to be understood *Justice*.
to mean *justice of the peace*, when not otherwise expressed.

2. The words *one justice* shall always be understood *One justice*.
to signify *one or more justices*: so that what is directed to be done by one, shall not be intended thereby to exclude others from joining with him.

3. In like manner, *two justices*, when not otherwise expressed, shall be understood to signify *two justices or more*. *Two justices.*

4. So also a conviction on the oath of *one witness*, *One witness*.
shall be understood to denote *one witness or more*.

5. And *two witnesses* shall denote *two or more witnesses*. *Two witnesses.*

6. (*1 2*.) shall be understood to signify *one whereof* *Quorum*.
is of the Quorum.

7. The *justices in sessions* shall signify the said *Justice*.
Justices, or the major part of them. *Majority.*

8. The word *sessions* shall denote *the general or Sessions*.
quarter sessions, if not otherwise expressed.

9. The word *warrant* shall always signify *warrant*.
under hand and seal, where not expressed otherwise. *Warrant.*

10. *Judges*

- Judge of assize.** 10. Judges or Justices of *assize* shall be understood to signify also those of *Nisi Prius*, *Oyer and Terminer*, and *General Gaol Delivery*.
- Mayor.** 11. The word *mayor* shall always be understood to imply *bailiffs and other chief officers in corporations*.
- Constable.** 12. The word *constable* shall always be understood to imply *tythingmen, borsholders, headboroughs, and other peace officers of like degree*.
- Overseer.** 13. The word *overseer* shall be understood to mean *overseer of the poor*, where not expressed otherwise.
- Poor.** 14. Where a penalty, or part thereof, is expressed to be given to the *poor*; that shall be always understood to denote *the poor of the parish where the offence was committed*, if not otherwise limited.
- Penalty.** 15. Where a penalty is to be recovered before the justices of the peace, it is thought indispensable to insert particularly the manner of recovering the same; but where it is to be sued for in any of his majesty's courts of record at *Westminster*, it is judged not necessary to set forth the special method of procedure there: and generally, where it is expressed, that a person shall do, or not do such a thing, on pain of such a sum, without more, it shall be understood that such penalty is not recoverable before the justices of the peace, but only in the courts at *Westminster*.
- Overplus.** 16. In all cases of *distress and sale*, it shall be understood, that the *overplus* must be returned to the owner; after the sum or sums to be thereout deducted, shall be satisfied and paid.
- Lands.** 17. *Lands* shall be understood to stand for *lands, tenements, and hereditaments*.
- Transportation.** 18. Where *transportation* is directed for any offence, it shall always be understood, *that if the offender shall return before the time limited, he shall be guilty of felony without benefit of clergy*.
- Blank spaces.** 19. In the blank spaces for the names in the precedents, instead of inserting initial letters arbitrarily, it is thought it may be some small help to the memory, that *A. O.* shall signify the offender, *A. I.* the informer, *A. W.* the witness, *J. P.* the justice of the peace, and the like.

20. Also, for brevity sake, sums of money and Figures. other numbers are usually expressed by figures, and not in words at length; but it is to be remembered, that in the forms of warrants, convictions, and other proceedings before the justices, they ought to be expressed in words at length, and not in figures.

21. Where a statute is said to be in force, until Continuance of statutes. such a day, month, and year, &c. it shall always be understood to imply, *and from thence to the end of the then next session of parliament.*

22. In the statutes made in the reign of the late Citing of statutes. King *William*, it is thought not necessary upon all occasions to say *William the Third*, since there are no printed statutes in the reigns of *William the First and Second*.

Nor is it thought necessary in such statutes to add the name of Queen *Mary* to that of King *William*; but it is judged sufficient for the understanding thereof, to quote the statutes in this manner; *viz.*

1 *W. Sess. 2. c. 6. s. 3.* to signify the statute made in the parliament holden in the first year of the reign of King *William* the third and Queen *Mary*, the second session thereof, chapter the sixth, section the third.

Abbreviations in the names of books cited as authorities, or otherwise occasionally noted, consisting for the most part of some of the initial letters of the authors names, and other common distinctions, need not to be further explained.

II. *Some general rules to be observed, in the construction of statutes, or acts of parliament.*

To avoid repeating the same observations some hundreds of times, it is thought proper to premise the following general rules to be observed, in the construction of statutes or acts of parliament.

1. Regularly, a statute in the affirmative doth not How far an affirmative repealeth an affirmative. repeal a precedent affirmative statute. 11 *Co. 61.*

But if the latter is contrary to the former, it amounteth to a repeal of the former, *L. Raym. 160.*

How far an affirmative statute altereth the common law.

2. A statute made in the affirmative, without any negative expressed or implied, doth not take away the common law; and therefore the party may waive his benefit by such statute, and take his remedy by the common law. *2 Inst. 200.*

Repealing a repealing statute.

3. By repealing of a repealing statute, the first statute is revived. *Read. Parl.*

Special power to be pursued.

4. Regularly, where an act of parliament giveth a power or interest to one person certain, by this express designation of one, all others are excluded. *11 Co. 59, 64.*

Power to administer an oath.

5. In all cases, where justices may take examinations, or other accusation or proof, tho' the statute doth not expressly set down that it shall be upon oath, yet it shall be intended that it shall be upon oath. *Dalt. c. 115.*

In what case the sessions may execute the power given to two justices.

6. Generally, it is holden, that where a statute appoints a thing to be done by one or more justices, without giving any appeal to the sessions; there the justices in sessions may do that thing: but where an appeal is given to the sessions, the justices in sessions cannot proceed originally therein, because that method would take away the power of appealing.

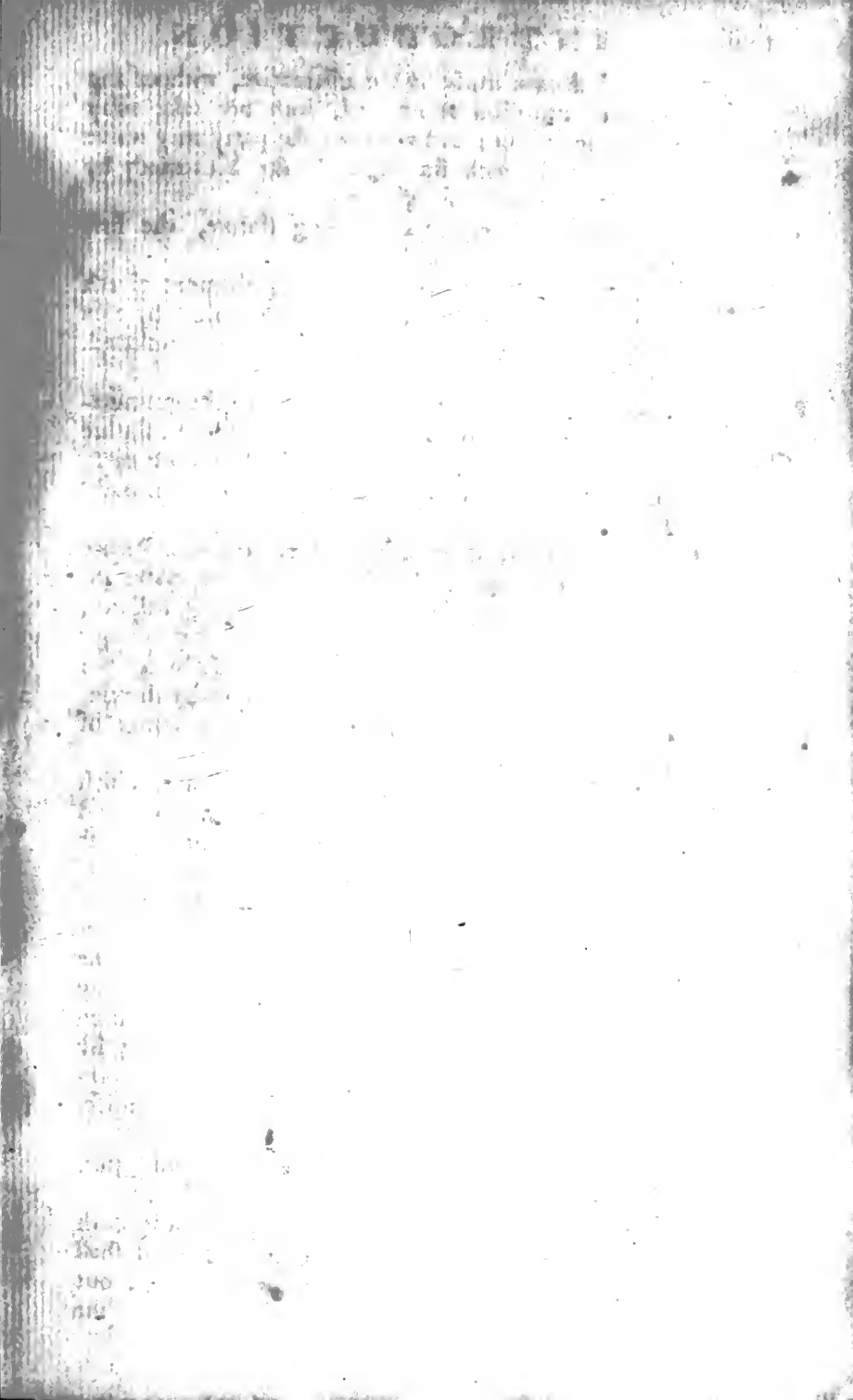
How far an indictment will lie where another method of prosecution is appointed.

7. Where a statute makes a new offence, which was no way prohibited by the common law, and appoints a particular manner of proceeding against the offender, as by commitment, or action of debt, or information, without mentioning an indictment; it seems to be settled at this day, that it will not maintain an indictment, because the mentioning the other methods of proceeding only, seems impliedly to exclude that of indictment: Yet it hath been adjudged, that if such a statute give a recovery by action of debt, bill, plaint, information, or otherwise, it authorizes a proceeding by way of indictment. *2 Haw. 211.*

Where no method of prosecution is appointed. Where the defendant may be prosecuted both by the king, and the party grieved.

8. But every contempt of a statute is indictable, where no other punishment is limited. *1 Haw. 60.*

9. And wheresoever an act of parliament doth generally prohibit any thing, the party grieved shall not only have his action for his private relief, but the



the offender shall be punished at the king's suit, for the contempt of the law. 2 *Inst.* 163.

10. All actions, indictments, or informations, on penal statutes, for any forfeiture limited to the king, shall be brought within two years after the offence committed; if limited to the king and prosecutor, then within one year; and if it is not sued for in that one year, then the king may sue for the same within two years, after the expiration of that one year; and not otherwise. 31 *El. c. 5. s. 5.* That is to say, unless where it is otherwise directed by subsequent statutes. In what time prosecutions shall be on penal statutes.

11. Many ancient statutes are penned in the form of charters, ordinances, commands, or prohibitions from the king, without mentioning the concurrence of either lords or commons; yet inasmuch as they have always been acquiesced in as unquestionably authentick, this establishes and confirms their authority, and the defect is salved by such universal reception. *Hawkins's preface to the statutes.* Statutes not in the name of the whole legislature.

12. The preamble or rehearsal of a statute is deemed true; and therefore good arguments may be drawn from the preamble. 1 *Inst.* 11. Preamble.

13. Where a statute directs the doing of a thing, for the sake of justice, or the publick good; the word *may* is the same as the word *shall*: as where the statute of the 14 *C. 2. c. 12.* enacts that the overseers may make a rate to reimburse the constables, this is construed they *shall*; for they are compellable so to do. 2 *Salk.* 609. May do such a thing, how to be understood.

14. Where a statute directs a penalty to be recovered *in any court of record*; this shall not be intended of the quarter sessions, unless it be specially named in such statute; but only of the courts of record at *Westminster.* 6 *Co.* 19, 20. 2 *Hale's Hist.* 29, 30. Court of record.

15. It is a general rule in the construction of statutes, that where things of an inferior degree are first mentioned, those of a higher dignity shall not be included under general subsequent words; as where a statute speaks of indictments to be taken before justices of the peace, or *others having power to take indictments,* Higher courts not intended, where the inferior are first mentioned.

dictments, it shall be understood only of other inferior courts, and not of the king's bench, or other courts at *Westminster*. 2 *Co.* 46. 2 *Haw.* 305.

Power to convene the parties.

16. Where a statute gives power to the justices, to require any person to do a thing, as to take the oaths, the law implicitly gives them power to make a warrant to have the body before them; for when the law granteth any thing to any one, that also is granted, without which the thing it self cannot be: And it is against the office of the justices, and the authority given them by the law, that they shall go and seek the parties. 12 *Co.* 130, 131.

Necessity of summoning the party.

17. Where a statute gives power to the justices of the peace, to hear and determine an offence in a summary way; it is necessarily implied, and supposed, as a part of natural justice, that the party be first cited, and have opportunity to be heard and answer for himself. 1 *Haw.* 154.

Two justices to be both together.

18. Where an act of parliament gives power to two justices finally to hear and determine an offence, it is necessarily supposed, that they shall be both together, or, which is the same thing in other words, that they shall hold a special sessions for that purpose. And the like is, when they are to do any other judicial act, as to make an order of bastardy, or adjudge the settlement of a poor person. For it is unknown to the laws of *England*, that two persons shall act as judges in the same cause, when at the same time one of them is in one part of the county, and the other in another.

Informer's oath.

19. Where a statute appoints a conviction to be on the *oath of one witness*; this ought not to be by the single oath of the informer; for if the same person should be allowed to be both prosecutor and witness, it would induce profligate persons to commit perjury, for the sake of the reward. *L. Raym.* 1545.

Confession.

20. Where a statute directeth, that a person shall be convicted of an offence, upon the *oath of one or more witnesses*, and saith nothing of the *confession* of the party; yet if the offender shall before the justice confess the offence, he may be convicted upon such confession: for confession is stronger evidence than

INTRODUCTION

THE first part of this book is devoted to a general survey of the subject.

The second part is devoted to a detailed study of the various methods of solution.

The third part is devoted to a study of the various applications of the theory.

The fourth part is devoted to a study of the various properties of the solutions.

The fifth part is devoted to a study of the various methods of approximation.

The sixth part is devoted to a study of the various methods of numerical solution.

The seventh part is devoted to a study of the various methods of graphical solution.

The eighth part is devoted to a study of the various methods of analytical solution.

The ninth part is devoted to a study of the various methods of integral solution.

The tenth part is devoted to a study of the various methods of differential solution.

The eleventh part is devoted to a study of the various methods of algebraic solution.

The twelfth part is devoted to a study of the various methods of geometric solution.

The thirteenth part is devoted to a study of the various methods of trigonometric solution.

The fourteenth part is devoted to a study of the various methods of logarithmic solution.

The fifteenth part is devoted to a study of the various methods of exponential solution.

The sixteenth part is devoted to a study of the various methods of power solution.

than the oath of witnesses. *Dalt.* 109, 162. *Str.* 546.

21. Where an act of parliament gives power to the justices of the peace, to take order in any matter, *according to their discretions*; this shall be understood, according to the rules of reason, law, and justice, and not by private opinion. *5 Co.* 100. Discretionary power.

22. In all cases where *the kingdom of England, or that part of Great Britain called England*, hath been or shall be mentioned in any act of parliament; the same shall be deemed to comprehend *the dominion of Wales, and town of Berwick upon Tweed.* *20 G. 2. c. 42. f. 1.* England includes Wales.

23. By the articles of the Union, *5 An. c. 8.* All parts of the united kingdoms of *England and Scotland*, shall be under the same regulations as to trade: So that where any act, in relation to trade, before the *5 An.* mentions the kingdom of *England*, the same shall be understood to extend to the whole united kingdom. How far Scotland is included.

24. It may be laid down as an invariable rule, that *the law favours liberty*: So that in the construction of a penal statute, where the interpretation is dubious, that sense must be pursued (all other things being equal) which is more beneficial to the subject, or the party suffering. Thus, where an directs, that the justices shall commit an offender to prison for *12 months*, the justices may not alter the words, and commit him for *a year*; for in this respect, *12 months* and *one year* are not the same; but the months must be computed at *28 days* to the month, and not as *Kalendar months*, unless it be so expressed in the act. Twelve months.

25. In all cases wherein, by any act of parliament, an oath shall be allowed or required; the solemn affirmation of quakers shall be allowed instead of such oath, altho' no particular or express provision be made for that purpose in the said act. *22 G. 2. c. 46. f. 36.* Quakers affirmation.

26. To say that a person shall *forfeit* generally, or that he shall *forfeit to the king*, is all one; for the king shall have every forfeiture not otherwise limited. *11 Co.* 60. Forfeiture.

27. Where a statute saith, that such a person shall pay *fine and ransom* to the king; in legal understanding, Fine and ransom.

ing, such fine and ransom are all one: for if they were divers, then should the party pay two sums, one for the fine, and another for the ransom; which was never done. 1 *Inst.* 127.

At the king's pleasure. 28. Acts of parliament that speak of fines or ransoms *at the king's pleasure*, are always to be understood of the king in his courts by his justices. 1 *H. H.* 375.

Where a power of commitment is implied. 29. It is said, that wheresoever a justice of the peace is impowered, by any statute, to bind a person over, or to cause him to do a certain thing, and such person being in his presence shall refuse to be bound, or to do such thing; the justice may commit him to the gaol, to remain there till he shall comply. 2 *Haw.* 116.

Imprisonment, when. 30. When a statute appoints imprisonment, but limits no time when; it shall be immediately. 8 *Co.* 119.

Imprisonment, how long. 31. When a statute appoints imprisonment, but limits no time how long; the prisoner in such case must remain at the discretion of the court. *Dalt.* 410.

Commitment to the house of correction, for what time. 32. Where any offender shall by a justice of the peace be committed to the house of correction, for an offence cognizable before him out of sessions, and the time and manner of punishment is not by law expressly limited; he may commit him to the house of correction, *there to be kept to hard labour, until the next general or quarter sessions, or until discharged by due course of law.* 17 *G. 2. c. 5. s. 34.*

Statute making an offence felony. 33. Wherever a statute makes any offence *felony*; it incidentally gives it all the properties of felony at common law. 1 *Haw.* 105.

Misprision. 34. Therefore an act of parliament that makes an offence felony, doth consequently introduce the punishment of concealing, that is, misprision of felony; and every offence made felony by act of parliament, includeth misprision. 1 *H. H.* 708.

Infants. 35. An act making a new felony, extendeth not to infants under 14 years of age; but if they be of that age, it binds them. 1 *H. H.* 706.

Life and member. 36. Not only those crimes which are made felonies by the express words of any statute, but also those

THE HISTORY OF THE

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INTRODUCTION

The purpose of this study is to investigate the effects of the proposed changes on the system's performance. The study is organized as follows: Chapter 1 provides an overview of the system and the proposed changes. Chapter 2 describes the methodology used in the study. Chapter 3 presents the results of the study. Chapter 4 discusses the implications of the results and provides conclusions and recommendations.

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those which are decreed to have or undergo *judgment of life and member*, do become felonies thereby, whether the word felony were mentioned or not.
1 *Haw.* 107.

37. But an offence shall never be made felony, Body and goods. by the construction of any doubtful and ambiguous words of a statute; and therefore if it be only prohibited under pain of *forfeiting body and goods*, or of being *at the king's will for body, lands, and goods*, it shall amount unto no more than a high misdemeanor, punishable by imprisonment, or the like.
1 *Haw.* 107.

38. All felonies by the common law have the benefit of clergy; therefore where a statute enacts a felony, and says, the offender shall *suffer death*, clergy lies notwithstanding, and is never ousted without express words. 3 *Inst.* 73. 2 *Haw.* 342. Benefit of clergy.

39. Saving of *dower* in a statute making an offence felony, is superfluous; for by the 1 *Ed.* 6. c. 12. Forfeiture of dower. Dower is not lost by the felony of the husband. *f.* 17.

40. Where a penalty is given to an informer upon a penal statute; he shall have no *costs*, unless the statute it self directs it, but he shall pay his costs out of the penalty. 2 *Haw.* 274. Costs.

Therefore where a justice hath power to inflict a pecuniary penalty, not exceeding such a sum; he may do well in such penalty to consider the costs of prosecution.

41. No *damages* can be given to the party grieved, upon an indictment, or any other criminal prosecution; and where by statute damages are given to the party grieved, it seems that they cannot be recovered on an indictment at the suit of the king, grounded on such statute, unless such method of recovering them be expressly given by the statute; but that they ought to be sued for in an action on the statute, in the name of the party grieved. But it is every day's practice in the court of king's bench, to induce defendants to make satisfaction to prosecutors, for the costs of the prosecution, and also for the damages sustained, by intimating an inclination on that account to mitigate the fine due to the king. 2 *Haw.* 210. Damages.

42. Where

Treble da-
mages.

42. Where a statute gives *treble damages*; the justices are not to assess the damages, and then treble them; but the jury ought to find the damages, and then the justices are to treble them. *Cro. Car.* 449.

Distress and
sale.

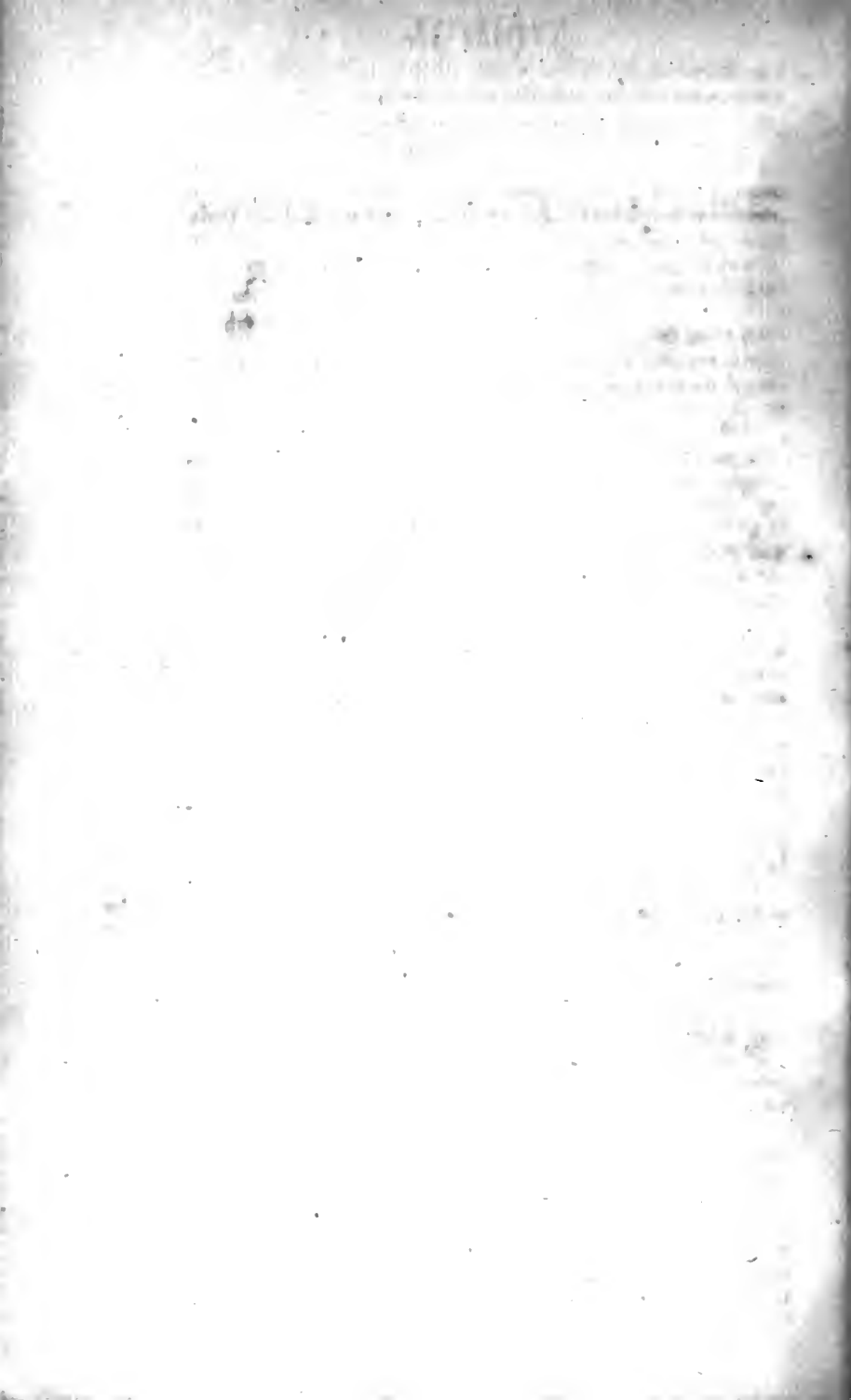
43. In all cases where a justice is or shall be required by any act of parliament, to issue a warrant of distress for the levying of any penalty inflicted, or any sum of money directed to be paid by such act; it shall be lawful for such justice granting such warrant, therein to order and direct the goods and chattels so to be distrained, to be sold and disposed of within a certain time to be limited in such warrant, so as such time be not less than 4 days, nor more than 8 days, unless such penalty or sum of money, together with reasonable charges of taking and keeping the distress, be sooner paid. And the officer making such distress, may deduct the reasonable charges of taking, keeping, and selling such distress, out of the money arising by such sale; and the overplus (if any) after such charges, and also the said penalty or sum of money, shall be satisfied and paid, shall be returned on demand to the owner of the goods and chattels so distrained. (Except only in cases of distress for quakers tithes and church rates.) 27 G. 2. c. 20.

Second of-
fence.

44. An act inflicting a penalty for a *second offence*, must always be understood, after conviction and judgment for the first offence; and the second offence must be committed after the first conviction, and judgment thereupon given; for it doth not appear to be an offence, until judgment by proceeding of law be given against the offender. 2 *Inst.* 468.

And the indictment for a second offence, must recite the record of the first conviction; and upon the evidence, the record of the first conviction must be proved: but the matter of the first conviction shall never be re-examined, but must stand for granted. 1 *H. H.* 686.

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Abjuration Oath. See Oaths.

Accessory.

- I. Of accessories in general.
- II. Of accessories before the fact.
- III. Of accessories after the fact.
- IV. How they are to be proceeded against.

I. Of accessories in general.

Accessory (*quasi accedens ad culpam*) is he that is not the chief actor, but one that is concerned in the felony by commandment, aid, or receipt. *Wood 663.* Accessory, what.

2. In the highest capital offence, namely, high treason, there are no accessories, neither before nor after; for the consenters, aiders, abettors, and knowing receivers and comforters of traitors, are all principals. *1 Hale's Hist. 613.* In the highest offence, no accessories.

But yet as to the course of proceeding, it hath been, and indeed ought to be the course, that those who did actually commit the very fact of treason, should be first tried, before those that are principals in the second degree; because otherwise this inconvenience might follow, that the principals in the second degree might be convicted; and yet the principals in the first degree may be acquitted, which would be absurd. *1 H. H. 613.*

3. In cases that are criminal, but not capital, as in *petit larceny* and *trespass*, there are no accessories; for the accessories before and after, are in the same degree as principals; and accessories after, by receiving the offenders, cannot be in law under any penalties as accessories, unless the acts of parliament that induce those penalties do expressly extend to receivers or comforters, as some do. *1 H. H. 613.* In the lowest offences, no accessories.

4. It remains therefore, that the business of this title of accessories refers only to *felonies*, whether by the common law, or by act of parliament. *1 H. H. 613.* Accessories only in felony.

5. Concerning which, Lord *Coke* observes generally, that when any offence is felony, either by the common law, or by statute, all accessories both before and after are incidently included. *3 Inst. 59.* Accessories implied in felony.

6. But as to felonies by act of parliament, Lord *Hale* distinguishes thereupon as follows: Regularly (he says) if an act of parliament enact an offence to be felony, tho' it mention nothing of accessories before or after, yet virtually and consequentially those

that counsel or command the offence, are accessaries before, and those that knowingly receive the offender are accessaries after. 1 H. H. 613.

But if the act of parliament that makes the felony, in express terms comprehend accessaries before, and make no mention of accessaries after, namely, receivers or comforters, there it seems there can be no accessaries after; for the expression of procurers, counsellors, or abettors, all which import accessaries before, make it evident, that the law-makers did not intend to include accessaries after, which is an offence of a lower degree than accessaries before. 1 H. H. 614.

And altho' it be generally true, that an act of parliament creating a felony, renders consequentially accessaries before and after within the same penalty, yet the special penning of the act of parliament in such cases, sometimes varies the case: Thus the statute of 3 H. 7. c. 2. for taking away women, makes the offender, and the procuring and abetting, yea and wittingly receiving also, to be all equally principal felonies, and excluded of clergy. Again, the statute of 27 Eliz. c. 2. makes the coming in of a jesuit treason, the receiving or relieving of him felony, the contributing of money to his relief a *præmunire*. So that acts of parliament may diversify the offences of accessary or principal, according to the various penning thereof, and so have done in many cases. 1 H. H. 614, 615.

How far accessaries by statute shall have their clergy.

7. Also a statute excluding the principals from the benefit of clergy, doth not thereby exclude the accessaries before or after; neither doth a statute, excluding the accessaries, thereby exclude the principals. 2 Harv. 342.

II. Of accessaries before the fact.

Accessary before. *An accessary before the fact committed, is he that being absent at the time of the felony committed, doth yet procure, counsel, command or abet another to commit a felony.*

Being absent at the time of the felony committed] For if he is present, he is not an accessary, but a principal.

So also, if divers come to commit an unlawful act, and be present at the time of the felony committed, tho' one of them only doth it, they are all principals. *Hale's Pl.* 215.

So if one present move the other to strike; or if one present did nothing, but yet came to assist the party if needful; or if one hold the party while the felon strikes him; or if one present deliver his weapon to the other that strikes; for they are present, aiding, abetting, or comforting. *id.* 216.

But if one came casually, not of the confederacy, tho' he hindered not the felony, he is neither principal nor accessary, altho' he apprehend not the felon; but for his negligence he is punishable by fine and imprisonment. *Hale's Pl.* 216. 2 Harv. 313.

Also in some cases, even a person absent may be principal; as he that puts poison into any thing to poison another, and leaves it, tho' not present when it is taken: And so it seems all that are present

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The seventh part of the book is devoted to a general history of the world, from the beginning of time to the present day.

The eighth part of the book is devoted to a general history of the world, from the beginning of time to the present day.

Memorandum

1. The purpose of this memorandum is to provide a summary of the findings of the investigation conducted by the Special Agent in Charge, [Name], on [Date].

2. The investigation was conducted in accordance with the provisions of the [Act/Regulation].

3. The following information was obtained from the [Source]:

- [Point 1]
- [Point 2]
- [Point 3]
- [Point 4]

4. It is noted that the [Subject] has been [Action].

5. The [Subject] is currently [Status].

6. The [Subject] is [Location].

7. The [Subject] is [Occupation].

8. The [Subject] is [Age].

9. The [Subject] is [Sex].

10. The [Subject] is [Race].

11. The [Subject] is [Religion].

12. The [Subject] is [Marital Status].

13. The [Subject] is [Education].

14. The [Subject] is [Income].

15. The [Subject] is [Assets].

16. The [Subject] is [Liabilities].

17. The [Subject] is [Criminal Record].

18. The [Subject] is [Mental Health].

19. The [Subject] is [Substance Abuse].

20. The [Subject] is [Social History].

1. The [Subject] is [Name].

2. The [Subject] is [Address].

3. The [Subject] is [City].

4. The [Subject] is [State].

5. The [Subject] is [Zip].

6. The [Subject] is [Phone].

7. The [Subject] is [Email].

8. The [Subject] is [Social Media].

9. The [Subject] is [References].

10. The [Subject] is [Comments].

11. The [Subject] is [Signature].

12. The [Subject] is [Date].

13. The [Subject] is [Page].

14. The [Subject] is [Total Pages].

15. The [Subject] is [Attachments].

16. The [Subject] is [Enclosures].

17. The [Subject] is [Distribution].

18. The [Subject] is [Classification].

19. The [Subject] is [Declassification].

20. The [Subject] is [Retention].

present when the poison is so infused, and consenting thereunto. *Hale's Pl.* 216.

Procure, counsel, command, or abet] But here note some diversities: As,

(1.) *When the principal doth not accomplish the fact altogether in the same sort, as it was before hand agreed between him and the accessory.* And therefore if one command another to lay hold upon a third person, and he lays hold upon him and robs him, the person commanding is not accessory to the robbery; for his command might have been performed without any robbery. *Dalt. c.* 161.

But if the command had been to beat him, and the party commanded doth kill him, or beat him so that he dieth thereof; the person commanding shall be accessory to the murder: for it is a hazard in beating a man, that he may die thereof. *Dalt. c.* 161.

(2.) *He that commandeth or counselleth any evil or unlawful act to be done, shall be adjudged accessory to all that shall ensue upon the same evil act, but not to any other distinct thing.* As if one command another to steal a horse, and he stealeth an ox; or to rob a man by the highway of his money, and he robs him in his house of his plate; or to burn such an one's house, and he burneth the house of another: These are other acts and felonies than he commanded to be done, and therefore he shall not be adjudged accessory to them. *Dalt. c.* 161.

(3.) *But if a person commit the same felony, which another did command or counsel to be done, tho' he doth it at another time, or in another place, or in another sort than was commanded or counselled, yet here such person commanding or counselling shall be accessory.* As if he doth counsel to kill a man by poison, and he kills him with a dagger; or to kill him by the highway, and he kills him in his house; or to kill him one day, and he kills him on another day; in these and the like cases, he shall be accessory. *Dalt. c.* 161.

(4.) *Those offences which in the construction of law are sudden and unpremeditated, cannot have any accessories before.* As killing a man by misadventure, in his own defence, or manslaughter: For in such case there can be no procuring, counselling, commanding, or abetting. But there may be accessories after. *1 H. H.* 616.

(5.) It seems to be generally agreed, that *he who barely conceals a felony, which he knows to be intended, is guilty only of a misprision of felony, and shall not be judged an accessory;* for this is not procuring, counselling, or abetting. *2 Harw.* 317.

(6.) Also, if a man counsels or commands another to kill a person, and before he hath killed him, he who counselled or commanded it, repents, and countermands it, charging him not to kill him, and yet after he doth kill him; here such person countermanding shall not be adjudged accessory to the murder: For the law adjudgeth no man accessory to a felony before the fact, but such as continue in that mind at the time that the felony is done and executed. *Dalt. c.* 161.

(7.) But if a person advise a woman to kill her child as soon as it shall be born, and she kill it in pursuance of such advice; he is an accessory to the murder, tho' at the time of the advice, the child not being born, no murder could be committed of it: For

the influence of the felonious advice continuing till the child was born, makes the adviser as much a felon, as if he had given his advice after the birth. 2 *Harv.* 315.

III. Of accessories after the fact.

Accessory after.

Accessory after the fact is, where a person knowing the felony to be committed by another, relieves, comforts, or assists the felon. 1 *H. H.* 618.

Knowing the felony to be committed] There can be no doubt, but that it is necessary that the receiver have notice of the felony, either express or implied, and so to be laid in the indictment, that the receiver *knew* that the person received by him, had committed the principal felony. 2 *Harv.* 319.

The felony] This, as hath been said, holds place only in felonies, and in those felonies, where by the law judgment of death regularly ought to issue; and therefore not in petit larceny. 1 *H. H.* 618.

And therefore if a person do barely receive, comfort, or conceal an offender guilty of any common trespass, or inferior crime of the like nature, tho' he know him to have been guilty, and that there is a warrant out against him, yet he is not an accessory to the offence; but perhaps in such case he may be indictable for a contempt of the law, in hindring the due course of justice. 2 *Harv.* 311.

Relieves, comforts, or assists the felon] In the explication of these words, several things are considerable;

(1.) Generally, any assistance whatsoever given to one known to be a felon, in order to hinder his being apprehended, or tried, or suffering the punishment to which he is condemned, is sufficient to bring a man within this description, and make him accessory to the felony; as where one assists him with a horse to ride away with, or with money or victuals to support him in his escape. 2 *Harv.* 317.

(2.) But if a man knows that a person hath committed a felony, but doth not discover it, this doth not make him an accessory, but it is a misprision of felony, for which he may be indicted, and upon his conviction fined and imprisoned. 1 *H. H.* 618.

(3.) Also if a man sees another commit a felony, but consents not, nor yet takes care to apprehend him or to levy hue and cry after him, or upon hue and cry levied doth not pursue him; this is a neglect punishable by fine and imprisonment, but it doth not make him an accessory. 1 *H. H.* 618.

(4.) In like manner, if one commit a felony, and come to a person's house before he be arrested, and such person suffer him to escape without arrest, knowing him to have committed a felony, this doth not make him accessory; but if he take money of the felon to suffer him to escape, this makes him accessory: And so it is if he shut the fore door of his house, whereby the pursuers are deceived, and the felon hath opportunity to escape, this makes him an accessory; for here is not a bare omission, but an act done by him to accommodate the felon's escape. 1 *H. H.* 619.

(5.) Also

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(5.) Also it seems to be settled at this day, that whosoever rescues a felon from an arrest for the felony, or voluntarily suffers him to escape, is an accessory to the felony. 2 *Harw.* 318.

(6.) But if a felon be in prison; he that relieves him with necessary meat, drink, or cloaths, for the sustentation of life, is not accessory. 1 *H. H.* 620.

(7.) So if he be bailed out; it is lawful to relieve and maintain him, for he is still in some sort in custody, and is under a certainty of coming to his trial. 1 *H. H.* 620.

(8.) But if a felon be in gaol; for a man to convey instruments to him to break prison to make an escape, or to bribe the gaoler to let him escape, makes the party an accessory; for tho' common humanity allows every man to afford such persons necessary relief, yet common justice prohibits all unlawful attempts to cause their escapes. 1 *H. H.* 621.

(9.) The sending a letter in favour of a felon, or advising to labour witnesses not to appear, makes no accessory; but it is a high contempt. *Hale's Pl.* 219.

(10.) A man may be accessory to an accessory, by the receiving of him, knowing him to be an accessory to felony. 1 *H. H.* 622.

(11.) If a man hath goods stolen, and he receives his goods again, simply, without any contract to favour the felon in his prosecution, this is lawful; but if he receive them upon agreement not to prosecute, or to prosecute faintly, this is theftbore, punishable by imprisonment and ransom, but yet it makes him not an accessory; but if he take money of him to favour him, whereby he escapes, this makes him accessory. 1 *H. H.* 619.

(12.) And if any person shall receive or buy stolen goods, knowing them to be stolen; or shall receive, harbour, or conceal the thieves; he shall be deemed an accessory, and be transported for fourteen years. 3 *W. c.* 9. *f.* 4. 5 *Ann. c.* 31. *f.* 5. 4 *Geo. c.* 11. And buying the goods at an undervalue, is a presumptive evidence, that he knew they were stolen. 1 *H. H.* 619.

(13.) It seems agreed, that the law hath such a regard to that duty, love, and tenderness, which a wife owes to her husband, as not to make her an accessory to felony by any receipt given to her husband; yet if she be any way guilty of procuring her husband to commit it, it seems to make her an accessory before the fact, in the same manner as if she had been sole. Also it seems agreed, that no other relation, besides that of a wife to her husband, will exempt the receiver of a felon from being an accessory to the felony; from whence it follows, that if a master receive a servant, or a servant a master, or a brother a brother, or even a husband a wife, they are accessories in the same manner as if they had been mere strangers to one another. 2 *Harw.* 320.

(14.) But if the wife alone, the husband being ignorant of it, do receive any other person being a felon; the wife is accessory, and not the husband. 1 *H. H.* 621.

(15.) But if the husband and wife both receive a felon knowingly, it shall be judged only the act of the husband, and the wife shall be acquitted. 1 *H. H.* 621.

IV. How they are to be proceeded against.

Accessaries how far bailable.

1. By 3 *Ed. 1. c. 15.* Those who are accused of the receipt of felons, or of commandment, or of force, or of aid of felony done, shall be bailable; but this seemeth to be only where it stands indifferent whether the party be guilty or innocent; for if there are strong presumptions of guilt, it seemeth that he is not bailable. 2 *Harw. 102.*

In what county to be tried.

2. Where a person is feloniously stricken or poisoned in one county, and dies thereof in another county, the accessory may be indicted in the county where the death shall happen. 2 & 3 *Ed. 6. c. 24. f. 2, 3.*

The same.

3. Where a murder or felony shall be committed in one county, and a person shall be accessory in another county, the accessory may be indicted in the county where he was accessory: And the judges of assize, or two of them, of the county where the offence of the accessory shall be committed, on suit to them made, shall write to the keeper of the records where the principal shall be convicted, to certify them whether such principal be attainted, convicted, or otherwise discharged; which he shall certify under his seal. 2 & 3 *Ed. 6. c. 24. f. 4.*

Accessory and principal in the same indictment.

4. The accessory may be indicted in the same indictment with the principal, and that is the best and most usual way; but he may be indicted in another indictment, but then such indictment must contain the certainty and kind of the principal felony. 1 *H. H. 623.*

Principal to be first tried.

5. It seemeth that the accessory may be put to answer before the principal hath appeared; but his plea cannot be tried before such appearance, unless he desires it himself; but if he will put himself upon his trial, before the principal be tried, he may; and his acquittal or conviction, upon such trial, is good. 2 *Harw. 322. 1 H. H. 623.*

But it seemeth necessary in such case to respite judgment, till the principal be convicted; for if the principal be after acquitted, that conviction of the accessory is annulled, and no judgment ought to be given against him: But if he be acquitted of the accessory, that acquittal is good, and he shall be discharged. 1 *H. H. 623, 624.*

Both tried by one inquest.

6. It seems to be settled at this day, that if the principal and accessory appear together, and the principal plead the general issue, the accessory shall be put to plead also; and that if he likewise plead the general issue, both may be tried by one inquest; but that the principal must be first convicted; and that the jury shall be charged, that if they find the principal not guilty, they shall find the accessory not guilty. But it seems agreed, that if the principal plead a plea in bar, or abatement, or a former acquittal, the accessory shall not be forced to answer, till that plea be determined; for if it be found for the principal, the accessory is discharged; if against the principal, yet he shall after plead over to the felony, and may be acquitted. 2 *Harw. 323. 1 H. H. 624.*

SECRET

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7. Anciently, the accessory could not be tried, unless the principal were *attainted* (3 Ed. 1. c. 14.) but by the 1 Ann. Stat. 2. c. 9. f. 1. If the principal be convicted, or stand mute, or peremptorily challenge above twenty of the jury, the accessory may be tried and punished as if the principal had been attainted; and this, altho' the principal be admitted to his clergy, pardoned, or otherwise delivered before attainder.
8. But in the case of stolen goods, if the principal cannot be taken, the buyer or receiver may be profecuted as for a misdemeanor, to be punished by fine and imprisonment, or other such coporal punishment as the court shall think fit, altho' the principal be not convicted; which shall exempt the offender from being punished as accessory, if the principal be afterwards taken and convicted. 1 Ann. Stat. 2 c. 9. f. 2. 5 Ann. c. 31. f. 6.
9. It seemeth not reasonable, where a person is charged as accessory to more than one principal, to try him on the conviction of one, before all of them have appeared; because hereby he may be subject to the harshness and hazard of two trials for his life for the same offence, which is contrary to the general course of the law. 2 Harw. 323.
10. If the principal be erroneously attaint, yet the accessory shall be put to answer, and shall not take advantage of the error in that attainder; but the principal reversing the attainder, reverseth the attainder of the accessory. 1 H. H. 625.
11. If one person be indicted as principal, and another as accessory, and both be acquit; yet the person indicted as accessory may be indicted as principal, and the former acquittal as accessory is no bar. 1 H. H. 625.
12. But if a person be indicted as principal and acquitted; he shall not be indicted as accessory before: And if he be, he may plead his former acquittal in bar, for it is in substance the same offence. 1 H. H. 626.
13. But if he be indicted as principal, and acquitted; he may be indicted as accessory after, for they are offences of several natures. 1 H. H. 626.
14. And so it is, if he be indicted as accessory before, and acquitted; yet for the same reason he may be indicted as accessory after. 1 H. H. 626.

Accessory may be tried, tho' the principal be not attainted.

Receiver of stolen goods may be tried before the principal.

Case where a person is charged as accessory to more than one.

Case where the principal is erroneously attainted.

Accessory acquitted may be indicted as principal.

Principal acquitted may not be indicted as accessory before.

Principal acquitted may be indicted as accessory after.

Accessory before, acquitted, may be indicted as accessory after.

Indictment of an accessary before the fact, taken from Coke's report of Lord Sanchar's case, 9 Co. 117. which, as the prosecution was by the king's special command, was probably drawn by good advice; and on which Robert Creighton, esquire, (Lord Sanchar of Scotland) was convicted and hanged; viz.

Middlesex. **T**HE jurors do present for the lord the king upon their oath, That whereas Robert Carliel late of London, yeoman, and James Irweng late of London aforesaid, yeoman, not having god before their eyes, but seduced by the instigation of the devil, the eleventh day of May in the year of the reign of our lord James by the grace of god of England, France, and Ireland, king, defender of the faith, and so forth, the tenth, and of Scotland the forty-fifth, at London, that is to say, in the parish of St. Dunstan in the West, and in the ward of Farringdon without London aforesaid, &c. with force and arms, &c. feloniously and of their forethought malice, in and upon one John Turner then and there in the peace of god and of the said lord the king being, made an assault and affray, and the aforesaid Robert Carliel a certain gun [tormentum] called a pistol, of the value of 5s. then and there charged with gunpowder and a leaden bullet, which gun the said Robert Carliel in his right hand then and there had and held; in and upon the aforesaid John Turner then and there feloniously, voluntarily, and of his malice forethought, did shoot off and discharge; and the aforesaid Robert Carliel, with the leaden bullet aforesaid from the gun aforesaid then and there shot and discharged, the aforesaid John Turner in and upon the left part of the breast of him the said John Turner, near the left pap of him the said John Turner, then and there feloniously struck, giving to the said John Turner then and there with the leaden bullet aforesaid out of the gun aforesaid then and there shot off and discharged, in and upon the left part of the breast of him the said John Turner, one mortal wound of the breadth of half an inch, and depth of five inches, of which mortal wound the aforesaid John Turner at London aforesaid, in the parish and ward aforesaid, instantly died: And that James Irweng feloniously, and of his forethought malice, then and there was present, aiding, assisting, abetting, comforting and maintaining the aforesaid Robert Carliel to the felony and murder aforesaid in form aforesaid to be done and commit it; and so the aforesaid Robert Carliel and James Irweng the aforesaid John Turner at London aforesaid, in the parish and ward aforesaid, in manner and form aforesaid, feloniously, voluntarily, and of their forethought malice, killed and murdered, against the peace of the lord the now king, his crown and dignity; And that one Robert Creighton, late of the parish of St. Margaret in Westminster in the county of Middlesex, esquire, not having god before his eyes, but being seduced by the instigation of the devil, before the felony and murder aforesaid by the aforesaid Robert Carliel

[The text in this section is extremely faint and illegible. It appears to be a list or a series of entries, possibly names and dates, but the characters are too light to transcribe accurately.]

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liel and James Irwing in manner and form aforesaid done and committed, that is to say, the tenth day of May in the year of the reign of our lord James, by the grace of god of England, France, and Ireland, king, defender of the faith, and so forth, the tenth, and of Scotland the forty fifth, the aforesaid Robert Carliel, at the aforesaid parish of St. Margaret in Westminster aforesaid, in the county of Middlesex aforesaid, to the felony and murder aforesaid, in manner and form aforesaid to be done and committed, maliciously, feloniously, voluntarily and of his forethought, malice, did incite, move, rabet, counsel and procure; against the peace of the said lord the king that now is, his crown and dignity.

If after the fact, then the form may be thus;

And that A. O. late of _____ in the county of _____ yoman, well knowing the said (offender) to have done and committed the said felony in manner and form aforesaid, afterwards, to wit, on the _____ day of _____ in the _____ year of the reign of _____ at _____ aforesaid in the county aforesaid, with force and arms, him the said _____ did then and there feloniously, and of his malice forethought, receive, aid, and comfort; against the peace of the said lord the king that now is, his crown and dignity.

Admon. popular. See Information.

Adultery. See Lewdness.

Addition.

TO prevent the inconvenience of troubling one person for another, it is enacted by 1 H. 5. c. 5. that in every original writ of *viens personal*, appeals, and indictments, in which the exigent shall be awarded, to the names of the defendants additions shall be made, of their estate or degree or mystery, and of the towns, or hamlets, or places, and counties, of the which they were, or be: And if, by process upon the said original writs, appeals, or indictments, in the which the said additions be omitted, any outlawries be pronounced, they shall be void; and before the outlawries pronounced, the said writs and indictments shall be abated by the exception of the party.

In which the exigent shall be awarded. The exigent is a writ whereby the sheriff is commanded to proclaim the party in the county court, in order to his being outlawed. And by these words the act extendeth only to cases where process of outlawry may be awarded; and therefore it extendeth not to an indictment for inroaching on a highway, because in that case process of outlawry lieth not, but a distress. *Croke Eliz.* 148.

Addition.

To the names of the defendants] Regularly by the common law, every natural man, having no name of dignity, ought to be named in all originals and other suits by his christian name and surname, and that, before this act, sufficed; but if he had a name of inferior dignity (as knight, or banneret) he ought to be named by his christian name and surname, and by the addition of his name of dignity. 2 *Inst.* 666.

If there be a corporation of one sole person, that hath a fee simple, and may have a writ of right, he may be named by the common law by his christian name without any surname, as *John Bishop of P.* 2 *Inst.* 666.

If it be a corporation aggregate of many able persons, as mayor and commonalty, dean and chapter, the mayor or dean need not be named by his christian name, because that such a corporation standeth in lieu both of the christian name and surname. 2 *Inst.* 666.

A duke, marquiss, earl, viscount, or baron might by the common law be named by his christian name, and by the name of his dignity; as *John Duke of M.* 2 *Inst.* 666.

Additions shall be made] The addition as well of the estate, degree, or mystery, as the town, hamlet, or place, ought by force of this act to be alledged in the first name; for an addition after the *alias dictus* is ill: As for instance, where the indictment was against *W. R.* otherwise called *W. R. of H.* for without the *alias dictus* there is no addition of the vill; and if the party is not sufficiently named in the first part, the *alias* cannot aid or help it. 2 *Inst.* 669. 3 *Salk.* 20.

Where there are several defendants of different names, and the same addition, it is safest to repeat the addition after each of their names, applying it particularly to every one of them. 2 *Haw.* 187.

Where a father hath the same name and the same addition with a defendant being his son, the action is abateable unless it add the addition of *the younger* to the other additions; but where the father is the defendant, it is said that there is no need of the addition of *the elder.* 2 *Haw.* 187.

Of their estate or degree] Esquire is a good addition; and the sons of all peers and lords of parliament in the life of their fathers, are in law esquires, and so to be named. Also the eldest son of a knight is an esquire. 2 *Inst.* 667.

And it seems clear, that no one can be well described by the addition of a temporal dignity of any other nation besides our own; because no such dignity can give a man a higher title here, than that of an esquire. 2 *Haw.* 187.

Gentleman and gentlewoman are good additions; and if a gentlewoman be named spinster, she may abate and quash the writ or indictment. 2 *Inst.* 668.

A gentleman by reputation, that is neither gentle by birth, nor by office, nor by creation, but commonly called gentleman, and known by that name, is a sufficient addition; but if he be named yeoman, he cannot quash the indictment. 2 *Inst.* 668.

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Advertisement

Advertisement text, mostly illegible due to low contrast and blurring. The text appears to be a notice or announcement, possibly related to a business or public service. It contains several lines of text, some of which are partially legible, such as "Advertisement" at the top and "Notice" in the middle. The text is arranged in a vertical column on the right side of the page.

Lord *Coke* says, he that hath taken any degree in either of the universities, may be named by that degree without question. 2 *Inst.* 668. But this is doubted by others. 2 *Haw.* 187.

Clerk is a good addition of a clergyman. 2 *Inst.* 668.

Yeoman and labourer are good additions, and are applied only to the man, and not to the woman. 2 *Haw.* 188.

Widow or singlewoman, or (as some say) wife of such a one, are all of them good additions of the estate and degree of a woman; but no such like addition is good, for the estate and degree of a man. And spinster is a good addition for the estate and degree of a woman, and perhaps also for that of a man. 2 *Haw.* 188.

Or misery] This includeth all lawful arts, trades, and occupations, as taylor, merchant, mercer, parish clerk, schoolmaster, husbandman, labourer, and the like. 2 *Haw.* 188.

But servant, groom, or farmer, are not additions within this act, because they are not of any misery. And chamberer, butler, pander, or the like, are additions of offices, and not of any misery or occupation. 2 *Inst.* 668.

Neither doth this act extend to unlawful practices, as extortioner, maintainer, thief, vagabond, heretick, and such like. 2 *Haw.* 188.

If a man have divers arts, trades, or occupations, he may be named by any of them; but if a gentleman by birth be a tradesman, he shall not be named by his trade, but by the degree of gentleman, because it is worthier than the addition of any misery. And in general a man shall be named by his worthiest title of addition. 2 *Inst.* 668, 669.

And of the towns or hamlets] If there be two towns in a county of the same principal name, with different additions to distinguish them from one another, as *Great Dale* and *Little Dale*, or *Upper Dale* and *Lower Dale*, and the defendant be named only of the principal town without any addition, as of *Dale* only, the defendant may plead that there are two *Dales* in the same county, and none without an addition. But if there be two towns of the same name in a county, without any addition to distinguish them, it may be sufficient in such case to name the defendant generally of either of such towns, without adding any thing to distinguish it from the other. 2 *Haw.* 189.

If the defendant live in a hamlet of a town, it is said to be in the election of the party to name him either of the hamlet or of the town. 2 *Haw.* 189.

But the addition of a parish, if there be two or more towns in it, is not good; but if there be but one town, the addition of parish is good. 2 *Inst.* 669.

The addition of the place of habitation of a wife, is sufficiently shewn, by shewing that of the husband; because it shall be intended that the wife lives where the husband does. 2 *Haw.* 190.

Or places] If the defendant lives in a place known by a special name, and lying out of any town or hamlet, he may be well named of such place; but if he live in any place known within a town

Affray.

town or hamlet; it is said to be safest to name him of the town or hamlet. 2 *Haw.* 189, 190.

Of the which they were, or be] The addition of the estate, degree, or mistery, ought to be as the defendánt was of at the day of the indictment brought, and not *late* of such a degree or mistery; but it is a good addition to name the defendánt *late* of such a town or place, because men do often remove their habitation. 2 *Inst.* 670.

Shall be void] This being a judgment in law, is interpreted to be made void by a writ of error, or by the plea of the party coming in upon a *capias utlogatum*; for tho' the statute saith they shall be void, yet they are but voidable by a writ of error or plea. 2 *Inst.* 670.

By the exception of the party] But if the defendánt appeareth upon process, and plead, taking no advantage thereof by exception, he hath lost the benefit hereof: But it seemeth that the bare appearance of the party, without plea, doth not save the want of a good addition. 2 *Haw.* 190.

Advertisement. See Stamps.

Affray.

I. *What is an affray.*

II. *How far it may be suppressed by a private person.*

III. *How far by a constable.*

IV. *How far by a justice of the peace.*

V. *Punishment of an affray.*

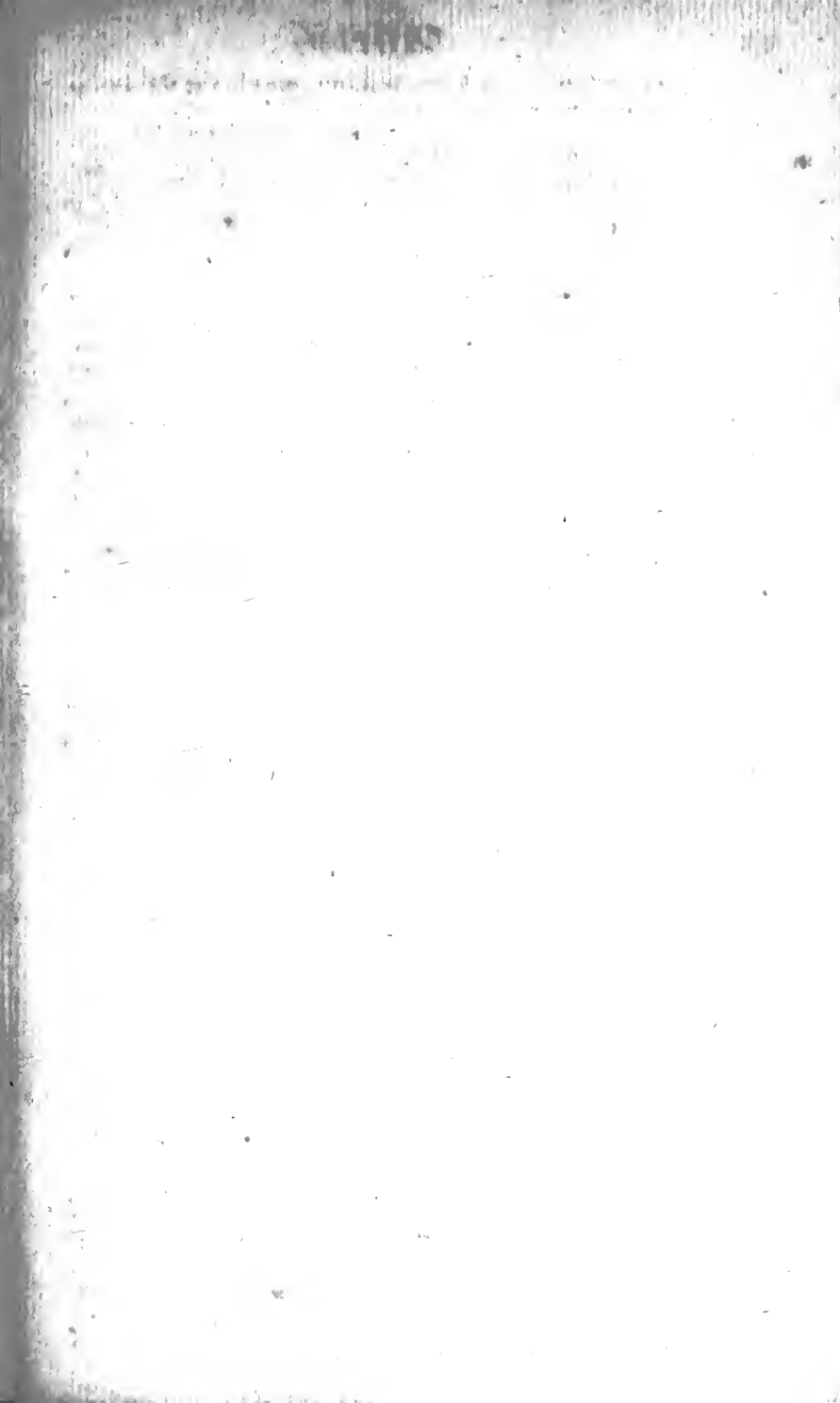
I. *What is an affray.*

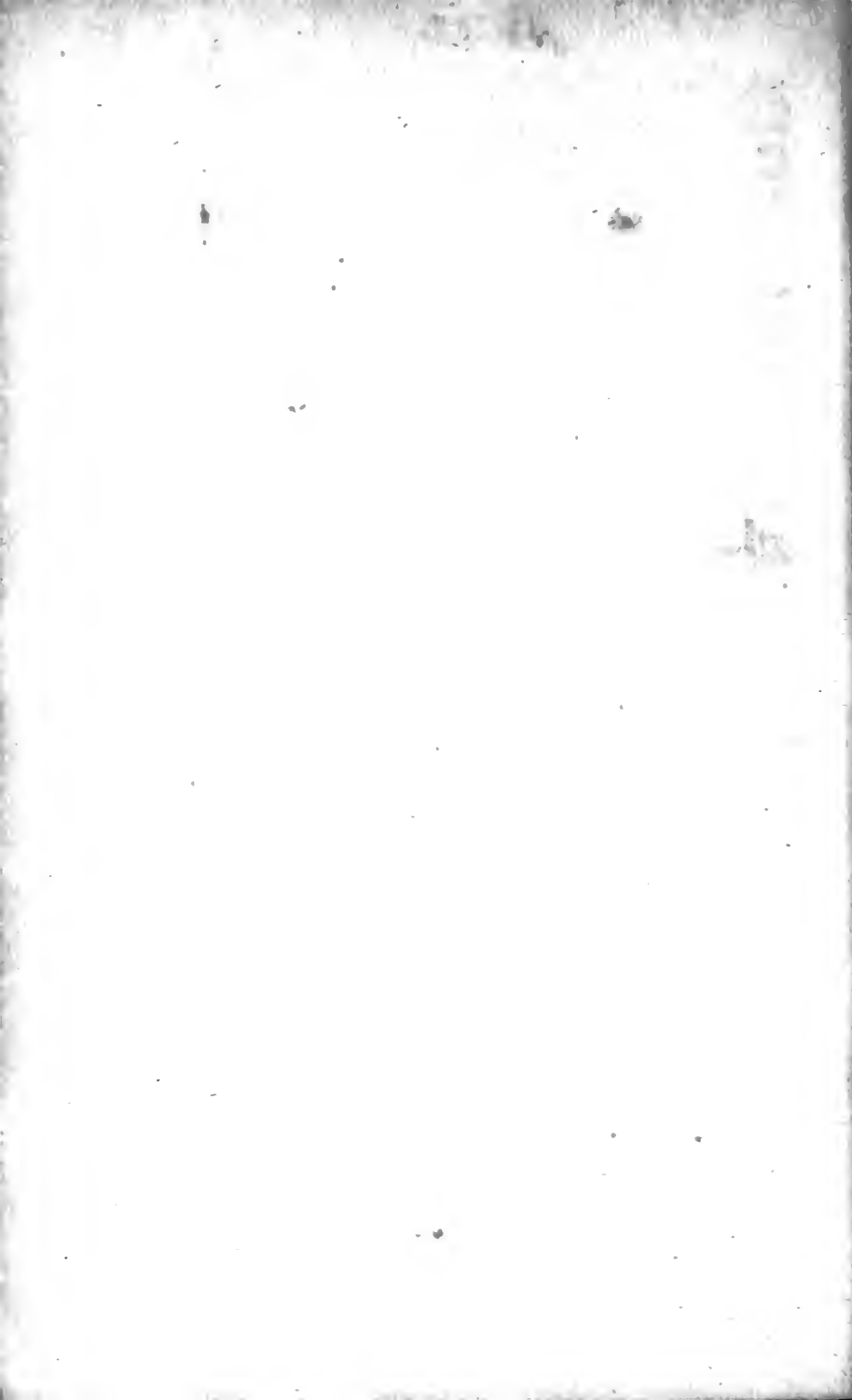
1. **A**N affray is a publick offence to the terror of the king's subjects, and is an English word, and so called, because it affrighteth and maketh men afraid. 3 *Inst.* 158.

2. From whence it seemeth clearly to follow, that there may be an assault, which will not amount to an affray; as where it happens in a private place, out of the hearing or seeing of any, except the parties concerned, in which case it cannot be said to be to the terror of the people. 1 *Haw.* 134.

3. Also it is said, that no quarrelsome or threatening words whatsoever, shall amount to an affray; and that no one can justify laying his hands on those who shall barely quarrel with angry words, without coming to blows; yet it seemeth, that the constable may, at the request of the party threatened, carry the person who threatens to beat him, before a justice in order to find sureties. 1 *Haw.* 135.

4. Also,





4. Also, it is certain, that it is a very high offence to challenge another, either by word or letter, to fight a duel, or to be the messenger of such a challenge; or even barely to endeavour to provoke another, to send a challenge, or to fight; as by dispersing letters to that purpose, full of reflections, and insinuating a desire to fight. 1 *How.* 135.

5. But altho' no bare words, in the judgment of law, carry in them so much terror as to amount to an affray, yet it seems certain, that in some cases there may be an affray, where there is no actual violence; as where a man arms himself with dangerous and unusual weapons, in such a manner as will naturally cause a terror to the people; which is said to have been always an offence at the common law, and is strictly prohibited by statute: For by 2 *Ed. 3. c. 3.* it is enacted, that *no man of what condition soever, except the king's servants in his presence, and his ministers in executing their office, and such as be in their company assisting them, and also upon a cry made for arms to keep the peace, shall come before the king's justices, or other of the king's ministers doing their office, with force and arms, nor bring any force in affray of peace, nor go nor ride armed, by night or day, in fairs or markets, or in the presence of the king's justices, or other ministers, or elsewhere; upon pain to forfeit their armour to the king, and their bodies to prison at the king's pleasure. And the king's justices in their presence, seriffs and other ministers in their bailiwicks, lords of franchises and their bailiffs in the same, and mayors and bailiffs of cities and boroughs within the same, and borough holders, constables, and wardens of the peace within their wards, shall have power to execute this act. And the judges of assize may punish such officers as have not done their duty herein.*

Upon a cry made for arms to keep the peace] It is holden upon these words of exception, that no person is within the intention of this statute, who arms himself to suppress dangerous rioters, rebels, or enemies, and endeavours to suppress or resist such disturbers of the peace and quiet of the realm. 1 *How.* 136.

In affray of peace] *En effrayer de la pees*; Lord Coke has it pair, of the country, or the people; and so, he observes, that the writ grounded upon this statute saith, *In quorundam de populo terrorem*; and therefore the printed book, in *affrey of peace*, ought to be amended. 3 *Inst.* 158.

And it is holden upon these words, that no wearing of arms is within the meaning of this statute, unless it be accompanied with such circumstances as are apt to terrify the people; from whence it seems clearly to follow, that persons of quality are in no danger of offending against this statute, by wearing common weapons, or having their usual number of attendants with them, for their ornament or defence, in such places, and upon such occasions, in which it is the common fashion to make use of them, without causing the least suspicion of an intention to commit any act of violence, or disturbance of the peace. 1 *How.* 136.

Nor to go nor ride armed] It is holden, that a man cannot excuse the wearing such armour in publick, by alledging that such a one threatned him, and that he wears it for the safety of his person from his assault; but it hath been resolved, that no one shall incur the penalty of the said statute for assembling his neighbours and friends in his own house, against those who threaten to do him any violence therein, because a man's house is his castle. 1 *Harw.* 136.

Their bodies to prison] The statute of 20 R. 2. c. 1. adds a fine likewise.

Wardens of the peace] It is holden, that any justice of the peace, or other person who is impowered to execute this statute, may proceed thereon *ex officio*; and if he find any person in arms, contrary to the form of the statute, he may seize the arms, and commit the offender to prison; and that he ought also to make a record of the whole proceeding, and certify the same into the exchequer. 1 *Harw.* 135.

II. How far it may be suppressed by a private person.

1. It seems agreed, that any one who sees others fighting, may lawfully part them, and also stay them till the heat be over, and then deliver them to the constable to be carried before a justice, to find sureties for the peace. 1 *Harw.* 136.

2. And the law doth encourage him hereunto; for if he receives any harm by the affrayers, he shall have his remedy by law against them; and if the affrayers receive hurt, by the endeavouring only to part them, the standers-by may justify the same, and the affrayers have no remedy by law. 3 *Inst.* 158.

3. But if either of the parties be slain, or wounded, or so stricken that he falleth down for dead; in that case the standers-by ought to apprehend the party so slaying, wounding, or striking, or to endeavour the same by hue and cry; or else for his escape they shall be fined and imprisoned. 3 *Inst.* 158.

III. How far by a constable.

1. It seems agreed, that a constable is not only impowered, as all private persons are, to part an affray which happens in his presence; but is also bound at his peril to use his best endeavours to this purpose; and not only to do his utmost himself, but also to demand the assistance of others, which if they refuse to give him, they are punishable with fine and imprisonment. 1 *Harw.* 137.

2. And it is said, that if a constable see persons either actually engaged in an affray, as by striking or offering to strike, or drawing their weapons, or the like; or upon the very point of entering upon an affray, as where one shall threaten to kill, wound, or beat another, he may either carry the offender before a justice, to find sureties for the peace, or he may imprison him of his own authority for a reasonable time, till the heat shall be over, and also afterwards detain him till he find such surety by obligation:

But

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describes the details of the
system and the method of
its application. It is divided
into three main sections:
the first dealing with the
theory, the second with the
practice, and the third with
the results.

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the practice.

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But it seems, that he has no power to imprison such an offender in any other manner, or for any other purpose; for he cannot justify the committing an affrayer to gaol, till he shall be punished for his offence: And it is said, that he ought not to lay hands on those, who barely contend with hot words, without any threats of personal hurt; and that all which he can do in such case, is to command them under pain of imprisonment to avoid fighting.

1 *Haw.* 137.

3. But he is so far intrusted with a power over all actual affrays, that tho' he himself is a sufferer by them, and therefore liable to be objected against, as likely to be partial in his own cause, yet he may suppress them; and therefore, if an assault be made upon him, he may not only defend himself, but also imprison the offender, in the same manner as if he were no way a party. 1 *Haw.*

137.

4. And if an affray be in an house, the constable may break open the doors to preserve the peace; and if affrayers fly to an house, and he follow with fresh suit, he may break open the doors to take them. 1 *Haw.* 137.

5. But it is said, that a constable hath no power to arrest a man for an affray done out of his own view, without a warrant from a justice, unless a felony were done, or likely to be done; for it is the proper business of a constable to preserve the peace, and not to punish the breach of it. 1 *Haw.* 137.

IV. How far by a justice of the peace.

There is no doubt, but that he may and must do all such things to that purpose, which a private man or constable are either enabled or required by the law to do: But it is said, that he cannot without a warrant authorize the arrest of any person for an affray out of his own view; yet it seems clear, that in such case he may make his warrant to bring the offender before him, in order to compel him to find sureties for the peace. 1 *Haw.* 137.

V. Punishment of an affray.

All affrays in general are punishable by fine and imprisonment. 1 *Haw.* 138.

And they are inquirable in the lect, as common nuisances. 3 *Inst.* 158.

Warrant to apprehend affrayers.

Westmorland. } To the constable of——

WHEREAS A. I. of—— yeoman, hath this day made oath before me J. P. esquire, one of his majesty's justices of the peace for the said county, that on the——day of——in the——year of the reign of—— A. O. of——yeoman, and B. O. of——yeoman, at——in the said county, in a tumultuous manner

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ner made an affray, wherein the person of the said A. I. was beaten and abused by them the said A. O. and B. O. without any lawful or sufficient provocation given to them, or to either of them, by him the said A. I. These are therefore to command you forthwith to apprehend the said A. O. and B. O. and bring them before me, or some other of his said majesty's justices of the peace for the said county, to answer the premisses, and to find sureties as well for their personal appearance at the next general quarter-sessions of the peace to be holden for the said county, then and there to answer to an indictment to be preferred against them by the said A. I. for the said offence, as also for their keeping the peace in the mean time, towards his said majesty and all his liege people, and especially towards him the said A. I. Hereof fail not, as you will answer the contrary at your peril. Given under my hand and seal at ——— in the said county, the ——— day of, &c.

Indictment for an affray.

THE jurors for our lord the king, upon their oath present, that A. O. of ——— in the county of ——— taylor, and B. O. of ——— in the said county, blacksmith, with force and arms, on the ——— day of ——— in the ——— year of the reign of our sovereign lord George the second, by the grace of god, of Great Britain, France, and Ireland, king, defender of the faith, and so forth, at ——— aforesaid in the county aforesaid, being arrayed and unlawfully assembled together in a warlike manner, did make an affray, to the terror and disturbance of divers of the subjects of our said sovereign lord the king then and there being, and to the evil example of all other the subjects of our said sovereign lord the king, and against the peace of our said lord the king, his crown and dignity.

Alamodes. See Silks.

Ale and Beer. See Excise.



REPORT

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Alehouses.

For matters relating to the *excise* of beer and ale, see title *Excise*.

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- II. Selling ale without licence.
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- XV. Concerning drunkenness.
- XVI. Detaining goods for the reckoning.
- XVII. Goods of a guest stolen out of an inn.
- XVIII. Guests stealing goods.

I. Concerning inns and alehouses in general.

1. **E**VERY inn is not an alehouse, nor is every alehouse an inn: but if an inn uses common selling of ale, it is then also an alehouse; and if an alehouse lodges and entertains travellers, it is also an inn. Difference between inns and alehouses.

2. It was resolved by all the judges, that any person might erect an inn to lodge travellers, without any licence or allowance for such erection. *Dalt. c. 56. Black. 170.* Licence to erect inns.

3. But it seems to be agreed, that the keeper of an inn may by the common law be indicted and fined, as being guilty of a public nuisance, if he usually harbour thieves; or persons of scandalous reputation, or suffer frequent disorders in his house; or take exorbitant prices, or set up a new inn in a place where there is no manner of need of one, to the hindrance of other ancient and well governed inns, or keep it in a place in respect of its situation wholly unfit for such a purpose. *1 Haw. 225.* Inn indictable.

- Innkeeper selling ale. 4. And if an inn useth the trade of an alehouse, as almost all innkeepers do, it shall be within the statutes made about alehouses. *Dalt.* 133. *Black.* 170.
- Inn to be licensed. 5. It hath been also agreed for law, that innkeepers ought to have licence, and be bound by recognizance for keeping good order, as alehousekeepers are. *Dalt.* 24.
- Power of justices by the commission. 6. By the commission of the peace, two justices (1 *Q.*) may inquire of innholders, and of all and singular other persons, who shall offend in the abuse of weights or measures, or in the sale of victuals, against the form of the ordinances in that behalf made.

II. Selling ale without licence.

Here are three methods of proceeding against an offender, (1) by the justices in sessions, (2) by two justices out of sessions, and (3) by one justice out of sessions.

By the justices in sessions.

1. By the justices in sessions:—*The justices of the peace, or two of them at the least (1 Q.) shall have full power and authority, to remove, discharge, and put away common selling of ale and beer in common alehouses and tipling houses, in such towns and places where they shall think meet and convenient.* 5 & 6 Ed. 6. c. 25. f. 1.

But this must be understood of houses unlicensed only. 1 *Salk.* 46.

And by this clause the justices in their sessions have power to suppress such unlicensed alehouses, and need not proceed by information or conviction; but they have thereby a discretionary power to suppress them, without shewing any cause or misdemeanor. *L. Ray.* 1303.

And here it is to be observed, that there is a difference between suppressing an unlicensed alehouse, and one that is licensed. Where an alehouse is licensed, the justices, to suppress it, must either proceed upon the recognizance, the condition whereof must at least be broken; and therefore his having another trade, or being a bailiff, can be no cause in such case: or by indictment, and then there must be such disorders as prove a nuisance. But where an alehouse is unlicensed, the justices may suppress it at discretion; for on the denial of a licence no appeal lies, and this statute which gives the justices a power to suppress *where they shall think convenient*, would signify nothing if it did not extend to such cases; for it cannot extend to alehouses that are licensed, because they are not punishable without a breach of the recognizance. And as to those that are unlicensed, if they be suppressed, the want of a licence can only come in question in such case, and not the reason and cause why it was denied. 1 *Salk.* 45, 46.

By two justices out of sessions.

2. Next, by two justices out of the sessions:—If any person unlicensed, shall obstinately, and upon his own authority, take upon him to keep a common alehouse or tipling house, or shall contrary to the commandment of the said justices, or two of them, use commonly selling of ale and beer (except in fairs); the said justices or two of them (1 *Q.*) shall for every such offence commit

mit every such person so offending to the common gaol, there to remain without bail or mainprize for three days :

And before his deliverance, the said justices shall take recognizance of him, with two sureties, that he shall not keep any common alehouse or tipling house, or use commonly selling of ale or beer, as by the discretion of the said justices shall seem convenient :

And the said justices shall make certificate of every such recognizance and offence, at the next quarter sessions ; which certificate shall be a sufficient conviction of the same offence :

And the justices, upon the said certificate made, shall in open sessions assess the fine for every such offence at 20 s. 5 *£* 6 *Ed.* 6.

c. 25. *f.* 4, 5.

3. Next, as to the method of proceeding by one justice: This By one justice, may be either by the statute of the 3 C. c. 3. or by the statute of on the 3 C. c. 3. the 26 G. 2. c. 31.

The method of proceeding on the 3 C. c. 3. is as follows: If any person shall, upon his own authority, not being thereunto lawfully licensed, take upon him to keep a common alehouse or tipling house, or use commonly selling of ale or beer, cyder or perry (except in fairs) ; he shall for the first offence forfeit 20 s. to the poor ; the same offence being viewed by any mayor or justice, or confessed by the offender, or proved by the oath of two witnesses: To be levied by the constables or churchwardens by warrant of distress; and for default of satisfaction in three days, the distress to be appraised and sold, rendering the overplus: And if he have not sufficient goods whereon to levy, or shall not pay the 20 s. in six days after conviction, such mayor or justice shall commit him to the constable or other inferior officer, where the offence shall be committed, or the party apprehended, to be openly whipped for the said offence, as the said justice shall appoint: And if the constable, or other inferior officer, shall neglect to execute the said precept or warrant, or do refuse, or do not execute the punishment by himself or some other ; the said mayor or justice may commit him to the common gaol, till the offender shall be punished and whipped by himself or some by his procurement, or until he hath paid the sum of 40 s. to the poor for his contempt. For the second offence, the said mayor or justice shall commit such person keeping an alehouse without licence, to the house of correction, for one month, and to be dealt with as an idle, lewd, and disorderly person. And if he shall again offend, he shall, on conviction as aforesaid, be committed in like manner to the house of correction, there to remain until by the order of the justices in sessions he shall be delivered from thence. But he shall not be punished both upon this act, and upon the 5 *£* 6 *Ed.* 6. but upon one of them only.

The other method of proceeding by one justice, is on the statute of the 26 *Geo.* 2. c. 31. and is as follows: By one justice, on the 26 G. 2. c. 31.

Where any justice shall suspect that any person sells without licence, he may call him before him, and also any excise officer or gauger to produce his stock book or other account of the charge or survey of such suspected person, and may examine such officer

on oath in what manner he charges such person, and how such person pays the duties; and if it shall appear by such stock book or account, or oath of the officer, that such person is surveyed as a victualler or retailer, and is charged with the same duties that victuallers and retailers are charged with and pay for any the liquors aforesaid, and is not intitled to the allowance or abatement given to common brewers, he shall be deemed an alehousekeeper, victualler, retailer, or feller thereof, as if it had been proved by two witnesses. *f. 9.*

And if any person shall make information before one justice, and shew probable cause that he suspects that any person sells without licence; the justice may call him before him (A), and summon any other person as evidence; and if the person summoned refuse to appear, or appear and refuse to give evidence upon oath, he shall forfeit 10*l.* by distress, by warrant of such justice, to be paid to the overseers for the use of the poor where the offender lives. *f. 10.*

And every person so convicted (B) of selling without licence, shall for the first offence forfeit 40*s.* for the second offence 4*l.* and for the third and every other offence 6*l.* by distress, by warrant of the justice convicting the offender (C), half to the informer, and half to the poor; and if no sufficient distress shall be found, the justice shall commit him (D) to the gaol or house of correction, for one month, for the first offence; for two months, for the second; and for the third, until he shall be discharged by order of sessions. 26 G. 2. c. 31. *f. 12.* 28 G. 2. c. 19. *f. 2.*

And any person may be a witness in such case, notwithstanding he pays to the poor of any place where the offence shall be committed. 26 G. 2. c. 31. *f. 17.*

But persons punished by this act shall not be punished by any former act; and persons punished by any former act, shall not be punished by this act. *f. 14.*

Penalty of selling ale to a person unlicensed.

4. By the statute of the 4th c. 4. If any person shall sell or deliver any beer or ale, to any person that shall then sell beer or ale as a common tipler or alehousekeeper, the same person not having licence to sell ale or beer (except it be for the use of his household only); he shall forfeit for every barrel 6*s.* 8*d.* and so proportionably for other quantities; half to the poor, and half to him that shall sue in sessions, by action of debt, information, indictment, or presentment.

III. Licensing alehouses.

By two justices at a general meeting.

1. By the 5 & 6 Ed. 6. c. 25. any two justices, 1^o might license alehouses; but now by the 2 G. 2. c. 28. and 26 G. 2. c. 31. it is enacted, that whereas many inconveniences have arisen from persons being licensed to keep inns and common alehouses, by justices, who living remote from the places of abode of such persons, may not be truly informed as to the occasion or want of such inns or common alehouses, or the characters of the persons applying for licences to keep the same; therefore from henceforth no licence shall be granted to any person to keep a common inn

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Appendix

TABLE I
Summary of the results of the experiments on the effect of the concentration of the solution on the rate of the reaction.

Concentration of the solution	Rate of the reaction
0.1 M	0.05
0.2 M	0.10
0.3 M	0.15
0.4 M	0.20
0.5 M	0.25
0.6 M	0.30
0.7 M	0.35
0.8 M	0.40
0.9 M	0.45
1.0 M	0.50

or alehouse, but at a general meeting of the justices acting in the division where the said person dwells, to be holden for that purpose, on the first day of *September* yearly, or within twenty days after, and not at any other time. Excepting, that this shall not alter the power or the time of granting licences, in cities and towns corporate. 2 G. 2. c. 28. s. 11, 12. 26 G. 2. c. 31. s. 4. 16.

[At a general meeting of the justices holden for the division] But it is not necessary to set forth specially in the licence, that it was granted at a general meeting of the justices holden for the division; and therefore a conviction for keeping an alehouse without such licence, is not good upon the evidence of the licence only, but there must be other evidence. M. 11 G. 2. King and Bryan, *Seff. Ca. Vol. 2. 183. Andr. 81.*

2. And the day and place for granting licences shall be appointed by two or more justices for the division, by warrant (E) under their hands and seals, at least ten days before such meeting, directed to the high constables, requiring them to order (F) their petty constables, or other peace officers, to give notice to the several innkeepers and alehousekeepers within their respective constablewicks, of the day and place of such meeting. And all licences granted at any other time or place shall be void. 26 G. 2. c. 31. s. 4.

The meeting how to be ascertained.

3. And no licence shall be granted to any person not licensed the year preceding (except in cities or towns corporate) unless he produce a certificate under the hands of the minister and the major part of the churchwardens and overseers, or else of three or four reputable and substantial householders of the place, setting forth that such person is of good fame and of sober life and conversation; and it shall be mentioned in such licence that such certificate was produced, otherwise the licence shall be void. 26 G. 2. c. 31. s. 2, 16.

Certificate of persons to be licensed.

[Except in cities and towns corporate] In cities and towns corporate, such certificate is not necessary, because it is supposed that the persons to be licensed are for the most part sufficiently known to the justices. Nevertheless, altho' a certificate in such places is not requisite by this act, yet it is discretionary in the justices whom they will license, and a *mandamus* in such case will not lie to compel the justices to license any person; and on a conviction for selling without licence, the want of such licence can only come in question, and not the reason why it was denied. M. 4 G. 2. *John Giles's case, Strange 881.*

4. By the 26 G. 2. c. 31. No justice of the peace, being a common brewer of ale or beer, innkeeper, or distiller, or a seller of or dealer in ale or spirituous liquors, or interested in any the said trades, or being a victualler or malster, shall be capable, or have any power to grant licences for selling ale or beer or any other liquors, but the same shall be void. s. 11.

What justices are prohibited from granting licences.

5. And all mayors, townclerks, and other persons whom it may concern, shall make out ale licences (G) duly stamped (on a 12 d. stamp, 9 Ann. c. 23. s. 23.) before the recognizance be

Stamp.

Alehouses.

taken; on pain of 10*l.* half to the king, and half to the professor, with costs. 6 G. c. 21. f. 56. 1 Ann. stat. 2. c. 22. f. 6.

Licence for spirituous liquors.

6. And no person shall retail any distilled spirituous liquors, or strong waters, without a licence from the officer of excise taken out ten days before, for which he shall pay 40*s.* yearly. 16 G. 2. c. 8. f. 8. 24 G. 2. c. 40. f. 9.

And such persons shall be first licensed to sell ale or spirituous liquors by two or more justices of the peace. 16 G. 2. c. 8. f. 11.

And the justice's clerk shall have 2*s.* 6*d.* and no more, for such licence. 9 G. 2. c. 23. f. 14. 24 G. 2. c. 40. f. 28, 29.

Which said licence for retailing spirituous liquors, is treated of more at large under the article concerning spirituous liquors in title *Excise*.

Licence for made wines.

7. No person shall sell made wines, without a licence from two justices; for which he shall pay their clerk 2*s.* 6*d.* and none shall be granted but to keepers of victualling houses, inns, coffee houses, or alehouses. 10 G. 2. c. 17. f. 10, 11.

IV. Recognizance, and forfeiture thereof.

Recognizance.

1. On granting licences for keeping any common alehouse or tipping house, the person licensed shall enter into a recognizance in 10*l.* with two sureties in 5*l.* each, or one surety in 10*l.* (H) as well against the using of unlawful games, as also for the using and maintenance of good order and rule to be had and used within the same, as by their discretion shall be thought necessary and convenient; and if such person shall be hindered thro' sickness or infirmity, or other reasonable cause to be allowed by the justices, to attend in person, they may grant the licence, on two sureties entering into such recognizance in 10*l.* each. 5 & 6 Ed. 6. c. 25. f. 1. 26 G. 2. c. 31. f. 1.

As by their discretion shall be thought necessary and convenient] Mr. Dalton observes upon these words in the statute of 5 & 6 Ed. 6. that the matter of the condition of the recognizance is by the statute partly referred to the *discretion of the justices*. And he says, in some shires the justices have agreed upon certain articles framed by their discretion, and generally to be propounded to all common ale sellers, taking their bond for performance of the same; a copy whereof they used to deliver to every of them; which manner (he says) had been allowed.

And amongst articles of this kind, he recommends to the justices care these three especially. 1. That no alehousekeeper, upon the lord's day, should receive or suffer to remain any persons whatsoever, as their guests, in any their houses or other places, to tipple, eat, or drink; other than travellers, and such as come upon necessary business. 2. That they suffer no person whatsoever, resorting to their houses only to eat or drink, to remain there after nine of the clock in the evening in winter, and ten in summer. 3. That they suffer no person, resorting to their houses only

only to eat and drink, to remain tipling there above one hour, other than travellers. *Dalt. c. 176.*

2. Which said recognizance, with the condition thereof, fairly written or printed, shall forthwith, or at the next sessions at farthest, be sent or returned to the clerk of the peace, under the hands of the justices, to be by him entred or filed amongst the records. *26 G. 2. c. 31. f. 1.*

To be filed at the sessions.

3. And for every licence granted, without taking such recognizance; and for every such recognizance taken, and not sent or returned; every justice signing such licence, shall forfeit *3 l. 6 s. 8 d.*

Penalty for not returning such licence.

5 & 6 Ed. 6. c. 25. f. 2. 26 G. 2. c. 31. f. 1.

Which said forfeiture, for granting licences without taking recognizances, shall be to him who shall sue, together with costs. *26 G. 2. c. 31. f. 6.* But it is not said who shall have the penalty for not returning the recognizance to the clerk of the peace, therefore that shall go to the king.

4. And the clerk of the peace shall keep a register or calendar of all such recognizances, and shall deliver to the justices, at the meeting for granting licences, a true copy of such register or calendar. *26 G. 2. c. 31. f. 5.*

Recognizances to be calendred.

5. And for every recognizance shall be paid by the clerks of the justices taking such recognizances, to the clerk of the peace for filing or recording the same, and for making and delivering the copies of the register or calendar *1 s.* which shall be paid to the clerks of the said justices, by the persons licensed, over and above the fees payable to the said justices clerks. *26 G. 2. c. 31. f. 5.*

Fee for the recording of recognizance.

6. By the *5 & 6 Ed. 6. c. 25. f. 3.* The justices shall have power, in their quarter sessions, by presentment, information, or otherwise by their discretion, to enquire of all such persons as shall be admitted and allowed to keep any alehouse or tipling house, and that be so bound by recognizance, if they have done any act whereby they have forfeited the same recognizance; and they shall upon such presentment or information award process against every such person so presented or complained upon before them, to shew why he should not forfeit his recognizance; and shall have power to hear and determine the same, by all such ways and means, as by their discretion shall be thought good.

Process on the recognizance.

And by the *26 G. 2. c. 31.* Any justice on complaint or information that such licensed person hath committed any act, whereby in the judgment of such justice the recognizance may be forfeited, or the condition broken, may by summons under hand and seal require such person to appear at the general or quarter sessions, then and there to answer to the matter of such complaint or information; and also may bind the complainant, or any other person, in a recognizance to appear and give evidence; and the sessions may direct the jury which shall there attend for the trial of traverses, or some other jury of twelve honest and substantial men, to be then and there impanelled by the sheriff without fee, to inquire thereof; and if the jury find that such person hath done any act whereby the recognizance is broken, such act being specified in such complaint or information, the court may adjudge him guilty; which verdict and adjudication shall be final; and thereupon the

court shall order the recognizance to be estreated into the exchequer, to be levied to his majesty's use; and the said person shall be disabled to sell any ale, beer, cyder, perry, or spirituous liquors for three years, and any licence granted to him for such term shall be void. *f. 7.* Provided that the justices, at the request of the prosecutor, or of the party complained of, or either of his sureties, may adjourn the trial to the then next sessions. *f. 8.*

And if any person shall be disabled, by conviction, to sell ale, beer, cyder, or perry; he shall by the same conviction be disabled to sell any spirituous liquors, any licence before obtained for that purpose notwithstanding; and every licence granted to him for selling ale, beer, cyder, perry, or spirituous liquors, shall be void; and if he shall sell during such disability, he shall be punished as for selling without licence (1); and a certificate from the clerk of the peace (which he shall grant without fee) of such conviction shall be legal evidence. *id. f. 11.*

V. To what places the licence shall extend.

Licence restrained to the place.

1. No licence shall intitle any person to keep an alehouse in any other place, than that in which it was first kept by virtue of such licence; and such licence with regard to all other places shall be void. *26 G. 2. c. 31. f. 3.*

Person dying or removing.

2. And if any licensed person shall die, or remove from an alehouse, the person succeeding to such house may keep on the same during the residue of the term; on condition, that within thirty days after such death or removal, such person obtain such certificate as aforesaid, to be signed by some neighbouring justice, in order to its being produced at the next general meeting in *September*; and if such certificate be not so obtained, and signed, within the said thirty days, then immediately from the expiration thereof such licence shall be void. *id.*

VI. How long the licence shall continue in force.

For how long the licence shall be.

Such licence shall be made for one year only, to commence on *Sep. 29.* *26 G. 2. c. 31. f. 4.*

And hereupon ariseth an inconvenience, in case of the removal or change of tenants, which in most places is not at *Michaelmas*, when the licence taketh effect, but in the summer season, to wit, either at old *May-day* or *Whitsuntide*, which prudent antiquity hath established, as the more convenient, in regard of health, for the changing of habitations; in which cases, the person removing loseth the benefit of his licence for almost half the year, and cannot continue his business, unless he removeth also into a house already licensed (and this indeed may stand with good reason, for perhaps he may remove into a house not fit to be licensed;) but then the person coming into his place in the house from whence he did remove, may (if so be he can only procure a certificate) continue the business until the end of the year, without any restraint of a recognizance, which matter seemeth to require some consideration.

VII. Offences

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VII. Offences in brewing of ale.

1. By the 1 *W. Sess.* 1. c. 24. *f.* 17. No common brewer or retailer of beer or ale, shall use in the brewing or working thereof, any melasses, coarse sugar, honey, or composition or extract of sugar; on pain of forfeiting the liquor, and also 100 *l.* half to the king, and half to him that shall sue in six months. Undue mixtures
in making of ale.

2. And by the 10 & 11 *W. c.* 21. *f.* 34. If any common brewer or retailer of beer or ale, shall use any melasses, coarse sugar, honey, or composition or extract of sugar, in the brewing, making, or working of any ale or beer; or if any common brewer shall receive into his custody any quantity of any the said materials exceeding ten pounds, he shall forfeit 100 *l.* to be recovered and mitigated as by the laws of excise; and the servant or other assisting therein, shall forfeit 20 *l.* in like manner, and in default of payment shall be imprisoned three months. The same.

3. And by 9 *Ann. c.* 12. No common brewer, innkeeper, or victualler, shall use any broom, wormwood, or any other bitter ingredient (to serve instead of hops) in any beer or ale for sale, (except infusing the same, after it is brewed and tunned, to make broom or wormwood ale or beer;) on pain of 20 *l.* half to the king, and half to the prosecutor, to be levied as by the laws of excise. *f.* 24, 26. The same.

4. And by 12 *Ann. stat.* 1. c. 2. No common brewer, or retailer of beer or ale, shall use any sugar, honey, foreign grains, Guinea pepper, *essentia bine*, *coculus indiae*, or any unwholesome ingredients in the brewing of beer or ale, or mix any of them therewith, on pain of 20 *l.* to be recovered and mitigated as by the laws of excise, half to the king, and half to him that shall sue. *f.* 32. The same.

VIII. Innkeepers obliged to receive guests.

If one who keeps a common inn, refuse either to receive a traveller as a guest into his house, or to find him victuals or lodging, upon his tendering him a reasonable price for the same; he is not only liable to render damages for the injury, in an action on the case at the suit of the party grieved, but may also be indicted and fined at the suit of the king. 1 *Haw.* 225. Innkeeper ob-
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Also it is said, that he may be compelled by the constable of the town, or by a justice of the peace, to receive and entertain such a person as his guest; and that it is no way material whether he have a sign before his door or not, if he make it his common business to entertain passengers. But how the officer may compel him may be a question: It seemeth that all the officer can do, is either to cause such alehousekeeper to be suppressed, or else to present such offence at the assizes or sessions, that so such offender may be thereupon indicted. *Dalt. c.* 7.

IX. *Soldiers quartered in alehouses.*

Soldiers quartered in inns.

By the yearly acts against mutiny and desertion, the constable, and in his default, a justice of the peace, may quarter soldiers in inns, livery stables, alehouses, and victualling houses; as is set forth more at large in title **Soldiers**.

X. *Concerning ale vessels, and the measure of ale.*

Justices to rate the price of vessels.

1. The justices in *Easter* sessions yearly (and mayors in corporations) shall rate the price of all barrels, kilderkins, firkins, and other vessels to be sold for ale or beer to be uttered therein: And if any cooper shall not sell the same according to such rate, he shall forfeit 3*s.* 4*d.* half to the king, and half to him that shall sue. 8 *El.* c. 9.

Barrel, what.

2. Every barrel of beer, within the bills of mortality, shall be 36 gallons, and the barrel of ale 32 gallons; and in all other places, 34 gallons shall be reckoned for a barrel of beer or ale. 12 *C.* 2. c. 24. *f.* 34. 1 *W.* *β.* 1. c. 24. *f.* 5.

Quarts and pints to be marked.

3. By 11 *Ed.* 12 *W.* c. 15. which is required to be given in charge at the sessions to the grand jury, it is enacted, that all innkeepers, alehousekeepers, sutlers, victuallers and other retailers of ale or beer, and every person keeping any publick house, and retailing and selling ale or beer, shall retail and sell the same in and from their houses, by a full ale quart or ale pint, according to the standard of the exchequer, in a vessel made of wood, earth, glass, horn, leather, pewter, or of some other good and wholesome metal, made and sized to the standard, and signed, stamped, or marked to be of the content of the said ale quart or ale pint, according to the said standard, either from the exchequer, or from some city, town corporate, borough, or market town, where a standard ale quart or pint, made from the said standard, shall be kept for that purpose; and shall not retale and utter any ale or beer, in any other vessel not signed and marked; on pain of forfeiting not above 40*s.* nor under 10*s.* for every offence, half to the poor, and half to him that shall prosecute or sue for the same, to be recovered before one justice, by the oath of one witness, and to be levied by warrant of distress, rendering the overplus, deducting thereout the reasonable charges. *f.* 1, 6. (K). The prosecution to be within thirty days. *f.* 6.

And moreover he shall not detain any goods for the reckoning, but shall be left to his action at law. *f.* 2.

But it is not necessary that beer or ale sold to be spent out of the house, be carried away in standard measures; but it is sufficient if it be measured out by the standard. *f.* 7.

Who shall mark them.

4. And every mayor or chief officer of every city, town corporate, borough, or market town, shall on request to him made, cause all ale quarts and ale pints, made of wood, earth, glass, horn, leather, pewter, or other good and wholesome metal, which shall be brought to him, to be measured and sized with the standard in his custody, and shall then cause the same, and every of them,

THE HISTORY OF THE

The first part of the history of the world is the history of the creation of the world and the life of the first man, Adam. It is a story of the beginning of all things, and of the fall of man from grace. It is a story of the redemption of man by the blood of Christ, and of the establishment of the Church of God on earth.

The second part of the history of the world is the history of the life of the first man, Adam, and of his descendants. It is a story of the life of the first man, Adam, and of his descendants, from the time of his creation to the time of his death. It is a story of the life of the first man, Adam, and of his descendants, from the time of his creation to the time of his death.

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them, to be plainly and apparently signed, stamped, and marked with W R and a crown, for which they shall not receive above one farthing for each measure; on pain of 5*l.* to be recovered as aforesaid, and he shall also pay to the party grieved treble damages, with costs, by action at law. 11 & 12 *W. c.* 15. *f.* 5.

Note, Most of the books do set forth that the sub-commissioners or collectors of excise shall procure standard quarts and pints out of the exchequer, for every market town; but this was only required of them before *June* 24. 1700, and not since. *f.* 3.

5. An indictment will lie for selling ale in pots unsealed, altho' Indictment. the statute appoints another method of proceeding; because measures are by the common law; and the statutes only direct the manner of ascertaining them. *Black.* 10.

But in such case, the indictment must not be upon the statute, but at the common law; and the offence ought to be laid, not for selling in pots unsealed, but in pots wanting measure.

XI. *Conspiring to enhance the price of ale.*

If any brewers shall conspire to sell their victuals but at certain prices; they shall, on conviction in the sessions or leet, by witness, confession, or otherwise, forfeit 10*l.* to the king for the first offence, and if not paid in six days, they shall be imprisoned 20 days; for the second offence, 20*l.* in like manner, or the pillory; for the third offence, 40*l.* in like manner, or the pillory, loss of an ear, and to become infamous. 2 & 3 *Ed.* 6. *c.* 15. Conspiring to raise the price.

XII. *Selling in vessels of plate.*

By 7 & 8 *W. c.* 19. intitled, An act to encourage the bringing plate into the mint to be coined, and for the further remedying the ill state of the coin of the kingdom; it is enacted, that from and after *May* 4. 1696. no person keeping any inn, tavern, alehouse, or victualling house, or selling wine, ale, beer, or any other liquors by retale, shall publicly use, or expose to be used in his house, any wrought or manufactured plate whatsoever, or any utensil or vessel thereof (except spoons) under the penalty of forfeiting the same, or the value thereof with costs, to him who shall sue. Selling in plate.

I have recited the title of the act, that the whole may appear together; because, as the general practice seemeth now to be allowed to the contrary, perhaps it may be thought that this clause is obsolete, as having been intended only to encourage the coinage at that time, when there was great scarcity of money: But how far this may be urged on an action brought, I presume not to say.

XIII. *Innkeeper suffering tipling.*

If any innkeeper, victualler, or alehousekeeper, or tavern keeper, keeping an inn or victualling house, do suffer any person to continue drinking or tipling therein (except such as shall be invited by any traveller, and shall accompany him only during his necessary Penalty of suffering tipling.

Alehouses.

necessary abode there; and except labouring and handicraftsmen in cities, towns corporate, and market towns, upon the usual working days, for one hour at dinner time, to take their diet in an alehouse; and except labourers and workmen, which for the following of their work by the day or by the great, in any city, town corporate, market town or village, shall for the time of their said continuing in work there, sojourn, lodge or victual in any inn, alehouse or other victualling house; and except for urgent and necessary occasions to be allowed by two justices;) he shall, on conviction thereof before the mayor, or a justice of the peace, on view, or confession, or oath of one witness, forfeit 10*s.* to the poor. 1 *J. c. 9. f. 2.* 1 *C. c. 4.* 21 *J. c. 7.*

The same to be levied by the constables or churchwardens by way of distress (L); and for default of satisfaction in six days, the distress to be appraised and sold, rendering the overplus; and for want of sufficient distress, the party offending to be by such mayor or justice committed (M) to the common gaol, there to remain until the penalty be truly paid. 1 *J. c. 9. f. 3.*

And if the constables or churchwardens do neglect their duty in levying, or do not levy the penalties; or in default of distress, do neglect to certify the default, by the space of 20 days, to such mayor or justice, every person so offending shall forfeit 40*s.* to the poor, to be levied by way of distress by warrant from such mayor or justice; the distress to be detained six days; in which time if payment be not made, the goods to be appraised and sold, returning the overplus; for want of sufficient distress, the constable or churchwarden so offending, to be by such mayor or justice committed to the common gaol, there to remain until the penalty be truly paid. 1 *J. c. 9. f. 4.*

And moreover such alehousekeeper shall be disabled, for the space of three years, to keep any such alehouse. 21 *J. c. 7.*

And also, the said offence may be inquired of and presented before justices of assize, justices of the peace in their sessions, mayors in corporations, and in the leet; and thereupon such due proceeding shall be had for the conviction, as in such like cases upon any indictment or presentment is used. 4 *J. c. 5. f. 5.*

And all constables, churchwardens, aleconners and sidemen, shall in their several oaths incident to their offices, be charged to present the said offence. 4 *J. c. 5. f. 7.*

XIV. Persons guilty of tipling.

Penalty of tipling.

1. If any person (unless those excepted under the foregoing head, by 1 *J. c. 9.*) shall continue drinking or tipling, in any inn, victualling house, or alehouse, or any tavern keeping an inn or victualling house; he shall, on conviction thereof before the mayor or a justice of the peace, on view, confession, or oath of one witness, forfeit for every offence 3*s.* 4*d.* to be paid within one week next after the conviction, to the churchwardens (N), who shall be accountable for the same to the use of the poor: And if he shall refuse or neglect to pay the same, it shall be levied by distress (O): And if he be not able to pay the forfeiture, then the mayor, justice, or court where

Minutes

The meeting was held on the 1st day of January 1880 at 8 o'clock P.M. in the parlour of the residence of the Secretary. Present: [illegible names]. The minutes of the last meeting were read and approved. A letter from [illegible] was read and the following resolution was adopted: [illegible text].

[illegible text]

[illegible text]

[illegible text]

[illegible text]

Alphabet

There are several...
The first...
The second...
The third...

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where the conviction shall be, may punish the offender, by setting him in the stocks (P) for every offence by the space of four hours.

4 *J. c. 5. f. 4.* 1 *J. c. 9.* 21 *J. c. 7.* 1 *C. c. 4.*

The said offence may also be inquired of and presented, before justices of assize, justices of the peace in sessions, mayors, and in the leet; and proceeding shall be had thereupon for the conviction, as upon indictment or presentment. 4 *J. c. 5. f. 5.*

The offender to be presented, indicted, or convicted in six months. 4 *J. c. 5. f. 11.*

And all constables, churchwardens, aleconners, and sidemen, shall in their several oaths incident to their offices, be charged to present the said offence. 21 *J. c. 7. f. 5.*

2. And if any alehousekeeper shall be convicted of the said Alehousekeeper offence, he shall moreover for the space of three years be disabled guilty of tipling, to keep any such alehouse. 7 *J. c. 10.* 21 *J. c. 7.*

XV. Concerning drunkenness.

1. Drunkenness excuseth no crime; but he who is guilty of any Drunkenness no crime whatever, thro' his voluntary drunkenness, shall be punished excuse. for it as much as if he had been sober. 1 *Harv. 2.*

2. If any offend their brethren by drunkenness, the church- Spiritual censure, wardens and sidemen shall present the same to the ordinary, that they may be punished by the severity of the laws, according to their deserts; and such notorious offenders shall not be admitted to the holy communion, till they be reformed. *Can. 109.*

And all constables, churchwardens, aleconners, and sidemen, shall be sworn to present the offence of drunkenness. 4. *J. c. 5. f. 7.*

3. Every person who shall be drunk, and thereof shall be con- Penalty for the victed before one justice, or mayor, on view, confession, or oath first offence. of one witness, shall forfeit for the first offence 5*s.* to be paid within one week after conviction, to the churchwardens (Q) who shall be accountable for the same to the use of the poor; and if he shall refuse or neglect to pay the same as aforesaid, it shall be levied by distress (R); and if the offender be not able to pay the said sum of 5*s.* he shall be committed to the stocks (S), there to remain by the space of six hours. 4 *J. c. 5. f. 2.* 21 *J. c. 7. f. 1, 3.*

And if any constable, or other inferior officer to whom that shall be given in charge by the precept of any mayor or justice, do neglect the due correction of the offender, or the due levying of the penalties where distress may be had; every person so offending shall forfeit 10*s.* to be levied by distress, by any other person having warrant from any mayor, justice or court, where any such conviction shall be, to be paid to the churchwardens, who shall account for the same to the use of the poor where the offence shall be committed. 4 *J. c. 5. f. 3.*

4. And if any person once convicted of drunkenness, shall after Second offence. that be again convicted of the like offence, he shall be bounden with two sureties in a recognizance of 10*l.* with condition to be from thenceforth of good behaviour. 4 *J. c. 5. f. 6.* 21 *J. c. 7. f. 3.*

To be of good behaviour] Lord Hale, speaking of the statute of 34 Ed 3 c. 1. which gave justices power to bind malefactors to the good behaviour, generally, without any time limited, says, that it is not meant that the same shall be perpetual, but in the nature of bail, *viz.* to appear at such a day at their sessions, and in the mean time to be of good behaviour. 2 H. H. 136.

Who may inquire thereof.

5. The said offence may also be inquired of and presented before justices of assize, justices of the peace in their sessions, mayors, and in the leet; and thereupon process shall be had for the conviction, as upon indictment or presentment. 4 J. c. 5. s. 5.

In what time.

6. But the offender shall be presented, indicted or convicted in six months. 4 J. c. 5. s. 11.

None to be twice punished for the same offence.

7. It is also provided, that this act shall not abridge the ecclesiastical jurisdiction. 4 J. c. 5. s. 8.

But when the offender hath been once punished, by any the ways before mentioned, he shall not be punished again by any other way or means. s. 9.

Alehousekeeper drunk.

8. If any alehousekeeper shall be convicted of being drunk; he shall, besides the penalties abovementioned, be utterly disabled to keep any such alehouse, for the space of three years next ensuing the conviction. 7 J. c. 10. 1 C. c. 4.

Navy.

9. Every person in his majesty's pay in the navy, being guilty of drunkenness, shall incur such punishment as a court martial shall think fit to impose. 22 G. 2. c. 33. Art. 2.

XVI. Detaining goods for the reckoning.

May detain goods.

1. Since innkeepers are bound by the law to receive guests, for that reason they may detain their goods till they are paid. 1 Salk. 388.

Guest, who.

2. Holt C. J. doubted whether a man is a guest by setting up his horse at an inn, tho' he never went into the inn himself; but the other three justices held, that such person is a guest by leaving his horse, as much as if he had staid himself, because the horse must be fed, by which the innkeeper has gain; otherwise if he had left a trunk, or a dead thing. 1 Salk. 388.

Cannot seize after the goods are gone.

3. By the custom of the realm, if a man lies in an inn one night, the innkeeper may detain his horses, until he is paid for the expences; but if he gives the party credit for that time, and lets him depart without payment, then he hath waved the benefit of the custom, and must rely on his other agreement. T. 9 G. Mod. C. in L. & E. 172.

Reckoning in particulars; and vessels to be sealed.

4. Also, if any innkeeper, alehousekeeper, victualler, or futler, in giving any account or reckoning in writing, or otherwise, shall refuse or deny to give in the particular number of quarts or pints, or shall sell in measures unmarked; it shall not be lawful for him, for default of payment of such reckoning, to detain any goods or other thing, belonging to the person or persons from whom such reckoning shall be due, but he shall be left to his action at law for the same, any custom or usage to the contrary notwithstanding.

11 & 12 W. c. 15. s. 2.

5. It is said, that if a person brings his horse to an inn, and leaves him in the stable there, the innkeeper may keep him till the owner pay for the keeping; and if he eat out as much as he is worth, the master of the inn, after a reasonable appraisement, may sell the horse and pay himself. *Yelv. 66.* Whether a horse may be sold for his keeping.

But that if one bring several horses to an inn, and afterwards takes them all away but one, the innkeeper may not sell this horse for payment of the debt of the others, but every horse is to be sold to satisfy what is due for his own meat. *1 Bulst. 207.*

But in the case of *Jones and Pearle, E. 9 G.* In trover for three horses, the defendant pleaded that he kept a public inn at *Glasfenbury*, and that the plaintiff was a carrier, and used to set up his horses there, and 36*l.* being due to him for keeping the horses, which was more than they were worth, he detained and sold them, as well he might: But on demurrer, judgment was given for the plaintiff, an innkeeper having no power to sell horses, except within the city of *London*. And besides, when the horses had been once out, the power of detaining them for what was due before, did not subsist at their coming in again. *Str. 557.*

XVII. Goods of a guest stolen out of an inn.

1. Inns were allowed for the benefit of travellers, who have certain privileges whilst they are in their journies, and are in a more peculiar manner protected by the law; it is for this reason, that the innkeeper shall answer for those things which are stolen within the inn, tho' not delivered to him to keep, and tho' he was not acquainted that the guests brought the goods to the inn; for it shall be intended to be thro' his negligence, or occasioned by the faults of him or his servants. *8 Co. Caley's case.* Innkeeper answerable for goods stolen.

2. So if he puts a horse to pasture, without the direction of his guest, and the horse is stolen, he must make satisfaction. (But otherwise, if with his direction.) *8 Co. Caley's case.* Horse stolen out of a pasture.

3. But an innkeeper shall not be liable to make any satisfaction for a theft or burglary committed in his inn, and in the chamber of any of his guests hired for some time; but if the guest leaves goods in his chamber, and returns again the same night, the innkeeper shall be liable for such goods stolen. *Cro. Ja. 188.* Difference between a guest and a lodger.

4. Also, if an innkeeper bids his guest take the key of his chamber and lock the door, and that he will not take the charge of the goods; yet if they are stolen, he shall be answerable; because he is charged by law for all things which come to his inn, and he cannot discharge himself by such or the like words. *Dalt. c. 56. Black. 169.* Innkeeper shall not discharge himself by refusing to be answerable.

XVIII. Guests stealing goods.

A guest in a common inn, arising in the night time, and carrying goods out of his chamber into another room, and from thence to the stable, intending to ride away with them, is guilty of felony, Guest stealing goods.

lony, altho' there was no trespass in the taking of them (which yet is generally required in cases of felony). *Dalt. c. 40.*

Note, The universities are generally excepted out of these acts concerning alehouses.

A. Warrant for selling ale without licence, on
26 G. 2. c. 31.

Westmorland. { To the constable of ——— in the
said county.

WHEREAS A. I. of ——— in the said county, yeoman, hath this day made information upon oath, before me J. P. esquire, one of his majesty's justices of the peace in and for the said county, that A. O. of ——— yeoman, [or, Whereas A. I. of ——— yeoman, hath this day made information, and shewed probable cause before me that he suspecteth that A. O. &c.] doth upon his own authority, not being thereunto lawfully licensed, keep a common alehouse at ——— aforesaid, contrary to the laws in that case made and provided; and that A. W. of ——— yeoman, and B. W. of ——— yeoman, are material witnesses to be examined concerning the premises: You are therefore hereby required forthwith to summon the said A. O. to appear before me to answer the premises, and to be dealt withal according to law; and you are likewise to summon the said A. W. and B. W. to appear before me at the same time, to testify their knowledge concerning the same. And with them do you appear at the same time, to certify what you shall have done in the premises. Herein fail you not. Given under my hand and seal the ——— day of ———.

B. Conviction for selling ale without licence, on the
26 G. 2. c. 31.

By the words of the statute, the conviction shall be in this form, or to this effect:

Middlesex. **A.** O. is convicted on his own confession (or, on the oath of ———) of having sold ale, beer, or other liquors, in the parish of ——— in this county, on the ——— day of ——— without being licensed thereto according to law: This is the first, second, or third conviction. Given under my hand and seal this ——— day of ———.

And this conviction shall be certified to the next sessions, to be filed amongst the records.

Handwritten text at the top of the page, including a date and possibly a name.

Second line of handwritten text, appearing to be a continuation of the previous entry.

Third line of handwritten text, with some characters appearing to be in a different script or heavily stylized.

Fourth line of handwritten text, continuing the narrative or list.

Fifth line of handwritten text, showing further details of the entry.

Sixth line of handwritten text, possibly a signature or a specific note.

Seventh line of handwritten text, with some characters appearing to be in a different script or heavily stylized.

Eighth line of handwritten text, continuing the entry.

Ninth line of handwritten text, showing further details of the entry.

Tenth line of handwritten text at the bottom of the page.

Warrant of the Court of Sessions
for the County of Middlesex

in the County of Middlesex

W
I, the undersigned, do hereby certify that
the within and foregoing is a true and
correct copy of the original as the same
now lies on the files of the Court of
Sessions for the County of Middlesex
at the City of London.

Attest my hand and seal this 12th day of
January 1881.

D. C.

Richardson

W

Warrant of the Court of Sessions
for the County of Middlesex
in the County of Middlesex
I, the undersigned, do hereby certify that
the within and foregoing is a true and
correct copy of the original as the same
now lies on the files of the Court of
Sessions for the County of Middlesex
at the City of London.

C. Warrant to levy the forfeiture on conviction for selling ale without licence, on 26 G. 2. c. 31.

Westmorland. } To the constable of ———.

WHEREAS A. O. of ——— yeoman, was this day lawfully convicted before me J. P. esquire, one of his majesty's justices of the peace in and for the said county, for keeping of a common alehouse in the parish of ——— in the said county, not being thereunto lawfully licensed, according to the statutes in that case made and provided, by reason whereof he hath forfeited the sum of 40s. to be distributed as is herein after mentioned: These are therefore to require you, that you do levy the said forfeiture by distraining the goods and chattels of him the said A. O. And if in [four] days time from your taking the said distress, the said forfeiture, together with reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by the sale thereof pay one moiety of the said forfeiture to A. I. of ——— yeoman, who informed me of the said offence, and the other moiety to the overseers of the poor of the parish aforesaid, to be by them applied to the use of the poor of the said parish; rendering to him the said A. O. the overplus upon demand, the reasonable charges of taking, keeping, and selling the said distress being first deducted. And if no sufficient distress shall be found whereon to levy the said sum of 40s. that then you certify the same to me, together with the return of this precept. Hereof fail not. Given under my hand and seal the ——— day of ———.

D. Commitment for want of distress for selling ale without licence, on 26 G. 2. c. 31.

Westmorland. } To the keeper of the house of correction [or, common gaol] at ——— in the said county.

WHEREAS A. O. of ——— yeoman, was on the ——— day of ——— duly convicted before me ——— one of his majesty's justices of the peace in and for the said county, of having upon his own authority, and not being thereunto lawfully licensed, taken upon him to keep a common alehouse or tipling house at ——— aforesaid in the county aforesaid, and there used commonly selling of ale, against the form of the statutes in such case made and provided, whereby the said A. O. hath for his said offence forfeited the sum of 40s. And whereas on the ——— day of ——— I did issue my warrant to the constable of ——— aforesaid, to levy the said penalty by distress and sale of the goods and chattels of him the said A. O. and to distribute the same according as is directed by the statute in that behalf made; and whereas it duly appears to me, as well on the oath of the said constable, as otherwise, that he the said constable hath used his best endeavours to levy the said sum on the

goods and chattels of the said A. O. as aforesaid, but that no sufficient distress can be found whercon to levy the same; These are therefore to command you to receive the said A. O. into your custody in the said house of correction, there to remain for the space of one month from the date hereof. Given under my hand and seal, the _____ day of _____.

The like will do for the second and third offence, *mutatis mutandis*; and recite, "And whereas the said A. O. hath been once, at another time, convicted before me of the like offence, and hath now offended the second time." Or, "And whereas the said A. O. hath been twice heretofore lawfully convicted of the like offence, and hath now offended the third time, &c."

E. F. Precept to the high constable to issue warrants to the petty constables, to summon alehousekeepers to be licensed; on 5 & 6 Ed. 6. c. 25. 2 G. 2. c. 28. and 26 G. 2. c. 31.

Westmorland. } To John Bowness, gentleman, high constable
of the East Ward within the said county.

IN pursuance of the statutes in that case made, these are to require you, on sight hereof, to issue out your warrants to all petty constables belonging to the several constablewicks within your said ward, in the form, or to the effect hereafter following. Given under our hands and seals the _____ day of _____.

J. P.
K. P.

The form of the warrant as above directed:

Westmorland, }
East Ward. } To the constables of _____.

BY virtue of a warrant from his majesty's justices of the peace acting within the said ward, to me directed, you are hereby required to give notice to all licensed innkeepers and alehousekeepers, and licensed brandy sellers or other retailers of distilled liquors to be drank in their houses, within your constablewick, and also to all persons unlicensed (so far as the same shall come to your knowledge) who do intend to offer themselves to be licensed at the next general meeting of the said justices for that purpose, that they do personally appear before the said justices at _____ on the _____ day of September next, at the hour of _____ in the forenoon of the same day, to take or renew their licences for the year ensuing; and also to give them notice, that every person then and there to be licensed, must personally enter into a recognizance in the sum of 10l. together with two sureties in 5l. each, or one surety in 10l. that they will not use or suffer any unlawful games, and that they will keep good order and rule within their respective houses and other places; and

Received of the Treasurer of the State of New York
the sum of One Hundred Dollars

for the purchase of land in the town of
Canaan, County of Warren, State of New York

for the use of the State of New York
to be held for the benefit of the
State of New York

Witness my hand and seal of office
this 10th day of January, 1870

PROLOGUE

It is a common saying that the world is a stage, and that we are all players in a play. But what if the play is not a fiction, but a reality? What if the stage is not a mere backdrop, but a living, breathing entity that shapes our lives? This is the question that this book seeks to answer.

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and if any shall be hindered by sickness, or other reasonable cause to be allowed by the said justices, that he must procure two sureties then and there to be bound in like manner in 10l. each.

And unto such persons as have not been licensed for the year preceding, you are further to give notice, that no licence will be granted to any of them, unless he shall also, at the same time and place, produce a certificate under the hands of the minister and the major part of the churchwardens and overseers, or else of three or four reputable and substantial householders of the place where he inhabiteth, setting forth that he is of good fame, and of sober life and conversation.

And you are to make a return to the said justices, at the same time and place, in writing under your hand, containing the names of all such persons as you shall have summoned so to appear before them as is aforesaid, together with their dwelling places, and the signs by which their houses are known.

Hereof sail not. Given under my hand at Railbeck in the said county the — day of — in the year of our lord —.

John Bowness, high constable.

G. Licence to keep an alehouse, on the 5 & 6
Ed. 6. c. 25. 2 G. 2. t. 28. and 26 G. 2.
c. 31.

Westmorland, East Ward. **A**T a general meeting of his majesty's justices of the peace for the said county, acting within the division of the East Ward aforesaid in the county aforesaid, holden at — in and for the said division, for licensing persons to keep common inns and alehouses the — day of September in the — year of the reign of our sovereign lord George the second, of Great Britain, France, and Ireland, king, defender of the faith, and so forth, and in the year of our lord —.

We his majesty's justices of the peace for the said county, whose hands and seals are hereunto set (whereof one is of the quorum) assembled at the said general meeting, do allow and license A. B. yeoman, at the sign of — in — within the division and county aforesaid, to keep a common alehouse, or victualling house, and to utter and sell victuals, beer, ale, cyder, and other exciseable liquors, to be drank in the same house wherein he now dwelleth, and not elsewhere, for one whole year from the 29th day of this present month of September, and no longer: So as the true assize in bread, beer, ale, and other liquors, hereby allowed to be sold, be duly kept; and no unlawful game or games, drunkenness, or any other disorder be suffered in his house, yard, garden, or backside; but that good order and rule be maintained and kept therein, according to the laws of this realm in that behalf made. Given under our hands and seals, the day and year first above written.

If he hath not been licensed the year before, then these words must be inserted, — (A certificate under the hands of — having been first produced unto us, setting forth that the said — is of good fame, and of sober life and conversation.)

H. Recognizance of an alehousekeeper, on 5 & 6
Ed. 6. c. 25. and 26 G. 2. c. 31.

Westmorland. **B**E it remembred, that on the _____ day of _____ in the _____ year of the reign of _____ A. P. of _____ in the county aforesaid, innkeeper, and A. S. of _____ yeoman, and B. S. of _____ yeoman, personally came before us _____ esquires, justices of the peace for the said county, and acknowledged themselves to owe to our said sovereign lord the king, that is to say, the said A. P. the sum of 10l. and the said A. S. and B. S. the sum of 5l. each, of good and lawful money of Great Britain, to be made and lewied of their goods and chattels, lands, and tenements respectively, to the use of our said sovereign lord the king, his heirs and successors, if the said A. P. shall make default in the condition underwritten.

The condition of this recognizance is such, that whereas the above-bounden A. P. is licensed to keep a common inn and alehouse for one year from the 29th day of this present month of September, in the house where he now dwelleth at _____ aforesaid; if he the said A. P. shall keep and maintain good order and rule, and shall suffer no disorders nor unlawful games to be used in his said house, nor in any outhouse, yard, garden, or backside, thereunto belonging, during the said term, then this recognizance shall be void.

Taken and acknowledged the day and
year abovewritten, before us

J. P.
K. P.

I. Conviction for felling after disability, on the
26 G. 2. c. 31.

By the words of the statute the said conviction shall be in this form, or to this effect :

Middlesex. **A**. O. is convicted on his own confession (or, on the oath of _____) of having sold ale, beer, or other liquors, in the parish of _____ in this county, on the _____ day of _____ after being disabled to sell the same. This is the first, second, or third conviction. Given under my hand and seal this _____ day of _____.

Which said conviction shall be certified to the next sessions, to be filed amongst the records.

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K. Warrant to levy the penalty for selling ale in a vessel not marked; on 11 & 12 W. c. 15.

Wermorland. } To the constable of _____.

WHEREAS A. O. of _____ in the parish of _____ and county of _____ aforesaid, alehousekeeper, hath this day been duly convicted before me _____ one of his majesty's justices of the peace in and for the said county, by the oath of A. W. a credible witness, of retailing, uttering, and selling beer, on the _____ day of _____ in his house at _____ aforesaid, in a vessel made of earth, which vessel was not signed, stamped, or marked to be of the content of the full ale quart, or ale pint, according to the standard thereof remaining in custody of the chamberlains of his majesty's exchequer, nor in proportion thereunto; whereby the said A. O. hath forfeited a sum not exceeding 40s. nor less than 10s. one half part thereof to the use of the poor of the parish of _____ aforesaid, and the other half part to A. I. who prosecutes for the same: Now I do hereby adjudge the said A. O. to have forfeited 20s. for his said offence; and I do hereby empower and require you, to levy the said sum of 20s. upon the goods and chattels of the said A. O. by distress and sale thereof, rendring to the said A. O. the overplus, if any be, deducting thereout reasonable charges; and that you pay one half part of the said forfeiture to the overseers of the poor of the said parish, for the use of the poor there, and the other half part to A. I. who prosecutes for the same as aforesaid. Given under my hand and seal, the _____ day of _____.

L. Warrant to levy the penalty for suffering tippling, on 17. c. 9.

Westmorland. } To the constable of _____ and to the churchwardens of the parish of _____.

WHEREAS it hath been duly proved before me _____ this present day, That A. O. of _____ in parish of _____ in the said county, alehousekeeper, did upon the _____ day of _____ permit and suffer A. D. of _____ shoemaker, and B. D. of _____ labourer, to remain and continue drinking and tippling in the alehouse of the said A. O. in the parish aforesaid, they having no urgent occasion, nor other lawful reason so to do; These are therefore to require you the said constables and churchwardens, or some or one of you, to levy by distress of the goods and chattels of the said A. O. the sum of 10s. for the said offence, for the use of the poor of the said parish, and to detain the said goods for the space of six days next after such distress taken, if the said forfeiture of 10s. shall not be satisfied and paid to you within that time; and that after the said six days, if the same shall not be so paid as aforesaid, together with the reasonable charges of taking, and keeping, the said distress, that you do appraise and sell the same to satisfy

tisfy the said forfeiture, rendering the surplussage to the owner upon demand, reasonable charges of taking, keeping, and selling the said distress being first deducted. And if there shall not be sufficient distress, whereby to levy the said sum of 10s. that you do certify the same to me, together with the return of this warrant. Given under my hand and seal, the _____ day of _____.

M. Commitment for suffering tipling in default of distress; on 1 J. c. 9.

Westmorland. } To the constable of _____ and to the keeper
of the common gaol at _____ in the said
county.

WHEREAS on the _____ day of _____ it was duly proved before me _____ that A. O. of _____ in the parish of _____ in the said county, alehousekeeper, did upon the _____ day of _____ last past, suffer A. D. of _____ shoemaker, and B. D. of _____ labourer, to remain and continue drinking and tipling in the alehouse of the said A. O. at _____ aforesaid, contrary to the statute in that case made; and whereas on the said _____ day of _____ I did by my warrant lawfully executed, require the constables and churchwardens of the said parish of _____ or some of them, to levy the sum of 10s. of lawful money, upon the goods and chattels of the said A. O. being forfeited by him, to the use of the poor of the said parish, for the said offence: And whereas it duly appears to me, as well on the testimony of A. C. constable of _____ aforesaid, as otherwise, that he the said A. C. hath used his best endeavours to levy the same as aforesaid, but that the said A. O. hath not sufficient goods and chattels, upon which distress may be taken to satisfy the said forfeiture: These are therefore in his majesty's name, to command you the said constable of _____ aforesaid, to take the said A. O. and to convey him safely to the gaol aforesaid, and to deliver him there to the keeper thereof, together with this warrant: And I do also hereby command you the said keeper, safely to keep and detain the aforesaid A. O. in your custody in the said gaol, until the said sum of 10s. shall be duly paid for the use and purpose aforesaid. Given under my hand and seal, the _____ day of _____.

N. Warrant to receive the penalty for tipling;
on 4 J. c. 5. 1 J. c. 9. 21 J. c. 7. 1 C.
c. 4.

Westmorland. } To the churchwardens of the parish of _____

WHEREAS it hath been duly proved before me _____ that A. O. of _____ labourer, did on the _____ day of _____ remain and continue drinking and tipling in a common alehouse, known by the sign of _____ at _____ in the said parish, in the county aforesaid, contrary to the statutes in such case made and provided, by reason whereof he hath forfeited the sum of
3s. 4d.

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3s. 4d. to the use of the poor of the said parish: These are therefore to require you forthwith to demand of the said A. O. the said sum of 3s. 4d. And if he shall refuse or neglect to pay the same as aforesaid, by the space of one week next after the date hereof, that you certify the same to me, together with the return of this precept. Given under my hand and seal at _____ in the said county, the _____ day of _____.

O. Warrant to levy the penalty for tipling, on non-payment; on 4 *J. c. 5.* 1 *J. c. 9.* 2 1 *J. c. 7.* and 1 *C. c. 4.*

Westmorland. } To the constable of _____ in the said county.

WHEREAS it hath been duly proved before me _____ that A. O. of _____ yeoman, did on the _____ day of _____ remain and continue drinking and tipling in a common alehouse, known by the sign of _____ at _____ in the parish of _____ in the said county, contrary to the statutes in such case made and provided, by reason whereof he hath forfeited the sum of 3s. 4d. to the use of the poor of the said parish: And whereas on the _____ day of _____ I did by my warrant require the churchwardens of the said parish to demand of the said A. O. the said sum of 3s. 4d. to the use of the poor as aforesaid: And whereas it appears to me, as well on the oath of C. W. churchwarden of the parish aforesaid, as otherwise, that he the said C. W. did on the _____ day of _____ duly demand of the said A. O. the said sum for the use as aforesaid, but that he the said A. O. hath neglected to pay the same as aforesaid, and that it is not as yet paid: These are therefore to require you forthwith to distrain the goods and chattels of him the said A. O. and if within the space of [five] days next after such distress taken, the said sum shall not be paid, together with the reasonable charges of taking and keeping the same, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale, that you do pay the said sum of _____ to the churchwardens aforesaid, for the use aforesaid; returning to him the said A. O. the overplus upon demand, the reasonable charges of taking, keeping, and selling the said distress, being first deducted. And you are to certify to me, with the return of this precept, what you shall have done in the premises. Given under my hand and seal, the _____ day of _____.

P. Commitment to the stocks for tipling, on inability to pay the penalty; on 4 *J. c. 5.*

Westmorland. } To the constable of _____.

WHEREAS it hath been duly proved before me _____ that A. O. of _____ yeoman, did on the _____ day of _____ remain and continue drinking and tipling in a common alehouse, known by the sign of _____ in _____ in the parish of _____ in the county

county aforesaid, contrary to the statutes in such case made and provided, by reason whereof he hath forfeited the sum of 3s. 4d. to the use of the poor of the said parish; And whereas it duly appears to me, that the said A. O. is not able to pay the said forfeiture; These are therefore to require you to set the said A. O. in the stocks, there to remain by the space of four hours. And for your so doing, this shall be your sufficient warrant. Given under my hand and seal, this _____ day of _____.

Q. Warrant to receive the penalty, on the first conviction of drunkenness; on 4 J. c. 21. and 21 J. c. 7.

Westmorland. } To the churchwardens of the parish of _____
in the said county.

FOrasmuch as it hath been fully proved this day, before me _____ one of his majesty's justices of the peace in and for the said county, upon the oath of A. I. of _____ ycoman, that A. O. of _____ in the county aforesaid, on the _____ day of _____ at _____ aforesaid, in the parish of _____ in the said county, was drunk, contrary to the statute in such case made; and the said A. O. is thereof convicted before me, by which he hath forfeited the sum of 5s. to be disposed of as is herein after mentioned: These are therefore, in his majesty's name, to command you the said churchwardens to demand and receive of and from the said A. O. the said sum of 5s. to be by you accounted for, to the use of the poor of the said parish; and if he shall refuse or neglect to pay the same by the space of one week from and after the date hereof, that you make a return to me of such his refusal or neglect, and of this warrant. Given under my hand and seal, at _____ in the said county, the _____ day of _____.

R. Warrant to levy the penalty of drunkenness, on non-payment; by 4 J. c. 5. 21 J. c. 7.

Westmorland. } To the constable of _____ in the said county.

WHEREAS A. O. of _____ in the parish of _____ in the county aforesaid, labourer, was on the _____ day of _____ convicted before me _____ one of his majesty's justices of the peace for the said county, for that he the said A. O. was on the _____ day of _____ drunk, at _____ aforesaid, in the parish and county aforesaid, by which he hath forfeited the sum of 5s. And whereas I the said _____ did issue my warrant on the _____ day of _____ to the churchwardens of the parish of _____ aforesaid, to demand and receive the said sum of 5s. of and from the said A. O. And whereas it duly appears to me, as well on the oath of C. W. churchwarden of the parish of _____ aforesaid, as otherwise, that they the said churchwardens did on the _____ day of _____ duly demand the said sum

Received of the Treasurer of the State of New York
the sum of Five Hundred Dollars for the year 1840

By the Cashier of the State of New York

Witness my hand and the seal of the State of New York
this 1st day of January 1840

John C. Spencer, Cashier

John C. Spencer, Cashier
of the State of New York

PROLOGUE

The first part of the work is a general introduction to the subject of the history of the world, and is divided into three books. The first book contains the history of the world from the beginning of time to the present day. The second book contains the history of the world from the present day to the end of the world. The third book contains the history of the world from the end of the world to the beginning of the world.

BOOK I

The first part of the first book is a general introduction to the subject of the history of the world, and is divided into three books. The first book contains the history of the world from the beginning of time to the present day.

The second part of the first book is a general introduction to the subject of the history of the world, and is divided into three books. The first book contains the history of the world from the beginning of time to the present day.

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The third part of the first book is a general introduction to the subject of the history of the world, and is divided into three books. The first book contains the history of the world from the beginning of time to the present day.

BOOK II

CHAPTER I

B

The first part of the second book is a general introduction to the subject of the history of the world, and is divided into three books. The first book contains the history of the world from the beginning of time to the present day.

sum of 5 s. of and from the said A. O. but that be the said A. O. hath neglected to pay the same as aforesaid, and that it is not as yet paid: These are therefore to command you forthwith to levy the said sum by distraining the goods and chattels of him the said A. O. And if within the space of [six] days next after such distress by you taken, the said sum, together with reasonable charges for taking and keeping the said distress, shall not be paid, that then you do sell the said goods so by you distrained as aforesaid, and out of the money arising by such sale, that you do pay the said sum of 5 s. to the churchwardens of the said parish, for the use of the poor of the said parish, rendering to him the said A. O. the overplus upon demand, the necessary charges of taking, keeping, and selling the said distress, being first deducted. And if the said A. O. be not able to pay the said sum of 5 s. and sufficient distress cannot be found whereof to levy the said sum, that you certify the same to me, together with the return of this warrant. Given under my hand and seal this — day of —.

S. Commitment to the stocks for drunkenness, on inability to pay the penalty; on 4 J. c. 5. 21 J. c. 7.

Westmorland } To the constable of — in the said county.

WHEREAS A. O. of — in the said county, labourer, was on the — day of — convicted before me — one of his majesty's justices of the peace for the said county, for that he the said A. O. was on the — day of — drunk at — aforesaid, in the parish of — in the said county, whereby he hath forfeited the sum of 5 s. And whereas it duly appears to me, that the said A. O. is not able to pay the said sum of 5 s. These are therefore to require you in his majesty's name, to set him the said A. O. in the stocks, there to remain for the space of six hours. Given under my hand and seal the — day of —.

Alias Capias. See Process.
Almanacks. See Stamps.

Annuities.

BY the several acts of 4 W. c. 3. 5 W. c. 5. 5 W. c. 20. Certificate of the and 2 & 3 An. c. 3. Annuitants on demanding their nominee's life. share of annuities, in the case of survivorship on the said respective acts, shall (unless the nominee appear in person) produce a certificate of the life of such nominee, to be signed (*gratis*) by the minister and churchwardens where the nominee lives, on the day

day when the payment shall become due: Or otherwise the annuitant may make oath of the truth of such nominee's life, on the day when the payment shall become due, before a justice of the peace where such person making oath shall reside; and the justice shall make a certificate thereof; for which oath and certificate no fee shall be taken. And persons swearing falsely shall be guilty of perjury, and forging such certificate shall be guilty of forgery.

Counterfeiting orders.

2. By the several acts of 9 G. c. 12. 4 G. 2. c. 9. and 9 G. 2. c. 34. If any person shall counterfeit any order to receive annuities; or power to transfer the same; or the name of the proprietor; or shall personate such proprietor; he shall be guilty of felony without benefit of clergy.

Assignment of annuities.

3. By the several acts of 4 An. c. 6. 5 An. c. 19. 5 An. c. 22. and 6 An. c. 5. A justice may take affidavits of the due execution of the assignment or devise of annuities, upon the said several acts respectively.

Apothecary. See Physicians.

Appeals.

Appeal, what.

1. **T**HIS word has two significations in law; the one is, removing a cause from an inferior court or judge; to a superior; as from one or more justices, to the quarter sessions.

The other kind of appeal (which is the subject of this title) is a prosecution against a supposed offender, by the party's own private action; prosecuting also for the crown, in respect of the offence against the publick. 2 *Haw.* 155.

In what cases an appeal may be brought.

2. An appeal is brought in three cases; 1. By a man for a wrong to his ancestor. 2. By a wife for the death of her husband. 3. For wrong done to the appellants themselves, as in the case of robbery, rape, or maihem; but this last is disused, on account of the nicety of the pleadings, and the charge of the prosecution; and the method of indictment is now generally taken. *Wood* 1072.

Within what time an appeal may be brought.

3. A person acquitted on an indictment of murder, shall not be set at liberty, but shall be re-committed, or bailed, till the year and day be past; within which time an appeal may be brought. 3 *H.* 7. c. 1.

Appeal brought before the sheriff and coroner.

4. It is certain, that an appeal may be commenced before the sheriff and coroner, and removed from them into the king's bench by *certiorari*. 2 *Haw.* 156.

Appeal brought before justices of the peace.

5. And it seems to be holden in *Fitzherbert's* Abridgment, that justices of the peace have power to receive appeals; but there is much greater authority for the contrary opinion. 2 *Haw.* 156.

6. If

The first of these is the fact that the
 population of the country has increased
 very rapidly since the year 1800. This
 increase has been the result of a
 number of causes, the most important
 of which are the following:

- 1. The discovery of gold in California.
- 2. The discovery of gold in Nevada.
- 3. The discovery of gold in Colorado.
- 4. The discovery of gold in Arizona.
- 5. The discovery of gold in Idaho.
- 6. The discovery of gold in Montana.
- 7. The discovery of gold in Wyoming.
- 8. The discovery of gold in Utah.
- 9. The discovery of gold in New Mexico.
- 10. The discovery of gold in Texas.

The second of these is the fact that the
 population of the country has increased
 very rapidly since the year 1800. This
 increase has been the result of a
 number of causes, the most important
 of which are the following:

The third of these is the fact that the
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 of which are the following:

The tenth of these is the fact that the
 population of the country has increased
 very rapidly since the year 1800. This
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 number of causes, the most important
 of which are the following:

6. If the person appealed shall be acquitted, the appellor shall be imprisoned for a year, and restore damages to the party, and be grievously fined to the king. 13 Ed. 1. *ft. 1. c. 12.* That is, if the appeal shall appear to the court to have been malicious. *2 Harv. 108.* Person acquitted on appeal.

7. Forasmuch as an appeal is the suit of the party, as well as of the king, hence it is that the king cannot pardon an offender found guilty upon an appeal, as he may when found guilty upon an indictment; for in such case he can only pardon for himself, but not for the party. *2 Harv. 155.* Pardon.

Apples and Pears.

WHEREAS apples and pears are frequently sold by measure, commonly called water-measure, the contents whereof are very uncertain; therefore for the future, the said measure shall be round, and in diameter eighteen inches and an half within the hoop, and eight inches deep; and so in proportion: And every measure, commonly called water-measure, by which apples and pears are sold, shall be heaped as usually: And whosoever shall sell or buy any apples or pears by any other measure, shall forfeit 10*s.* half to the informer, and half to the poor, on conviction on the oath of one witness, before one justice (or mayor), to be levied by the petty constable by warrant of the said justice, by distress and sale. *1 An. ft. 1. c. 15. f. 1.*

But this shall not extend to any measures sealed and allowed by the fruiterers company in *London. f. 2.*

Concerning the robbing of orchards, see title *Wood.*

Apprehending offenders. See *Arrest.*

Apprentices.

Concerning the settlement of apprentices, see
title *Bound*.

- I. *Who may take apprentices.*
- II. *Who are compellable to be bound apprentices.*
- III. *Binding.*
- IV. *Binding of poor apprentices.*
- V. *Money given to bind out poor apprentices.*
- VI. *Binding poor apprentices to the sea-service.*
- VII. *Differences between the master and apprentice.*
- VIII. *Apprentice stealing his master's goods.*
- IX. *Assigning apprentices.*
- X. *Master dying.*
- XI. *Apprentices setting up their trades.*

I. *Who may take apprentices.*

In husbandry.

1. **E**VERY person being an householder, and having and using half a plough-land in tillage, may take any apprentice above the age of ten years, and under eighteen, to serve in husbandry till twenty-one at the least, or till twenty-four as the parties can agree. *5 El. c. 4. f. 25.*

In trades in towns corporate.

2. Every person being an householder, and twenty-four years old at the least, dwelling in any city or town corporate, and exercising any art, mystery, or manual occupation there, may retain the son of any freeman, not occupying husbandry, nor being a labourer, and inhabiting in the same, or in any other city or town corporate, to serve and be bound as an apprentice, after the custom and order of the city of *London*, for seven years at the least, so as such apprenticeship do not expire before the apprentice shall be twenty four years of age. *5 El. c. 4. f. 26.*

But no person dwelling in any city or town corporate, being a merchant, mercer, draper, goldsmith, ironmonger, imbroiderer, or clothier, shall take any apprentice except he be his son, or else that the father and mother of such apprentice shall have an estate of inheritance or freehold of 40 s. a year, to be certified under the hands and seals of three justices where the lands lie, to the mayor of that city or town corporate, and to be inrolled among the records there. *f. 27.*

And the reason of this seems to be, for that such as are to be bound apprentices in towns corporate, if their parents be of a competent livelihood, then their masters shall be not only better secured, but such apprentices also in likelihood shall have the better means

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means to set up their trades after their time expired. And concerning such whose parents have not 40*s.* a year are fitter to be bound apprentices to husbandry, and the like, in the country. *Dalt. c. 58.*

But by reason of the great alteration in the value of money since that time, this provision is become of little use; for an estate of 40*s.* a year then, was equal to more than 10*l.* a year now.

But the citizens of *London* and *Norwich* may take and have apprentices, as before this act. *f. 40.*

3. Every person being an householder, and twenty four years old at the least, and not occupying husbandry, nor being a labourer, dwelling in any market town not corporate, and exercising any art, miltery, or manual occupation, may have to apprentice the child or children of any other artificer, not occupying husbandry, nor being a labourer, inhabiting in the same or any other such market town in the same shire. *5 El. c. 4. f. 28.*

In trades in market towns not corporate.

But no person dwelling in any such market town, being a merchant, mercer, draper, goldsmith, ironmonger, imbroiderer, or clothier, shall take any apprentice except he be his son, or else that his father and mother shall have an estate of inheritance or freehold of 3*l.* a year, to be certified under the hands and seals of three justices of the shire where the lands lie, to the head officer of such market town where such apprentice shall be taken, there to be inrolled of record. *f. 29.*

4. Any person using the art of a smith, wheelwright, ploughwright, millwright, carpenter, rough mason, plaisterer, sawyer, lime burner, brickmaker, bricklayer, tyler, slater, helier, tyle-maker, linen-weaver, turner, cooper, miller, earthen potter, woollen weaver weaving household cloth only, fuller otherwise called tucker or walker, burner of oare and woad ashes, thatcher or shingler, wheresoever he shall dwell, may take the son of any person as apprentice, albeit his parents have no land. *5 El. c. 4. f. 30.*

In any place.

5. Every owner of a ship or vessel, and every householder exercising the trade of the seas by fishing or otherwise, and every gunner commonly called a canoneer, and every shipwright, may take apprentices for ten years or under; and every apprentice so taken, being above seven years of age, shall be by the same covenants bound, ordered and used to all intents, according to the custom of *London*, so that the covenant or bond of apprenticeship be made by writing indented, and inrolled in the town where the apprentice shall be inhabiting, if it be a town corporate, if not, then in the next town corporate: For which inrollment shall be paid not above 12*d.* *5 El. c. 5. f. 12.*

Seamen.

6. Every person that shall have three apprentices in any the crafts of a clothmaker, fuller, sheerman, weaver, taylor, or shoemaker, shall keep one journeyman; and for every other apprentice above three, one other journeyman, on pain of 10*l.* half to the king, and half to him that shall sue in the sessions or other court of record; or if it is in a town corporate, then to be applied as by the charter. *5 El. c. 4. f. 33.*

Number restrain- ed.

No hatmaker shall have above two apprentices at one time, nor those for any less term than seven years, on pain of 5*l.* a month, half to the king, and half to him that shall sue in any court of record: But this not to extend to his own son, in his own house, so as he be bound by indenture for seven years, and his term not to expire before he be twenty-two years of age. 17. c. 17. f. 3, 5.

Weavers of stuffs in *Norfolk* and *Norwich*, that shall employ two apprentices, shall also employ two journeymen; and no master shall have above two apprentices, or any week boy, to weave in the said trade; on pain of 5*l.* a month to the king. 13 & 14 C. 2. c. 5. f. 18.

II. Who are compellable to be bound apprentices.

Who shall be bound.

1. If any person shall be required by any householder, using half a ploughland at least in tillage, to be an apprentice and to serve in husbandry, or in any other art, mystery, or science before expressed, and shall refuse so to do, then on complaint of such housekeeper to one justice (or head officer) he shall send for the person refusing; and if he shall think the said person meet to serve, and such person refuse to be bound, he may commit him to ward, there to remain until he be contented, and will be bound. 5 *El.* c. 4. f. 35.

At what age.

2. But no person shall be bound to enter into any apprenticeship, other than such as be under the age of 21 years. 5 *El.* c. 4. f. 36.

III. Binding.

Binding to be by deed.

1. One cannot be bound an apprentice without deed. 1 *Salk.* 68.

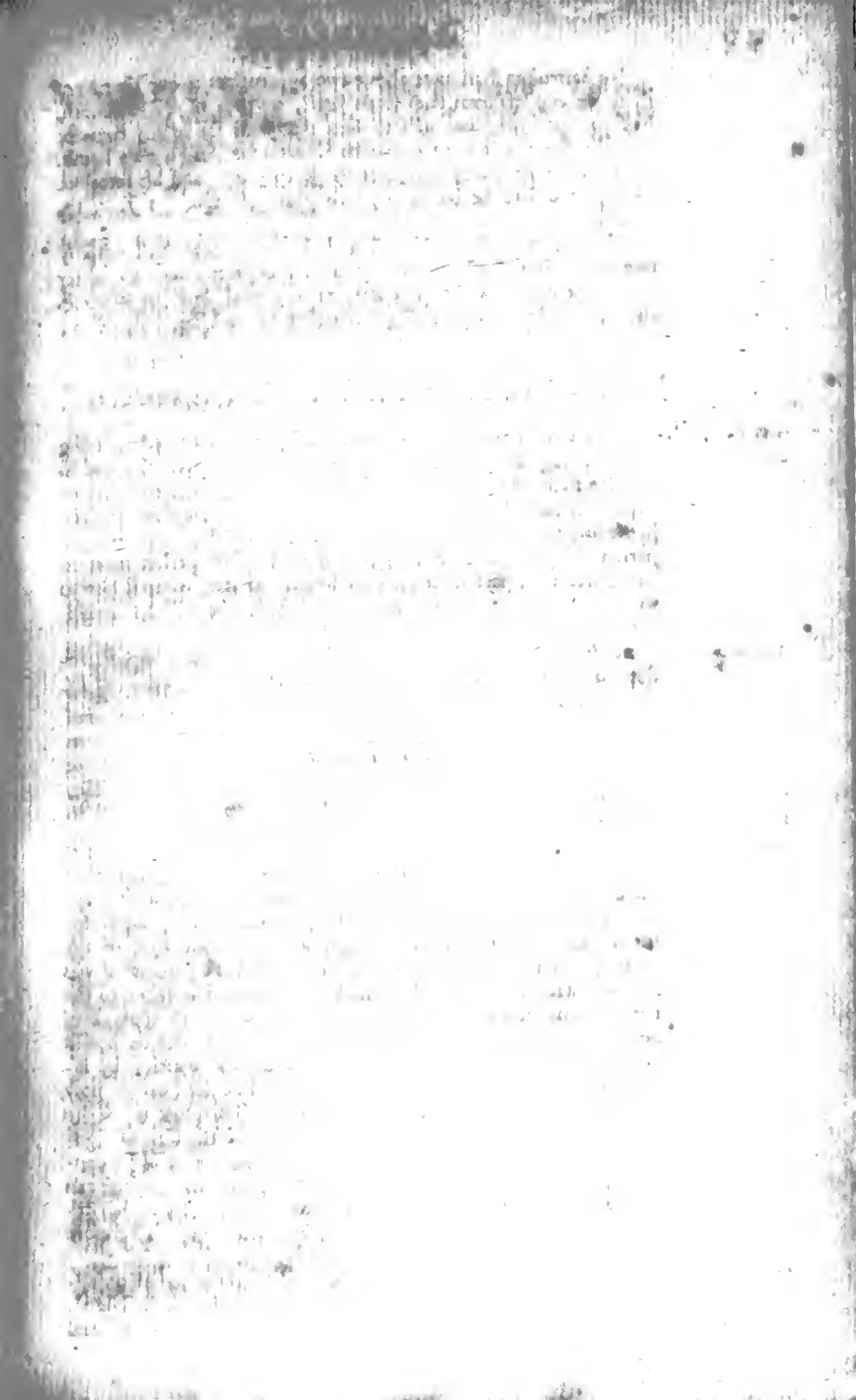
And indented.

2. And by the 5 *El.* c. 4. it must be by deed indented. f. 25. *M.* 1 G. 2. *Smith* and *Birch*. An action was brought against the defendant, for enticing away and detaining the plaintiff's apprentice, who had agreed by writing to serve the plaintiff for seven years. Upon evidence it appeared, that the style of the writing began *This indenture*, &c. but in fact the parchment was not indented, but was a deed poll. On exception taken to the deed, it was insisted that the young man was not an apprentice, because he was not bound by indenture. An infant can be bound no other way than as the statute of 5 *El.* directs, which is by indenture, and nothing can make this good. The deed cannot now be indented, for that would be a forgery. Therefore unless the plaintiff shews the apprentice to be of full age at the time of signing such deed, he cannot be accounted his apprentice, and by consequence no action can lie for detaining the apprentice; neither can the plaintiff prove him to be his servant by this deed, for he has declared for an apprentice, and must prove him so to be. Therefore the plaintiff was nonsuited. *Seff. Ca. V.* 1. 222.

And by the name of an apprentice.

3. And an apprentice must be retained by the name of an apprentice expressly, otherwise he is no apprentice, tho' he be bound. *Dalt.* c. 58.

4. And



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4. And all indentures, covenants, promises, and bargains, for ^{Binding other-} having or taking apprentices, otherwise than by the statute of ^{wife, void.} 5 *El.* shall be clearly void in the law to all intents and purposes; and every person that shall take any apprentice contrary to the said act, shall forfeit 10*l.* half to the king, and half to him that shall sue in the sessions, or other court of record; or if it is in a town corporate, then to the use of such town as by the charter. *5 El. c. 4. f. 41.*

5. By the several stamp acts, the binding (except it be of parish ^{Stamp.} apprentices) shall be on a treble sixpenny stamped paper or parchment; and the same shall not be given in evidence in any court till it be stamped, and the duties paid.

6. And by the 8 *An. c. 9.* Besides the said stamps and duties, ^{Additional} there shall be paid the duty of 6*d.* for every 20*s.* of every sum of ^{Stamp.} 50*l.* or under; and the duty of 1*s.* for every 20*s.* of every sum above 50*l.* given with any apprentice; and proportionably for greater or lesser sums; to be paid by the master. *f. 32.*

And where any thing, not being money, shall be given with such apprentice, the duties shall be answered for the value thereof. *f. 44.*

But this shall not extend to any apprentice, put out at the common charge of any parish or township, or out of any publick charity. *f. 40.*

And the full sum shall be inserted in the indenture in words at length, and shall bear date on the day of the execution thereof; on pain that the master shall forfeit double, half to the king, and half with full costs to him that shall sue. *f. 35.*

And no such indenture shall be given in evidence in any suit to be brought by any the parties thereunto, unless such party on whose behalf the same shall be given in evidence, do first make oath, that to the best of his knowledge, the sum therein inserted was really and truly all that was directly or indirectly to be given with such apprentice. *f. 43.*

The said indentures, within the bills, shall be brought to the head office to be stamped with a stamp for that purpose, and the duties paid within one month after date. *f. 36.*

And elsewhere shall be brought either to the head office within the bills, or to a collector of the stamp duties out of the said limits, in two months after date, and the duties thereupon shall be paid, and the indenture stamped, if it be at the said head office; otherwise such collector shall indorse on the indenture, a receipt for the duties in words at length, and subscribe his name thereto. *f. 37.*

And if it is within 50 miles of the limits of the bills of mortality, the indenture shall within three months after date, and elsewhere within six months, be brought to the head office to be stamped. *f. 38.*

And all such indentures wherein shall not be inserted the full sum directly or indirectly given, or whereupon the duties shall not be paid, or which shall not be stamped within the time limited, shall be void, and not available in any court or place, or to any purpose

purpose whatsoever; and the apprentice shall be incapable of exercising the said trade. *f.* 39.

Moreover, by the 9 *An. c.* 21. If the master shall neglect to pay the duties within the time limited, he shall forfeit 50 *l.* half to the king and half with full costs to him who shall sue. *f.* 66.

And by the 18 *G. 2. c.* 22. If he shall neglect to pay the same as aforesaid, he shall, besides all other penalties, forfeit double duty. *f.* 23, 24.

But by the 28 *G. 2. c.* 19. For relief of persons, who have omitted to pay the said duties, on payment thereof on or before *Aug. 1. 1755.* and tending the indentures to be stamped on or before *Sep. 29. 1755.* of which timely notice shall be given in the gazette, they shall be good.

And there is the like indemnifying clause in some act every two or three years.

And by the 20 *G. 2. c.* 45. If any master, having forfeited the double duty, shall pay the same, and tender the indenture to be stamped, within two years after the determination of the apprenticeship, and before suit hath been commenced for the penalties, the indenture shall be valid, and the penalties discharged. *f.* 5.

And if after the master shall have forfeited the double duty, the apprentice shall in the presence of, or by writing under his hand signed in the presence of one witness, require his master to pay the same, and the master shall not do it in three months, and such apprentice shall at any time within two years after the determination of his apprenticeship, pay the double duty, he may in three months after such payment demand of his master double the sum contracted for in the indenture, and if not paid in three months after, may recover the same by action at law, with full costs. And the apprentice immediately after payment of the said double duties (if his apprenticeship shall not be then expired) and signifying by writing under his hand, that he desires to be discharged from his apprenticeship, shall be discharged accordingly, and shall have the same benefit of the time he hath served as he would have had in case he had been assigned, or turned over to a new master. *f.* 6, 7.

And where any prosecution shall be commenced against the master for the penalties, if the apprentice shall pay the double duty at any time in two years after the end of his apprenticeship, he may thereupon exercise his trade, and the indenture shall be valid, and may be given in evidence. *f.* 8.

7. Every person that shall be bound by indenture, to serve as an apprentice in any art, science, occupation, or labour, according to the statute of the 5 *El.* albeit he be within 21 years of age, shall be bound as amply to every intent, as if he were of full age at the time of making the indentures. *f.* 43.

But this is to be understood of a compulsion by the means prescribed by the statute; for altho' an infant may voluntarily bind himself apprentice, and if he continue apprentice for seven years, he may have the benefit to use his trade; yet neither at the common law, nor by any words of this statute, a covenant or obligation of an infant for his apprenticeship shall bind him. But if he misbehave

Infant bound,
tho' under age.

Agribusiness

The following information is for your information only. It is not intended to be used as a substitute for professional advice. The information is based on the current state of the market and is subject to change without notice.

1. Definition of Agribusiness

The term agribusiness refers to the business of agriculture, including the production, processing, and distribution of agricultural products. It encompasses a wide range of activities, from the cultivation of crops and the raising of livestock to the marketing and sale of these products. Agribusiness is a key sector of the economy, particularly in rural areas, and plays a vital role in providing food and fiber for the population.

2. Key Components of Agribusiness

The agribusiness sector is composed of several key components, each of which plays a critical role in the overall system. These components include:

- Production:** The process of growing crops and raising livestock, which is the foundation of the agribusiness sector.
- Processing:** The transformation of raw agricultural products into finished goods, such as the milling of grain into flour or the slaughtering of animals for meat.
- Distribution:** The movement of agricultural products from the point of production to the point of sale, often involving a complex network of intermediaries.
- Marketing:** The promotion and sale of agricultural products, which is essential for ensuring that producers receive a fair price for their goods.

3. Challenges Facing Agribusiness

Agribusiness faces a number of significant challenges that threaten its long-term viability. These challenges include:

- Climate Change:** The increasing frequency and severity of extreme weather events, such as droughts and floods, which can devastate crops and livestock.
- Water Scarcity:** The growing demand for water in agriculture, coupled with the depletion of aquifers and the overuse of surface water resources.
- Market Volatility:** The fluctuation of commodity prices, which can lead to significant income instability for producers.
- Regulatory Burden:** The increasing number of regulations and standards that must be met, which can raise the cost of production and reduce profitability.
- Technological Disruption:** The rapid pace of technological change, which can render existing equipment and practices obsolete.

misbehave himself, the master may correct him in his service, or complain to a justice to have him punished, according to the statute. But no remedy lieth against an infant upon such covenant. *Cro. Car.* 179.

IV. Binding of poor apprentices.

1. The churchwardens and overseers, or the greater part of them, by the assent of two justices (1 Q.) may bind (A) any such children, whose parents they shall judge not able to maintain them, to be apprentices where they shall see convenient, till such man child shall come to the age of 24, and such woman child to the age of 21 or marriage; the same to be as effectual to all purposes, as if such child were of full age, and by indenture of covenant bound him or her self. 43 *El. c. 2. f. 5.* Power to bind.

2. And all persons, to whom the overseers shall by the 43 *El.* bind any children apprentices, may take and keep them as apprentices. 21 *J. c. 23.* 3 *C. c. 4. f. 22.* Power to take.

3. By the several stamp acts, the indenture must be on a six-penny stamped piece of paper or parchment; but is exempted from the additional stamps and duties for money given with the apprentice. Indenture to be stamped.

4. And where any poor child shall be appointed to be bound apprentice by the 43 *El.* the person to whom he is appointed to be bound, shall receive and provide for him, and also execute the other part of the indentures; and if he shall refuse so to do, oath being thereof made by one of the churchwardens or overseers, before two justices, he shall forfeit 10*l.* by distress and sale, by warrant (B) of such justices, to the use of the poor of the parish or place where the offence was committed; saving always to the person, to whom any poor child shall be appointed to be bound apprentice, if he shall think himself aggrieved thereby, his appeal to the next sessions, whose order therein shall be final. 8 & 9 *W. c. 30. f. 5.* Persons refusing to take.

And as the churchwardens and overseers have power to place out poor children, therefore they are proper judges of persons who are fit to be their masters; and those are, all persons, who by their profession or manner of living have occasion to keep servants; but the same are to be approved of by the justices, and if such master is dissatisfied, he may appeal to the sessions. *Dalt. c. 58.*

T. 13 W. Minchamp's case. Two justices bound an apprentice to a merchant: He appealed to the sessions, and the order was discharged. And now the court, on consideration of the matter, confirmed the order of sessions; because the act having made persons compellable to take apprentices, and given an appeal to the sessions, it was in the discretion of the justices at sessions to determine, whether it was or was not fitting to put an apprentice upon any one; and therefore the court would not disturb what the sessions had done, but confirmed the order. 2 *Salk.* 491.

E. 13 An. Q. and Wagstaff. It was moved to quash an order to compel a person to take an apprentice, because in the close of indenture it was said, that the master, at the end of the term, shall

give his apprentice two suits of cloaths. Upon debate, the court held this to be ill; for the justices during the term of his apprenticeship cannot order him wages, they must only order him a maintenance as an apprentice, and cannot order him any thing after the term is ended. So the order was quashed. *Foley* 205. *Seff. C. V.* 1. 48.

In what case he shall go with the farm.

5. A lessee for years of a farm takes an apprentice, and the term expires before the apprenticeship is ended, he must go with the farm, if the master will permit him; but where a man taketh an apprentice by reason of his ability, and the master dies before the determination of the apprenticeship, such apprentice shall go to the executor or administrator if he hath assets, and if none, then he must return to the parish where last settled. *Sboru.* 405.

V. Money given to bind out poor apprentices.

By the 7 *J. c.* 3. All money given by any person to be continually employed for the binding out apprentices, shall be employed in manner following, unless otherwise ordered by the givers; *viz.* All corporations or towns corporate, and in places not corporate, the minister, constables, churchwardens, overseers, or the most part of them, shall have the nomination and placing of such apprentices, and ordering of such money; and if they shall not employ the same accordingly, every person offending shall forfeit 3*l.* 6*s.* 8*d.* half to the poor, and half to him that shall sue. *f.* 2.

And the master that shall receive the money, shall be bound with one or two sureties in double the sum, unto such corporation, or to the other persons appointed by this act in places not corporate, to take care of it, on condition to repay it at the end of seven years, or within three months thereof; and if the apprentice shall happen to die within the seven years, then within one year after such death; and if the master shall die, then within one year after such master's death. *f.* 3.

And the said money shall always be put forth in three months after it shall come to the said parties hands; and if there are not then fit persons to be bound apprentices, within the places where the money is given to be employed, it shall be disposed of for binding some of the poorest children of any adjoining parish.

f. 4.

And choice shall always be made of the poorest children; and no such apprentice shall be above 15 years of age when bound.

f. 5.

And the said persons, in places not corporate, shall yearly within a month after *Easter*, account to their successors before two justices dwelling in or next to the place. *f.* 6.

And if any of the trustees shall break their trust, or commit any offence for which no penalty is given by this act; any person may petition the lord chancellor, who may issue a commission to hear and determine the same, and may levy the money misemployed upon such defaulters, or otherwise upon such able inhabitants of the place, as they shall think fittest; and persons aggrieved may appeal to the lord chancellor. *f.* 7.

VI. Bind.

APPENDIX

1. The first part of the report...

2. The second part of the report...

3. The third part of the report...

4. The fourth part of the report...

5. The fifth part of the report...

6. The sixth part of the report...

7. The seventh part of the report...

Physics

Chapter 1: Kinematics

1.1 Displacement, Velocity, and Acceleration

Displacement is a vector quantity that represents the change in position of an object. It is denoted by Δx and measured in meters (m). Velocity is a vector quantity that represents the rate of change of displacement with respect to time. It is denoted by v and measured in meters per second (m/s). Acceleration is a vector quantity that represents the rate of change of velocity with respect to time. It is denoted by a and measured in meters per second squared (m/s²).

1.2 Kinematic Equations

The following equations describe the motion of an object with constant acceleration:

$$v = v_0 + at$$
$$\Delta x = v_0 t + \frac{1}{2} at^2$$
$$v^2 = v_0^2 + 2a\Delta x$$

1.3 Free-Fall Motion

Free-fall motion is the motion of an object under the influence of gravity alone. The acceleration due to gravity is denoted by g and is approximately 9.8 m/s² near the Earth's surface.

1.4 Relative Motion

Relative motion is the motion of an object as observed from a different frame of reference. The velocity of an object relative to a frame of reference is denoted by v_{rel} .

1.5 Projectile Motion

Projectile motion is the motion of an object that is launched into the air and moves under the influence of gravity. The trajectory of a projectile is a parabola.

1.6 Circular Motion

Circular motion is the motion of an object that moves in a circular path. The angular displacement is denoted by $\Delta \theta$ and measured in radians. The angular velocity is denoted by ω and measured in radians per second (rad/s). The angular acceleration is denoted by α and measured in radians per second squared (rad/s²).

VI. Binding poor apprentices to the sea service.

1. It shall be lawful for two justices, and for the head officers in corporations, and for the churchwardens and overseers of the several parishes or townships, with the consent of such justices or head officers, to bind and put out any boy of the age of ten years or upwards, or who shall be chargeable, or whose parents shall be chargeable, or who shall beg for alms, to be an apprentice to the sea service, to any subject being master or owner of any ship or vessel, until he shall attain the age of 21 years. *2 & 3 Ann. c. 6. f. 1.*

Who may be bound.

And every person to whom any poor parish boy shall be put apprentice by the *43 El.* may, with the consent of two justices dwelling near the parish where such poor boy was bound, or with the like consent of the chief officer in a corporation, at the request of the master, his executors, administrators, or assigns, by indenture assign over such poor boy apprentice, to any master or owner of a ship or vessel, using the sea service, during the remaining time of his apprenticeship. *f. 6.*

2. And every master or owner of a ship, from 30 to 50 ton burden, shall be obliged to take one such apprentice, and one more for the next 50 ton, and one more for every hundred ton such ship shall exceed the burden of an hundred ton; on pain of forfeiting 10*l.* to the poor of the parish from whence such boy was bound. *f. 8.*

Who shall take,

But no master shall be obliged to take any such apprentice, under 13 years of age, or who shall not appear to be fitly qualified both as to health and strength of body for that service. *4 Ann. c. 19. f. 16.*

3. The boy's age shall be inserted in the indenture, being truly taken from a copy of the entry in the register book (where it can be had), which copy shall be given and attested by the minister without fee: And where no such entry can be found, two such justices, and such head officers, shall as fully as they can inform themselves of such boy's age, and from such information shall insert the same in the indentures. *2 & 3 An. c. 6. f. 1.*

Age to be inserted in the indenture.

4. And the churchwardens and overseers shall pay down to the master, at the time of the binding, the sum of 50*s.* for cloathing and bedding; and the charges by this act appointed, shall be allowed on their accounts. *2 & 3 An. c. 6. f. 2.*

What money shall be given with him.

5. The churchwardens and overseers shall send the indentures to the collector of the customs at the port whereunto the master belongeth; who shall enter the indenture in a book, and make an indorsement upon the indenture of the registry thereof, subscribed by him, without fee. And if he shall neglect or refuse to enter such indentures, and indorse the same, or make false entries, he shall forfeit 5*l.* to the poor of the parish from whence such boy was bound. *2 & 3 An. c. 6. f. 5.*

Indenture to be registred.

6. Such apprentice shall be conveyed to the port to which his master belongeth, by the churchwardens and overseers, or their agents;

Apprentice how conveyed to the port.

agents; and the charges thereof shall be paid as by the vagrant act of 11 & 12 W. 2 & 3 An. c. 6. f. 10.

That is to say, out of the gaol and marshalsea money; which by the 12 G. 2. c. 29. is directed to be paid out of the general county rate.

Counterpart to be then executed.

7. The counterpart of the indenture shall be sealed and executed by the master, and attested by the collector of the port, and the constable or other officer who carries the apprentice; which officer shall transmit such counterpart, to the churchwardens and overseers of the place from whence the apprentice was bound. 2 & 3 An. c. 6. f. 11.

Protection from being impressed.

8. And the collector or his deputy shall transmit a certificate under his hand, to the commissioners of the admiralty, containing the name and age of such apprentice, and to what ship he belongs; and on receipt of such certificate, a protection shall be made and given gratis to such apprentice, till he attain the age of 18 years. 2 & 3 An. c. 6. f. 5.

Also every person who shall voluntarily bind himself apprentice to the sea service, shall not be impressed for three years from the date of his indentures; which indentures shall be registred, and certificates thereof given and transmitted by the collector as aforesaid; on receipt of which certificates, protections shall be made and given for the first three years, without fee. *id.* f. 15.

But by 4 An. c. 19. No person of the age of 18 years shall have any protection from being impressed, who shall have been in any sea service, before he bound himself apprentice. f. 17.

But every person not having before used the sea, who shall bind himself apprentice to serve at sea, shall be exempted from being impressed for three years: and the commissioners of the admiralty, on due proof of the circumstances, shall grant a protection accordingly, without fee. 13 G. 2. c. 17.

When impressed, the master to have the wages.

9. When such parish or voluntary apprentice shall be impressed, or voluntarily enter into the king's service, the owner or master, his executors, administrators, or assigns, shall be intitled to able seamens wages, for such of the apprentices, as shall upon due examination be found qualified for the same, notwithstanding their indentures of apprenticeship. 2 & 3 An. c. 6. f. 17.

Exempted from the 6d. a month.

10. Such poor boys bound out, or assigned over, to the sea service, until they shall attain to the age of 18 years, shall be exempted from the payment of 6d. a month to Greenwich hospital. 2 & 3 An. c. 6. f. 7.

Master to enter his apprentices on clearing out.

11. Every master so obliged to take such apprentice, shall after his arrival into any port aforesaid, and before he clears out of such port, give an account in writing under his hand, to the collector, containing the names and number of such apprentices as are there remaining in his service. 2 & 3 An. c. 6. f. 9.

The same to be inserted in the cocquet.

12. And every custom house officer shall insert at the bottom of their cocquets, the number of men and boys on board the respective ships at their going out, describing the apprentices by their names, ages, and dates of their indentures, for which no fee shall be taken. 2 & 3 An. c. 6. f. 14.

APPENDIX

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13. And the collector in the port shall keep a register, containing the number and burden of all ships belonging to the port, together with the masters or owners names, and also the names of all such apprentices in such ships, and from what parishes and places they were sent; and shall transmit (*gratis*) true copies thereof signed by him, to the quarter sessions, or to such towns corporate, parishes, or places, when and so often as he shall be reasonably required so to do; and every collector refusing or neglecting to send such copy, shall forfeit 5*l.* to the poor of the parish from whence such boy was bound. 2 & 3 *An. c. 6. f. 13.*

Registry to be kept in the ports.

14. Two justices near the port, and mayors of towns corporate, in or near adjoining to such port, to which such ship or vessel shall at any time arrive, may determine all complaints of ill usage from the master to such apprentice, and also of all such as shall voluntarily put themselves apprentices to the sea service, and make such order therein as they are now enabled by law to do, in other cases between masters and apprentices. 2 & 3 *An. c. 6. f. 12.*

Differences between such masters and apprentices.

15. All the penalties aforesaid shall, by warrant of two justices of the county, city, or town corporate, be levied by distress and sale. 2 & 3 *An. c. 6. f. 18.*

Penalties.

16. If the master shall die during the term, his widow, or his executor or administrator may assign over such apprentice to any other master who hath not his complement of apprentices. 4 *An. c. 19. f. 16.*

Master dying.

VII. Differences between the master and apprentice.

1. The master is allowed by law with moderation to chastise his apprentice. *Dalt. c. 58.*

Master may chastise his apprentice.

2. An apprentice cannot be discharged but by writing; for that an apprentice cannot be but by writing: but the master and apprentice may, by agreement between themselves, leave each other; and if so, then the master may give leave under his hand for the apprentice to depart; and then one justice out of sessions may discharge him, allowing the cause of his departure. *Dalt. c. 58.*

Whether the master himself can discharge his apprentice.

But it seemeth that this shall not extend to parish apprentices, for that there the overseers are parties to the contract, which cannot therefore be avoided by any agreement between the master and his apprentice.

But if the master and his apprentice cannot agree, they may proceed in one of these two ways; either upon the statute of the 5 *El. c. 4.* or upon the statute of 20 *G. 2. c. 19.*

3. By the 5 *El. c. 4.* If any such master shall misuse or evil intreat his apprentice, or the said apprentice shall have any just cause to complain, or the apprentice do not his duty to his master, then the said master or apprentice being grieved, and having cause to complain, shall repair unto one justice (C D) of the county, or to the mayor or other head officer of the said city, town corporate, or market town, or other place where the master dwelleth; who shall by his wisdom and discretion take such order and direction between the master and his apprentice, as the equity of the cause shall require;

Differences between the master and apprentice by 5 *El. c. 4.*

and if for want of good conformity in the master, the said justice (or head officer) cannot compound and agree the matter, he shall take bond of the said master to appear at the next sessions; and on his appearance, and hearing of the matter there, if it be thought meet to discharge the said apprentice, then the justices, or four of them at the least (1 Q.) or the said mayor or other head officer, with the consent of three other of his brethren, or men of best reputation in such city, town corporate, or market town, shall have power, in writing (E) under their hands and seals, to pronounce and declare, that they have discharged the said apprentice of his apprenticeship, and the cause thereof: And the said writing, being inrolled by the clerk of the peace, or town clerk, amongst the records, shall be a sufficient discharge for the apprentice against his master, his executors and administrators. And if the default shall be found to be in the apprentice, then the said justice, or the said mayor or other head officer, with the assistance aforesaid, shall cause such due correction and punishment to be administered unto him, as by their wisdom and discretions shall be thought meet. §. 35.

If any such master] That is, any such master as is before mentioned in this statute, in the trades therein specified; and the former resolutions confined the sense of the statute to such trades only, but the later adjudications seem to extend the equity thereof to other trades not mentioned in the statute; as in the following instances:

M. 7 W. K. and Gately. On a *certiorari* it was moved to quash an order of sessions, for the discharge of one Edward Green from his apprenticeship to the defendant Gately. The fact was, that Gately was a mountebank, and being at a place in Yorkshire, where he kept a publick stage, Green was by indenture bound apprentice to him in this manner, *viz.* to Robert Gately, surgeon, to learn the trade he now useth; and immediately he went upon the stage, and ever since continued in the employ. After which, being with his master Gately in *Middlesex*, he complained to the justices, that his master did not teach him the trade. Upon which they discharged him. This being done, Green set up the trade of mountebank himself. It was moved to quash the order, the justices being willing, because they were imposed upon. And the exception was, that the statute of the 5 *El.* in discharging apprentices is confined, and extends only to apprentices mentioned in that clause, and there neither surgeon nor mountebank is mentioned: And tho' a surgeon may be a trade within the statute, which a man cannot exercise without serving an apprenticeship to, because that clause of the statute is general; yet this part of the statute, relating to the discharge of apprentices, extends only to trades there mentioned. By the court; The clause relating to the discharge of apprentices is general, and goes to all manner of apprentices, even to those of merchants; but afterwards the court were of opinion, that the power of discharging reaches only to the trades mentioned in the statute, among which a surgeon is not mentioned; for that, tho' as to the serving seven years apprenticeship, a servant comes under the general term of arts and misteries,

MEMORANDUM

The purpose of this memorandum is to provide a summary of the findings and recommendations of the study conducted by the Research Committee on the subject of the impact of the proposed changes on the operations of the Department.

The study was conducted over a period of six months, during which time a series of interviews and focus groups were held with key personnel from various divisions. The findings indicate that while there are some potential benefits to the proposed changes, there are also significant risks and challenges that must be addressed.

Key findings include:

- 1. There is a general lack of understanding and awareness of the proposed changes among staff members.
- 2. The proposed changes are likely to result in increased workload and stress for many employees.
- 3. There is a risk of reduced morale and productivity if the changes are not implemented carefully.
- 4. The proposed changes may lead to a loss of valuable institutional knowledge and expertise.

Based on these findings, the following recommendations are made:

- 1. A comprehensive communication strategy should be developed to ensure that all staff members are fully informed of the proposed changes and the reasons behind them.
- 2. A pilot program should be implemented to test the proposed changes on a small scale before a full-scale rollout.
- 3. Additional resources should be provided to support staff members during the transition period.
- 4. A system for monitoring and evaluating the impact of the changes should be established.

It is recommended that the proposed changes be delayed until a more thorough analysis and implementation plan can be developed. The Research Committee will continue to monitor the situation and provide further guidance as needed.

yet the power of discharging reaches only to the trades particularly mentioned. 2 *Salk.* 471, 2.

And *M. 12 An. Q. and Furnese.* It was held, that the statute extends only to the trades therein mentioned; and therefore not to a glass bottle maker. *Case of S. 29.*

On the other hand, in the case of *K. and Collingbourn, M. 12 G.* Exception was taken to an order of discharge, that the justices could not discharge the apprentice, because the trade to which he was bound, *viz.* a glazier, was not within the statute: But not allowed; for tho' formerly it was held, that the trade ought to be a trade within the statute, yet the later resolutions have been otherwise. *L. Rayn. 1410. Str. 663.*

And in *K. and Amies, 7 G. 2.* It was resolved, that the justices have jurisdiction as to discharging apprentices, as well in other trades as those mentioned in the statute. *Nels. Appr.*

So in *K. and Cust, E. 8 G. 2.* that the statute extends to trades not mentioned therein. *Nels. Appr.*

Shall misuse or evil intreat his apprentice] E. 8 G. 2. K and Eastman. An apprentice was discharged, the master having used him unkindly, and refusing to provide for and entertain him: But by the court, this is not a good ground for the discharge; for there is a power to oblige the master to receive and entertain the apprentice, and using him unkindly is too loose. *Strange 1014.*

Or the apprentice do not his duty to his master] T. 4 G. K. and Inhabitants of Hales Owen. An order reciting that *Joseph Higgen* was bound out by indenture, as the statute requires, to *John Parks*, and being lame, and having the king's evil, and in the opinion of surgeons incurable; therefore the justices discharge the master from his apprentice. It was moved to confirm the order, because the master cannot now have the end of the binding, which was, the service of his apprentice. But it was answered, that the statute only impowers the justices to discharge for misbehaviour, and not for sickness. And quashed by the court; for the master takes the apprentice for better and worse, and is to provide for him in sickness and in health. *Strange 99.*

Shall repair unto one justice] Upon an order made at the sessions to discharge an apprentice, it did not appear, that he applied himself to a justice first. And Holt Ch. J. was of opinion, that the justice hath power to make an order, and if obeyed by the master, then the sessions can have no power; if disobeyed, then the justice upon complaint may bind the master to the sessions, and that the sessions have no power otherwise. 1 Salk. 67.

T. 13 W. K. and Johnson. Exception was taken to an order for discharging an apprentice, that the complaint was made originally at sessions, without any previous application to a single justice out of sessions: *Holt Ch. J.* delivered the opinion of the court, That the order was good; if it had been a new question, he should have held a prior application to some justice out of sessions necessary; but after so many orders affirmed in this court, which have been otherwise, it is too late to unsettle that now. 1 *Salk.* 68.

So also, in the case of *K. and Gill*, *H. 5 G.* It was said by the court,—It hath been so often resolved, that the sessions hath an original jurisdiction, that we will not suffer it now to be made a question, though it might be doubtful upon the statute itself. *Strange 143.*

And, *T. 12 G. K. and Davie.* The court agreed, that it is a point not now to be disputed, that the sessions hath an original jurisdiction to discharge apprentices. *Strange 704.*

On his appearance] *E. 13 W. Ditton's case.* It was moved to quash an order made for the discharge of an apprentice. The question arose upon the clause of the statute, which directs, that upon appearance of the master, the apprentice may be discharged by four justices, after one justice out of sessions hath endeavoured to compose the matter in difference. And in this case, it was objected, that *Ditton* the master was bound over to appear, and did not; and the justices have but a limited jurisdiction, and it is expressly directed by the act, that the discharge is to be made on the appearance of the master; besides, there is another remedy, to proceed on the recognizance, which is forfeited by not appearing. By the court; The act must have a reasonable construction, so as not to permit the master to take advantage of his own obstinacy; and it would be very hard, that supposing the master is profligate, and runs away, the apprentice shall never be discharged. *2 Salk. 490.*

H. 5 G. K. and Gill. An order of sessions for discharging an apprentice was quashed, because it did not set forth, that the master was summoned, or did appear. *Strange 143.*

So also, *E. 8 G. 2. K. and Eastman.* The order was quashed, because it did not appear that the master was present or summoned, which it is plain the act intended he should be. *Strange 1013.*

Inrolled by the clerk of the peace] *T. 4 G. K. and Inhabitants of Hales Owen.* The order of discharge was not inrolled; and by the court for that reason held ill. *Strange 99.*

Shall be a sufficient discharge for the apprentice against his master] But as the justices may discharge the apprentice from his master, for ill usage; so also they may discharge the master from the apprentice for evil and disorderly behaviour. *Read. Appr.*

Discharge] *T. 13 W. K. and Johnson.* Exception was taken to an order of discharge, that the justices had ordered money to be returned: But by the court, the order is good. And *Holt Ch. J.* said, he never doubted of that matter, for it is a power consequential upon their jurisdiction to discharge. *1 Salk. 68.*

But in the case of *K. and Vandeleer*, *M. 4 G.* The justices at the sessions did order an apprentice to be discharged, and that the master having received *5 l.* with him, should refund *3 l.* as a further provision for him. This was moved to be quashed, because the statute which gives the justices power to discharge, gives them no authority to order any money to be returned. By the court; It is very hard, that if the master misfeth his apprentice, the next day after he is bound, he should pay back nothing if he is discharged:

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The second part of the document contains several paragraphs of text, also largely illegible. It appears to be a formal letter or report, with a salutation and a body of text.

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charged: It will be an encouragement to masters to treat their apprentices ill; but the statute being silent, the order must be quashed. *Strange* 69.

Shall cause due correction and punishment to be administered] It seemeth that by the 7 J. c. 4. one justice may send the apprentice to the house of correction as an idle and disorderly person, if he is in fault; tho' this cannot be done by this act of the 5 El. Wood 85.

4. By the 20 G. 2. c. 19. *On complaint (F) unto two justices, by any parish apprentice, or other apprentice upon whose binding out no larger a sum than 5 l. was paid, concerning any misusage, refusal of necessary provision, cruelty, or other ill treatment, they may summon (G) the master or mistress, to appear before them at a reasonable time to be named in such summons; and on proof upon oath of the truth of the said complaint (whether the master or mistress be present or not, if service of the summons be also upon oath proved) the said justices may discharge (H) the apprentice by warrant or certificate under their hands and seals, for which warrant or certificate no fee shall be paid.* s. 3.

Differences between the master and apprentice by 20 G. 2. c. 19.

And such justices on complaint (I K) on oath by any master or mistress, against any such apprentice, concerning any misdemeanor, miscarriage, or ill behaviour, may hear and determine the same, and punish the offender, by commitment (L) to the house of correction, there to remain and be corrected, and held to hard labour for a reasonable time, not exceeding one calendar month, or otherwise by discharging (M) such apprentice. s. 4.

Persons aggrieved by any determination, order or warrant of such justices (except any order of commitment) may appeal to the next sessions; who may award costs to either party not exceeding 40 s. to be levied by distress and sale. s. 5.

And no certiorari shall issue to remove any the said proceedings. s. 6.

5. If any apprentice of husbandry, or of any art or occupation aforesaid, shall flee into any other shire, the justices, mayors or other head officers being justices, may issue writs of *capias* to the sheriffs of the counties or other head officers of the places whither he shall so flee, to take his body, returnable before them at what time shall please them; so that if he come by such process, he may be put in prison, till he find sufficient surety well and honestly to serve his master. 5 El. c. 4. s. 47.

Apprentice fleeing into another shire.

And by the act of 24 G. 2. c. 55. If a justice shall issue a warrant against such person, and he shall escape into another shire; the constable or other person, on having the warrant indorsed by a justice in such other shire, may arrest him there, and carry him before a justice in such other shire, if the offence is bailable, to find bail, or else shall carry him back before a justice in the shire from whence the warrant did first issue.

VIII. *Apprentice stealing his master's goods.*

By the 21 *H. 8. c. 7.* Servants going away with their masters goods, with intent to steal them, shall be guilty of felony; but not to extend to apprentices.

And by 12 *An. st. 1. c. 7.* Persons stealing to the value of 40 *s.* being in a dwelling house or outhouse thereto belonging, tho' such house be not broken, and tho' no person be therein, shall be guilty of felony without benefit of clergy. But this not to extend to apprentices under fifteen years of age.

But if they be fifteen years of age, they shall be guilty as other persons.

IX. *Assigning apprentices.*

The master assigning, and the apprentice himself consenting, will not make him an apprentice to the assignee within the fifth of *El.* But by the custom of *London*, he may be turned over to another. *Delt. c. 58.*

And an assignment to the sea service is good by act of parliament, as is before mentioned.

E. 3 G. K. and Barnes. Order returned on a *certiorari*: It is resolved by the justices at the sessions, where a person was bound an apprentice to *Barnes* by the parish officers, and *Barnes* had assigned him to another, that the assignment is void, and they direct *Barnes* to take his apprentice again. But by the court; The sessions had no power to judge of the validity of a deed, or to hinder a man from assigning his apprentice. The covenant to provide for him is well performed, if the person to whom he is bound assigns him to another to provide for him. Wherefore the order was quashed. *Foley 155. Strange 48.*

For the jurisdiction of the justices extends no farther, than to compel the master to take care of his apprentice; but in what manner he does it, whether in his own house or otherwise, is nothing to them. But if the assignee of the apprentice doth not provide for him, the first master may be compelled to do it, and he may take his remedy over. *Seff. C. V. 1. 110.*

X. *Master dying.*

It hath been said, that if the master dies, the apprentice goes to the executor or administrator to be maintained, if there are assets; but the executor or administrator may bind him to another master, for the remaining part of his time.

And in *M. 10 W. K. and Peck.* *Eyre J.* held, that an apprenticeship is a personal trust between the master and servant, and determines by the death of either of them; and by the death of either of them, the end and design of the apprenticeship cannot be obtained, and it may be the executor is of another trade; he admitted, covenant would lie against the executor, but in that there is no inconvenience, because the executor may make his defence

The first part of the document is a letter from the Secretary of the Board of Education to the Board of Directors of the University of the State of New York. The letter is dated June 10, 1908, and is addressed to the Board of Directors of the University of the State of New York, Albany. The letter is signed by the Secretary of the Board of Education, John C. B. Smith.

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Appendix

Table with multiple columns and rows of text, likely a list or index. The text is extremely faint and difficult to read.

fence by pleading no assets, or debts of a higher nature. *Holt* Ch. J. said, that by the custom of *London*, the executor shall put the apprentice to another master of the same trade; and that in other places, it would be very hard to construe the death of the master to be a discharge of the covenants; he said, it had been held, that the covenant for instruction failed, but that he still continues an apprentice with the executor, as to maintenance. 1 *Salk.* 66.

E. 20 G. 2. Baxter (widow and executrix) and *Burfield*. In debt on bond, conditioned for *Matthias Anderson's* performance of the covenants in an indenture of apprenticeship, whereby he was bound to the plaintiff's testator, who was a mariner: the defendant pleaded, that *Anderson* served faithfully to the death of the testator: the plaintiff replied, that since the death of the testator, *Anderson* had absented from her service: to which there was a demurrer. And after argument at bar, *Lee* Ch. J. delivered the resolution of the court, *viz.* That they were all of opinion, the defendant should have judgment, and that the executrix could maintain no such action. The binding was to the man, to learn his art, and serve him, without any mention of executors. And as the words are confined, so is the nature of the contract; for it is fiduciary, and the apprentice is bound from a personal knowledge of the integrity and ability of the master. *H. 8 An. Horne and Blake*; An award that an apprentice should be assigned, was held void; unless there was a custom, or the concurrence of the apprentice. And they held, it was not material, that according to *Cro. Eliz. 553.* the assets were liable on the master's covenant to maintain. Therefore judgment was given for the defendant. *Strange 1266.*

Note, the words in *Cro. Eliz. 553.* are these: A covenant lies against an executor in every case, altho' he be not named; unless it be such a covenant as is to be performed by the person of the testator, which they cannot perform.

But in the case of *K. and East-Bridgeford, T. 12 G. 2.* Upon a special order it was stated, that an apprentice upon the death of his master, was with his own consent turned over by the widow (who had taken no administration) to another master whom he served. And the court held it a good settlement in the last parish, within the reason of those cases, where an apprentice was bound to a person in one parish, but with the master's consent served with another person in another parish, and there gained a settlement. *Strange 1155.*

XI. Apprentices setting up their trades.

By the common law, no man may be prohibited to work in any lawful trade, or in more trades than one, at his pleasure. 11 *Co. 53.*

So that without an act of parliament no man may be restrained, either to work in any lawful trade, or to use divers misteries or trades; therefore an act of parliament made to restrain any person herein,

herein, must be taken strictly, and not favourably as acts made in affirmation of the common law.

The restraining clause in the statute of 5 *El. c. 4.* is as follows: *It shall not be lawful to any person, to set up, occupy, use, or exercise, any craft, mystery, or occupation now used or occupied within the realm of England or Wales, except he shall have been brought up therein seven years at the least as an apprentice by this statute, nor to set any person on work therein, except he shall have been apprentice as aforesaid, or else having served as an apprentice will become a journeyman, or hired by the year; on pain of 40 s. a month, half to the king, and half to him that shall sue in the sessions, or other court of record; or if it is in a town corporate, then to be dispensed of as other fines by the charter. s. 31.*

It shall not be lawful] This is a negative clause, and no one shall exercise a trade against it, unless by virtue of a custom, as the widows of tradesmen, who by custom carry on the trade of their husbands, which the court held not to be within this statute. 2 *Salk. 610.*

To any person] But by the 15 *C. 2. c. 15.* Hemp workers of all kinds, net makers, and makers of tapestry hangings are excepted; who may set up without having served seven years.

And by 22 *G. 2. c. 44.* All officers, mariners, and soldiers, who have been employed in his majesty's service, and not deserted, may exercise such trades as they are apt for, in any town or place.

And by 6 & 7 *W. c. 18.* An apprentice discovering two offenders guilty of coining, so as they be convicted, shall be deemed a freeman, and may exercise his trade as if he had served out his time. *s. 12.*

To set up, occupy, use, or exercise] *T. 3 W. Hobbs and Young.* Exercising a trade by others who have served seven years is within the statute; for he that hath not served an apprenticeship is thereby restrained to work as a trader, either by himself or others; for the intent of the act is, to annex the benefit of trade to such as underwent the hardship of learning it, thereby to encourage labour in youth: And few would undergo the trouble of being apprentices, if they might employ others to work for them. 2 *Salk. 610.*

If a man use the trade of a tallow chandler, baker, brewer, or any other lawful trade, or manual occupation, for his own use, or for the use of his family, without selling any for lucre and gain, he may lawfully do it; but he cannot retain any apprentice therein; but he may hire one to be his servant, who is skilful in that trade or occupation. 8 *Co. 129.*

Now used] That is, on the 12th of *Jan. 1562,* when that parliament began; and this restraint shall not extend any further, than the words do expressly direct, and therefore not to new arts and misteries since invented. 1 *Roll's Rep. 10.* 1 *Ventr. 326, 346.*

The first part of the document is a list of names and titles, including "The Hon. the Lord Chancellor" and "The Hon. the Lord Treasurer". It appears to be a formal record or a list of officials. The text is somewhat faded but the structure is clear.

The second part of the document contains several paragraphs of text, likely detailing the proceedings or the content of the meeting. The text is dense and difficult to read due to the fading, but it seems to follow a formal structure.

The third part of the document continues the text, possibly providing further details or conclusions. The layout remains consistent with the previous sections.

The fourth part of the document appears to be a concluding section, possibly a signature block or a final statement. The text is less legible than the previous parts.

The fifth part of the document contains the final lines of text, which may include a date or a reference to the document's origin.

Epiphany

The first of the three days of the Epiphany season, when the Magi came to adore the infant Jesus in the stable of Bethlehem. The feast is celebrated on the sixth day after Christmas, and is a day of joy and thanksgiving for the revelation of Christ to the Gentiles.

The story of the Magi is told in the Gospel of Matthew, and is a beautiful illustration of the universal nature of Christ's mission. The Magi, who were kings from the East, were led by a star to the stable, and there they found the infant Jesus with his mother Mary and the infant John the Baptist.

The Magi brought gifts of gold, frankincense, and myrror to the infant Jesus, and they worshipped him. The gifts were symbolic of Christ's kingship, divinity, and humanity. The gold represented his kingship, the frankincense his divinity, and the myrror his humanity.

The Magi's journey to Bethlehem was a long and arduous one, and their journey is a symbol of the journey of every soul who seeks Christ. The Magi's journey is also a symbol of the journey of the Church, which is called to bring the light of Christ to all peoples.

The Epiphany season is a time of joy and thanksgiving, and it is a time when we can reflect on the universal nature of Christ's mission. The Epiphany season is a time when we can remember the Magi's journey to Bethlehem, and we can be inspired by their faith and their courage.

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Within the realm of England and Wales] *M. 1 G. 2. K. and Lister.* Indictment for using the trade of a dry salter, being a craft, mystery, or occupation used in this kingdom on the 12th day of Jan. in the 5th year of *Eliz.* Which the court held to be ill; for that the words *in this kingdom* tie down the indictment to the kingdom of *Great Britain*, as it is at this day; whereas it should have been *in England, or in England and Wales.* *Seff. C. V. 2. 160. Strange 788.*

Except he shall have been brought up therein seven years] *E. 11 W. K. and Fox.* Indictment for using the trade of a taylor, not having served seven years, was quashed, because it said only, not having served as an apprentice within *England or Wales*; for it may be he did so beyond sea, and if it were any where it sufficeth. *1 Salk. 67.*

As an apprentice] *E. 5 An. 2. and Maddox.* By the court; Upon indictment on this statute, in evidence we allow following the trade for seven years to be sufficient, without any binding, this being an hard law. *2 Salk. 613.*

Or else having served as an apprentice, will become a journeyman] *M. 26 C. 2. K. and Moor.* The defendant was indicted for using the trade of a weaver, not having served as an apprentice seven years; the evidence was, he served six as an apprentice, and had since as journeyman in the same trade worked above that time: And by the court, the serving of seven years is sufficient either way; and the defendant was found not guilty. *3 Keb. 400.*

A. Indenture of a parish apprentice; on 43 *El. c. 2. s. 1, 5.*

THIS indenture made the ——— day of ——— in the year of our lord ——— Between A. B. and C. D. churchwardens, and E. F. and G. H. overseers of the poor of the parish of ——— in the county of ——— of the one part, and A. M. of ——— in the said parish, shoemaker, of the other part, witnesseth, that the said churchwardens and overseers of the poor, by and with the consent of ——— two of his majesty's justices of the peace for the said county, dwelling near to [or, in] the said parish of ——— one whereof is of the quorum, have by these presents put, placed, and bound A. P. a poor boy, whose parents B. P. and C. P. are not able to maintain him, of the age of ——— years, to be an apprentice with him the said A. M. and as an apprentice with him the said A. M. to dwell, from the date of these presents, until the said A. P. shall come to the age of twenty-four years [or, if a female, until the said A. P. shall come to the age of twenty-one years, or the time of her marriage, which shall first happen] according to the statutes in such case made and provided. By and during all which time and term, the said A. P. shall the said A. M. his said master well and faithfully serve, in all such lawful business as the said A. P. shall be
put

put unto by the command of his said master, according to the power, wit, and ability of him the said A. P. and honestly and obediently in all things shall behave himself towards his said master, and honestly and orderly towards the rest of the family of the said A. M. And the said A. M. for his part, for himself, his executors and administrators, doth hereby promise and covenant, to and with the said churchwardens and overseers of the poor, for them and their successors, and for the said A. P. that he the said A. M. shall the said A. P. in the craft, mystery, and occupation of a shoemaker, which be the said A. M. now useth, after the best manner that he can or may, teach, instruct, and inform, or cause to be taught, instructed, and informed, as much as thereunto belongeth, or in any wise appertaineth; And that the said A. M. shall also during all the said term find and allow unto the said apprentice sufficient meat, drink, apparel, washing, lodging, and all other things needful or meet for an apprentice, in such manner that the said apprentice shall not at any time during the said term, be in any wise a charge to the said parish or the parishoners thereof. In witness whereof the said parties have herunto set their hands and seals, the day and year first above written.

Where the overseers and the master can agree, other covenants may be inserted, according to such agreement; but if the master is to be compelled, it seemeth not safe to require more from him by the indenture than is above expressed.

The assent of two justices.

WE ——— two of his majesty's justices of the peace for the abovementioned county of ——— dwelling near to the abovementioned parish of ——— and one of us of the quorum, do hereby declare our assent to the binding the abovenamed A. P. an apprentice to the abovenamed A. M. according to the form and effect of the abovementioned indenture. Given under our hands the ——— day of &c.

B. Warrant to levy 10*l.* for not receiving a poor apprentice; on the statute of 8 & 9 *W.*

Westmorland } To the constables of ———

WHEREAS A. B. and C. D. churchwardens, and E. F. and G. H. overseers of the poor of the parish of ——— in the said county, by the assent of [us] ——— two of his majesty's justices of the peace for the said county, dwelling near to [or, in] the said parish of ——— one whereof is of the quorum, did endeavour to bind A. P. a poor male child of the said parish, whose parents

MEMORANDUM

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parents are not able to maintain him, apprentice to A. M. of _____ in the said parish, taylor, and for that intent did prepare and duly perfect one pair of indentures pursuant to the statute in such case made and provided, which said pair of indentures was signed and confirmed by [us] the said two justices: And whereas it hath been duly proved before us, as well upon the oath of the said A. B. as otherwise, that the said A. M. hath refused, and doth refuse, to receive and provide for the said A. P. as an apprentice, and also to execute another part of the said indentures, being duly tendered to him by the said churchwardens and overseers of the poor, whereby the said A. M. hath forfeited the sum of ten pounds: These are therefore, in his said majesty's name, to require and command you, to make distress of the goods and chattels of him the said A. M. and if within the space of [six] days next after such distress by you made, the said sum of 10l. together with reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale, pay the said sum of 10l. to the overseers of the poor of the said parish of _____ where the said offence was committed, for the use of the poor of the said parish; returning the overplus upon demand unto him the said A. M. the reasonable charges of taking, keeping, and selling the said distress being thereout first deducted. Provided always, that if the said A. M. shall think himself aggrieved with this our adjudication, award, and warrant, and shall appeal therefrom to the next general or quarter sessions of the peace for the said county, that then you suspend and forbear the sale of such distress till further order shall be made in the premisses upon the appeal of the said A. M. to the said sessions of the peace. Given under our hands and seals the _____ day of &c.

C. Warrant against the master for misusing his apprentice; on 5 El. c. 4.

Westmorland. } To the constables of _____.

WHEREAS complaint hath been duly made unto me _____ one of his majesty's justices of the peace in and for the said county, by A. P. apprentice to A. M. of _____ in the said county, shoemaker, that the said A. M. hath misused and evil intreated him the said A. P. by cruel punishment, and beating him the said A. P. without just cause, and by not allowing unto him sufficient meat, drink, apparel, [or as the case shall be] These are therefore in his majesty's name to command you to cause the said A. M. personally to appear before me at the house of _____ in the said county, on _____ the _____ day of _____ at the hour of _____ in the afternoon of the same day, to answer unto the said complaint; and also to cause the said apprentice to appear before me at the same time and place, to make good his said complaint. Herein fail not. Given under my hand and seal the _____ day of &c.

D. Warrant

D. Warrant against the apprentice, on complaint of the master; on the 5 *El. c. 4.*

Westmorland. } To the constables of ———.

WHEREAS complaint hath been duly made unto me ——— one of his majesty's justices of the peace in and for the said county, by A. M. of ——— in the said county, husbandman, that A. P. now being an apprentice to him the said A. M. is negligent, stubborn, disorderly, and doth not his duty to him the said A. M. his master; These are therefore to command you to bring the said apprentice before me, and to give notice to the said master that he appear before me at the same time, that such order may be taken in the premises, as equity shall require. Herein fail not. Given under my hand and seal the ——— day of &c.

E. Order of discharge by four justices at the sessions; on the 5 *El. c. 4. s. 35.*

Westmorland. **A**T a general quarter sessions of the peace, holden at ——— in and for the county aforesaid, the ——— day of ——— in the ——— year of the reign of our lord George the second, by the grace of god of Great Britain, France, and Ireland, king, defender of the faith, and so forth; Before ——— justices of our said lord the king assigned to keep the peace in the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, and of the quorum, It is ordered as followeth;

Upon the petition of A. P. apprentice to A. M. of ——— in the said county, husbandman, to be relieved upon certain neglects of the said master in instructing him in his trade, and in misusing and evil intreating the said apprentice by cruel punishment [or as the case shall be]; And the said master having likewise appeared upon his recognizance taken before J. P. esquire, one of the said justices, to answer to the complaint of the said petition, and having proved nothing whereby to clear himself of the said complaint; but on the contrary, the said A. P. having given full proof of the truth of the said complaint to the satisfaction of the said court: We therefore, whose hands and seals are hereunto set, being four of the said justices, and of the quorum, do hereby order, pronounce, and declare, that the said apprentice shall be, and is hereby discharged and freed from his said apprenticeship; and that the said master shall pay and restore to the said apprentice the sum of ——— being part of the sum of ——— which he the said master had with the said apprentice upon his binding: And this to be a final order betwixt the said master and apprentice, any thing contained in their indentures of apprenticeship, or otherwise, to the contrary notwithstanding. Given under our hands and seals the day and year first above written.

F. Complaint

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F. Complaint of an apprentice to two justices against his master; on 20 G. 2. c. 19.

Westmorland. **T**HE information and complaint of A. P. apprentice to A. M. of _____ in the said county, husbandman, taken and made [on oath, if he is above 14 years of age] before us two of his majesty's justices of the peace in and for the said county, the _____ day of _____ in the year &c.

Who saith, that he the said A. P. about a year and a half ago last past, became bound an apprentice by indenture to A. M. of _____ aforesaid, husbandman; that at several times, since he entred upon the said apprenticeship, the said A. M. hath misused and ill treated him the said apprentice, and particularly [as the case shall be].

A † P
his mark.

Taken and signed the day and year above; before us

J. P.
K. P.

G. Summons of the master by two justices, on complaint of the apprentice; on the 20 G. 2. c. 19. s. 3.

Westmorland. } To the constable of _____.

WHEREAS complaint hath been made unto us _____ two of his majesty's justices of the peace in and for the said county, by A. P. apprentice to A. M. of _____ in the said county, husbandman, that he the said A. M. hath misused and ill treated him the said A. P. and particularly [as the case shall be]: These are therefore to require you to summon the said A. M. to appear before us at _____ in the said county, on _____ the _____ day of _____ to answer unto the said complaint; and also that you give notice unto him, to bring with him the indenture of apprenticeship between him and his said apprentice; and also that you bring before us at the same time and place the said A. P. to make good the said complaint; and also that you bring with you this precept, and certify unto us then and there what you shall have done in the execution thereof. Given under our hands and seals the _____ day &c.

- H. Discharge of an apprentice by two justices, on the master's misusing him; by the 20 G. 2. c. 19. s. 3.

Westmorland. **W**HEREAS complaint hath been made before us ——— two of his majesty's justices of the peace in and for the said county, by A. P. apprentice to A. M. of ——— in the said county, taylor, that he the said A. M. hath misused and ill treated him the said apprentice [and particularly, as the case shall be]; And whereas the said A. M. hath appeared before us in pursuance of our summons to that purpose, but hath not cleared himself of and from the said accusation and complaint, but on the contrary the said A. P. hath made full proof of the truth thereof before us upon oath; We therefore by these presents do discharge him the said A. P. of and from his apprenticeship to the said A. M. any thing in the indenture of apprenticeship made betwixt them, or otherwise howsoever, to the contrary notwithstanding. Given under our hands and seals the ——— day of &c.

[Or, And whereas it hath been duly proved before us, as well upon the oath of A. C. constable of ——— aforesaid, as otherwise, that he the said A. C. did duly summon the said A. M. to appear before us at a reasonable time in the said summons mentioned and specified; but notwithstanding the same, he the said A. M. hath not appeared before us according to such summons: We therefore, having duly examined into the matter of the said complaint, and the truth thereof having been fully proved before us upon oath, do discharge &c.]

- I. Complaint to two justices of the master against his apprentice; on the 20 G. 2. c. 19. s. 4.

Westmorland. **T**HE complaint and information of A. M. of ——— in the said county, husbandman, taken on oath before us ——— two of his majesty's justices of the peace in and for the said county, the ——— day of ———.

Who saith, that A. P. having been bound to him an apprentice by indenture bearing date the ——— day &c. and having entered upon his apprenticeship accordingly, hath been refractory and disobedient to him the said A. M. [and particularly as the case shall be.]

Taken the day and year
above, before us

A. M.

J. P.
K. P.

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K. Warrant for a disorderly apprentice, by two justices; on the 20 G. 2. c. 19. s. 4.

Westmorland. } To the constable of _____.

WHEREAS oath hath been made before us _____ two of his majesty's justices of the peace in and for the said county, by A. M. of _____ in the said county, husbandman, that A. P. apprentice to the said A. M. hath committed divers misdemeanors against the said A. M. his master, and hath likewise run away from his said master; These are therefore to require you forthwith to apprehend the said A. P. and bring him before us, to answer unto the said complaint, and to be dealt with according to law: And you are to give notice to the said A. M. that he appear before us at the same time, to make good the said complaint. Given under our hands and seals &c.

L. Commitment of an apprentice to the house of correction, on complaint of his master, by two justices; on the 20 G. 2. c. 19. s. 4.

Westmorland. } To the constable of _____ in the said county,
and to the keeper of the house of correction at
_____ in the said county.

WHEREAS complaint hath been made before us _____ two of his majesty's justices of the peace in and for the said county, upon the oath of A. M. of _____ in the said county, husbandman, that A. P. apprentice of the said A. M. hath committed divers misdemeanors against him the said A. M. his master; And whereas upon examination thereof, and upon hearing the allegations of both parties having come before us for that purpose, and upon due consideration had thereof, we have adjudged, and do hereby adjudge the said complaint to be true: We do therefore hereby command you the said constable, to take and convey the said A. P. to the said house of correction, and to deliver him to the said keeper thereof, together with this warrant: And we do hereby command you the said keeper of the said house of correction, to receive the said A. P. into your custody in the said house of correction, there to remain and be corrected, and held to hard labour for the space of _____ from the date hereof. Given under our hands and seals the _____ day &c.

M. Discharge of an apprentice by two justices, on complaint of the master; by 20 G. 2. c. 19. s. 4.

Westmorland. **W**HEREAS *complaint &c.* (as in the last precedent) — *We do therefore by these presents discharge the said A. P. from his apprenticeship to the said A. M. any thing in any indenture or indentures of apprenticeship betwixt them, or otherwise, to the contrary notwithstanding.* Given &c.

Approver.

AN *approver* (probator) is a person indicted of treason or felony, and in prison for the same, who upon his arraignment, before any plea pleaded, doth confess the indictment, and takes a corporal oath to reveal all treasons and felonies that he knoweth of, and therefore prays a coroner, before whom he is to enter his appeal or accusation, against those that are partners in the crime contained in the indictment. 3 *Inst.* 129.

This accusation of himself, and oath, makes his accusation of another person of the same crime to amount to an indictment; and if his partners are convicted, he shall have his pardon of course. 3 *Inst.* 129, 130.

But justices of the peace cannot take cognizance hereof, because they have no authority by their commission to assign a coroner. 3 *Inst.* 130.

And besides, as it is in the discretion of the court, whether they will suffer one to be an approver, this method of late hath been seldom practised: And in many cases we have what seems to amount to the same, by statute; where pardon is assured to offenders, on discovering and convicting their accomplices.

Aqua Vitæ. See Exercise.

Arbitration. See Award.

Armour embeziling. See Stores.

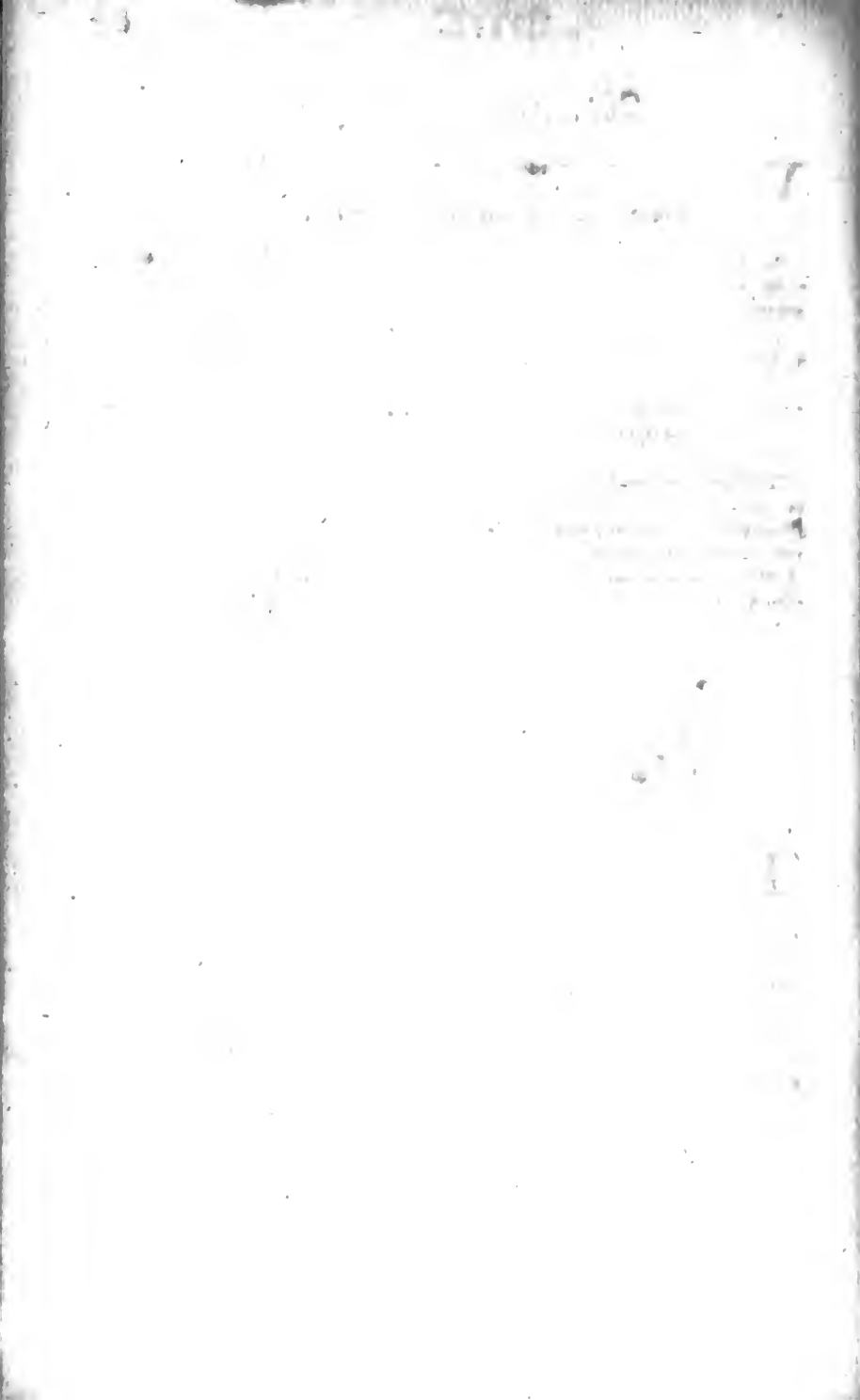
Armour popish. See Popery.

Armour seizing. See Affray.

Army. See Soldiers and Militia.

Arrack. See Exercise.

Arraignment.



Arraignment.

WHEN an offender comes into court, or is brought in by process, sometimes of *capias*, and sometimes of *habeas corpus* directed to the gaoler of another prison; the first thing that follows thereupon, is his arraignment. 2 H. H. 216.

Now arraignment is nothing else but the calling of the offender to the bar of the court, to answer the matter charged upon him. 2 H. H. 216.

And the word in latin is no other than *ad rationem ponere*, and in french *ad reson*, or abbreviated *a resi*; for as the ancient word *disfrain* or *derayn* imports in latin *disfrationare*, to disprove or evince the contrary of any thing that is or may be affirmed, so *arraigne* is *ad rationem ponere*, to call to account or answer. 2 H. H. 216.

The prisoner on his arraignment, tho' under an indictment of the highest crime, must be brought to the bar without irons and all manner of shackles or bonds, unless there be a danger of escape, and then he may be brought with irons. 2 H. H. 219.

Also there is no necessity that a prisoner, at the time of his arraignment, hold up his hand at the bar, or be commanded so to do; for this is only a ceremony for making known the person of the offender to the court; and if he answers that he is the same person, it is all one. 2 Harv. 308.

Arrest.

THIS is to be understood of arrests in criminal cases only, and not in civil cases.

The word *arrest* is the same, with very little variation, in the English, French, German, Belgick, and other languages of the western empire, heretofore subject to the Roman power; and probably may have been derived unto us through the channels both of France and Saxony: the French *arrestier* signifieth to stop or stay; and the Saxon *restian*, to rest; and both perhaps have sprung from the Italian *arresto*, and that from the well known Latin verb *sto*, to stand.

And, in law, an arrest doth signify the restraint of a man's person, depriving him of his own will and liberty, and binding him to become obedient to the will of the law: And it may be called the beginning of imprisonment. Lamb. 93.

Concerning which I will shew,

I. Who may or may not be arrested.

II. For what causes of suspicion an arrest may be.

III. *By whom the arrest shall be made.*

IV. *The manner of an arrest.*

V. *What is to be done after the arrest.*

I. *Who may or may not be arrested.*

- Privilege of parliament. 1. Generally, a member of parliament shall have the privilege of parliament for himself and his servants to be freed from arrests: but for treason, felony, and breach of the peace there can be no privilege. 4 *Inst.* 24, 25.
- Peers and bodies corporate. 2. In cases of peers and corporations, the process is a *distringas*, for they cannot be arrested. 3 *Salk.* 46.
- In churchyards. 3. None shall arrest priests or their clerks, or other persons of holy church, whilst they attend to divine service, in churches, churchyards, or other places dedicated to god; on pain of imprisonment and ransom at the king's will, and he shall also make gree to the parties arrested. 50 *Ed.* 3. c. 5. 2 *R.* 2. c. 15.
- On Sundays. 4. Also a warrant executed against any person whatsoever, on the lord's day, is void; and the persons serving the same shall suffer damages, as if they had done the same without warrant, except in cases of treason, felony, and breach of the peace. 29 *C.* 2. c. 7. s. 6.

II. *For what causes of suspicion an arrest may be.*

- Suspicion. By the statute of 34 *Ed.* 3. c. 1. Power is given to the justices of the peace, to arrest all those, whom they find by indictment, or by *suspicion*, and to put them in prison.
- Causes of suspicion: And the causes of suspicion, which are generally agreed to justify the arrest of an innocent person for felony, are these that follow;
- Common fame. (1) The common fame of the country; but it seems, that it ought to appear upon evidence, in an action brought for such arrest, that such fame had some probable ground. 2 *Haw.* 76.
- Circumstances of guilt. (2) The being found in such circumstances, as induce a strong presumption of guilt; as coming out of a house wherein murder hath been committed, with a bloody knife in one's hand; or being found in possession of any part of goods stolen, without being able to give a probable account of coming honestly by them. 2 *Haw.* 76.
- Flight. (3) The behaving one's self in such a manner as betrays a consciousness of guilt; as where a man accused of felony, on hearing that a warrant is taken out against him, doth abscond. 2 *Haw.* 76.
- Evil company. But the party who flies from an arrest for a capital offence, is not thereby guilty of a capital offence, but only liable to forfeit his goods, when such flight is found against him. 2 *Haw.* 122.
- (4) The being found in company with one known to be an offender, at the time of the offence; or generally at other times keeping

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The first part of the report is devoted to a general
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 people. The report concludes with a
 summary of the principal facts and a
 list of the names of the persons who
 were engaged in the work.

The second part of the report is devoted to a
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 occupations of the people. It is followed
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 names of the persons who were engaged
 in the work.

keeping company with persons of scandalous reputation. *2 Harw. 76. 2 Inst. 52.*

(5) The living an idle, vagrant, and disorderly life, without having any visible means to support it. *2 Harw. 76.* Living idle.

(6) The being pursued by hue and cry. *2 Harw. 76.* Hue and cry.

For if a felony is done, and one is pursued upon hue and cry, that is not of ill fame, suspicious, unknown, nor indicted; he may be attached and imprisoned by the law of the land. *2 Inst. 52.*

But generally, no such cause of suspicion, as any of the above-mentioned, will justify an arrest, where in truth no such crime hath been committed; unless it be in the case of hue and cry. *2 Harw. 76.* Where no crime is committed.

III. By whom the arrest shall be made.

1. In criminal cases, a person may be apprehended and restrained of his liberty, not only by process out of some court, or warrant from a magistrate, but frequently by a constable, watchman, or private person, without any warrant or precept. Arrest without warrant:

2. Thus all persons, who are present when a felony is committed, or a dangerous wound given, are bound to apprehend the offender, on pain of being fined and imprisoned for their neglect. *2 Harw. 74.* By private persons.

Also, every private person is bound to assist an officer demanding his help, for the taking of a felon, or the suppressing of an affray. *2 Harw. 75.*

Also by the vagrant act of 17 G. 2. Every private person may apprehend beggars and vagrants.

3. Also, a watchman may arrest a night walker, without any warrant from a magistrate. *2 Inst. 52.* By watchmen.

4. In like manner, a constable may *ex officio* arrest a breaker of the peace in his view, and keep him in his house, or in the stocks, till he can bring him before a justice. *1 H. H. 587.* By constables.

5. Or any person whatsoever, if an affray be made to the breach of the king's peace, may without any warrant from a magistrate, restrain any of the offenders, to the end the king's peace may be kept; but after the affray is ended, they cannot be arrested without an express warrant. *2 Inst. 52.* By any person whatsoever.

6. So much concerning an arrest without a warrant; next follows arresting with such warrant. Arrest with warrant:

7. The warrant is ordinarily directed to the sheriff or constable, and they are indictable, and subject thereupon to a fine and imprisonment, if they neglect or refuse it. *1 H. H. 581.* By the sheriff or constable.

8. If it be directed to the sheriff, he may command his bailiff, under-sheriff, or other sworn and known officer, to serve it, without writing any precept. But if he will command another man, that is no such officer, to serve it, he must give him a written precept, otherwise, false imprisonment will lie. *Lamb. 89.* Sheriff may depute.

9. But every other person, to whom it is directed, must personally execute it; yet it seems, that any one may lawfully assist him. *2 Harw. 86.* Others cannot depute.

Where a constable may execute it out of his own district.

10. If a warrant be generally directed to all constables, no one can execute it out of his own precinct; for in such case it shall be taken respectively to each of them within their several districts, and not to one of them to execute it within the district of another: but if it be directed to a particular constable (Mr. *Hawkins* says, to a particular constable *by name*), he may execute it any where within the jurisdiction of the justice, but is not compellable to execute it out of his own constablewick. Lord *Raym.* 546. 1 *H. H.* 581. 2 *H. H.* 110. 2 *Haw.* 86.

Any person may execute.

11. The justice that issues the warrant, may direct it to a private person if he pleaseth, and it is good; but he is not compellable to execute it, unless he be a proper officer. 1 *H. H.* 581.

But not to be directed to the party.

12. But by the justices oath, the warrant ought not to be directed to the party, but to some indifferent person, to execute it.

Where directed to two jointly.

13. If a warrant is directed to two or more jointly, yet any one of them alone may execute it. *Dalt. c.* 169.

IV. The manner of an arrest.

To be gone about immediately.

1. The officer to whom a warrant is directed and delivered, ought with all speed and secrecy to find out the party, and then to execute the warrant. *Dalt. c.* 169.

Opposing the execution.

2. It is certainly an offence of a very high nature, to oppose one who lawfully endeavours to arrest another for treason or felony: And it seems, that the person who so opposes an arrest for treason, whereof he knows the party to have been guilty, is thereby guilty of the treason; and that he who so opposes an arrest for felony, is an accessory to the felony. 2 *Haw.* 121.

Arresting in the night.

3. An arrest in the night is good, both at the suit of the king and of the subject; else the party may escape. 9 *Co.* 66.

Arresting in another county.

4. By the 24 *G.* 2. *c.* 55. Constables and others may, on having the warrant indorsed by a justice in another county, into which an offender shall have escaped, arrest an offender in such other county, and carry him before a justice in such other county, if the offence is bailable, to find bail; or else shall carry him back again before a justice in the county from whence the warrant did first issue.

Taking the power of the county.

5. A private person cannot raise power to arrest or detain a felon. 1 *H. H.* 601.

But any justice, or the sheriff, may take of the county any number that he shall think meet, to pursue, arrest, and imprison traitors, murderers, robbers, and other felons; or such as do break, or go about to break, or disturb the king's peace: and every man being required, ought to assist and aid them, on pain of fine and imprisonment. *Dalt. c.* 171.

But it is not justifiable for a justice, sheriff, or other officer, to assemble the *posse comitatus*, or raise a power or assembly of people, upon their own heads, without just cause. *Dalt. c.* 171.

But where a justice, sheriff, or other officer, is enabled to take the power of the county, it seemeth they may command, and ought to have the aid and attendance of all knights, gentlemen, yeomen, husbandmen, labourers, tradesmen, servants, and apprentices,

The first part of the report is devoted to a general description of the country, its position, and its resources. It is followed by a detailed account of the various tribes and nations which inhabit the region, and of their customs, habits, and mode of life. The author then proceeds to describe the different kinds of animals and plants which are found in the country, and the manner in which they are used by the natives. The last part of the report is devoted to a description of the various minerals and metals which are found in the country, and of the manner in which they are worked and used.

Received of the Treasurer of the State of New York
the sum of \$1000.00
for the year ending 1872

in full for the year ending 1872
of the sum of \$1000.00
for the year ending 1872

for the year ending 1872
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for the year ending 1872
of the sum of \$1000.00
for the year ending 1872

tices, and of all other persons being above the age of fifteen years, and able to travel. *Dalt. c. 171.* Because, by the statute of *Winchester*, all of that age are bound to have harness.

But women, ecclesiastical persons, and such as be decrepit, or diseased, shall not be compelled to attend them. *Dalt. c. 171.*

And in such case it is referred to the discretion of the justice, sheriff, or other officer, what number they will have to attend on them, and how and after what manner they shall be armed or otherwise furnished. *Dalt. c. 171.*

6. As to the case of breaking open doors, in order to apprehend offenders, it is to be observed, that the law doth never allow of such extremities but in cases of necessity; and therefore, that no one can justify the breaking open another's doors to make an arrest, unless he first signify to those in the house the cause of his coming, and request them to give him admittance. 2 *Harw.* 86.

But where a person authorized to arrest another, who is sheltered in a house, is denied quietly to enter into it, in order to take him; it seems generally to be agreed, that he may justify breaking open the doors in the following instances:

(1) Upon a *capias* grounded on an indictment for any crime whatsoever; or upon any *capias* from the chancery or king's bench, to compel a man to find sureties for the peace or good behaviour. 2 *Harw.* 86.

(2) Where one known to have committed a treason or felony, or to have given another a dangerous wound, is pursued either with or without a warrant, by a constable or private person; but where one lies under a probable suspicion only, and is not indicted, it seems the better opinion at this day (*Mr. Hawkins* says) that no one can justify the breaking open doors in order to apprehend him: (And this opinion he founds on *Coke's 4 Inst.* 177. and *Hale's pleas of the crown* 91.) 2 *Harw.* 87.

But Lord *Hale*, in his history of the pleas of the crown, says, that upon a warrant for probable cause of suspicion of felony, the person to whom such warrant is directed, may break open doors to take the person suspected, if upon demand he will not surrender himself, as well as if there had been an express and positive charge against him; and so (he says) hath the common practice obtained, notwithstanding the contrary opinion of Lord *Coke*: for in such case the process is for the king, and therefore a *non omittas* is implied. 1 *H. H.* 580, 583. 2 *H. H.* 117.

And as he may break open such person's own house, so much more may he break open the house of another to take him; for so the sheriff may do upon a civil process: But then he must at his peril see that the felon be there; for if the felon be not there, he is a trespasser to the stranger whose house it is. 2 *H. H.* 117.

But it seems that he that arrests as a *private man* barely upon suspicion of felony, cannot justify the breaking open of doors to arrest the party suspected, but he doth it at his peril, that is, if in truth he be a felon, then it is justifiable, but if he be innocent, but upon a reasonable cause suspected, it is not justifiable. 1 *H. H.* 82.

But a *constable* in such case may justify, and the reason of the difference is this: because that in the former case it is but a thing permitted to private persons to arrest for suspicion, and they are not punishable if they omit it, and therefore they cannot break open doors; but in case of a constable, he is punishable if he omit it upon complaint. 2 *H. H.* 92.

(3) Upon a warrant from a justice of the peace, to find sureties for the peace or good behaviour. 2 *Haw.* 86. 1 *H. H.* 582. 2 *H. H.* 117.

And in general, Mr. *Dalton* says, an officer upon any warrant from a justice, either for the peace or good behaviour, or in any case where the king is a party, may by force break open a man's house, to arrest the offender. *Dalt. c.* 169.

(4) On a warrant to search for stolen goods, the doors may be broken open, if the goods are there; and if they are not there, the constable seems indemnified, but he that made the suggestion, is punishable. 2 *H. H.* 151.

(5) Where forcible entry or detainer is found by inquisition before justices of the peace, or appears on their view. 2 *Haw.* 86.

(6) On a *capias utlagatum*, or *capias pro fine*. 2 *Haw.* 86.

(7) On the warrant of a justice of the peace for the levying of a forfeiture, in execution of a judgment, or conviction for it, grounded on any statute, which gives the whole or any part of such forfeiture to the king. 2 *Haw.* 86.

(8) Where an affray is made in an house, in the view or hearing of the constable, he may break open the doors to take them. 1 *Haw.* 137. 2 *Haw.* 87.

(9) If there be disorderly drinking or noise in a house, at an unseasonable time of night, especially in inns, taverns, or ale-houses, the constable or his watch, demanding entrance, and being refused, may break open the doors, to see and suppress the disorder. 2 *H. H.* 95.

(10) Wherever a person is lawfully arrested for any cause, and afterwards escapes, and shelters himself in an house. 2 *Haw.* 87.

But upon a general warrant, without expressing any felony, or treason, or surety of the peace, the officer cannot break open a door. 1 *H. H.* 584.

Neither ought doors to be broken open to take a person, who is required to take certain oaths by virtue of a statute, because in such case the warrant is not grounded on a precedent offence. 2 *Haw.* 87. 12 *Co.* 131.

But if an officer, to serve any warrant, enters into a house, the doors being open, and then the doors are locked upon him, he may break them open in order to regain his liberty. 2 *Haw.* 87.

Killing in the
arrest or pursuit.

7. If there be a warrant against a person, for a trespass or breach of the peace, and he flies and will not yield to the arrest, or being taken makes his escape; if the officer kills him, it is murder. 2 *H. H.* 117.

But if such person, either upon the attempt to arrest, or after the arrest, assault the officer, to the intent to make his escape from him, and the officer standing upon his guard, kills him, this is no felony;

The first part of the document is a list of names and titles, including:

 Mr. J. M. Smith, Secretary

 Mr. W. H. Jones, Treasurer

 Mr. R. L. Brown, Chairman

 Mr. T. G. White, Vice-Chairman

 Mr. C. D. Green, Corresponding Secretary

 Mr. F. E. Black, Recording Secretary

 Mr. A. S. Gray, Executive Committee

 Mr. B. N. Hall, Executive Committee

 Mr. K. P. Young, Executive Committee

 Mr. M. Q. Reed, Executive Committee

 Mr. L. V. Cook, Executive Committee

 Mr. N. W. Bailey, Executive Committee

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felony; for he is not bound to go back to the wall, as in common cases of *se defendendo*, for the law is his protection. 2 *H. H.* 118.

But where a warrant issueth against a person for felony, and either before arrest, or after, he flies and defends himself with stones or weapons, so that the officer must give over his pursuit, or otherwise cannot take him without killing him, if he kill him it is no felony. And the same law is, for a constable that doth it by virtue of his office, or on hue and cry. 2 *H. H.* 118.

But then there must be these cautions: 1. He must be a lawful officer; or there must be a lawful warrant. 2. The party ought to have notice of the reason of the pursuit, namely, because a warrant is against him. 3. It must be a case of necessity, and that not such a necessity as in the former case, where an assault is made upon the officer; but this is the necessity, namely, that he cannot otherwise be taken. 2 *H. H.* 119.

But tho' a private person may arrest a felon, and if he fly so as he cannot be taken without he be killed, it is excusable in this case for the necessity; yet it is at his peril, that the party be a felon; for if he be innocent of the felony, the killing (at least before the arrest) seems at least manslaughter; for an innocent person is not bound to take notice of a private person's suspicion. 2 *H. H.* 119.

8. A constable sworn and commonly known, and acting within his own precinct, need not shew his warrant; but he ought to acquaint the party with the substance of it. 2 *Haw.* 85.

Whether the constable need to shew his warrant.

And an officer giveth sufficient notice what he is, when he saith to the party, I arrest you in the king's name; and in such case, the party at his peril ought to obey him, tho' he knoweth him not to be an officer; and if he have no lawful warrant, the party grieved may have his action of false imprisonment. *Dalt. c.* 169.

But the learned editor of *Hale's* history observes hereupon, that the books referred to do intend the general warrant constituting such person an officer, as a bailiff, or the like, in a civil action; tho' it may be otherwise in case of felony, because in such case a private person may arrest a felon without any warrant at all. 2 *H. H.* 116.

But if he acts out of his precinct, or is not sworn and commonly known, he must shew his warrant if demanded. 2 *Haw.* 85, 86. Otherwise the party may make resistance, and needs not to obey it. *Dalt. c.* 169.

But if the constable has no warrant, but doth it by virtue of his office, as constable, it is sufficient to notify that he is constable, or that he arreits in the king's name. 1 *H. H.* 583.

But in the case of a warrant of distress, issued by a justice of the peace, for the levying a pecuniary forfeiture or sum of money, it is specially provided by the statute of the 27 *G. 2. c.* 20. that the officer executing the same, shall, if required, shew his warrant to the person whose goods are distrained, and shall suffer a copy thereof to be taken.

9. If the constable come unto the party, and require him to go before the justice, this is no arrest or imprisonment. *Dalt. c.* 170.

No arrest by words.

For bare words will not make an arrest, without laying hold on the person. 1 *Salk.* 79. 2 *Haw.* 129.

Retaking after
arrest.

10. It hath been holden, that if a constable, after he hath arrested the party by force of a warrant, suffer him to go at large, upon his promise to come again and find sureties, he cannot afterwards arrest him by force of the same warrant: However if the party return, and put himself again under the custody of the constable, it seems that it may be probably argued, that the constable may lawfully detain him, and bring him before the justice, in pursuance of such warrant; but in this the law doth not seem to be clearly settled. 2 *Harv.* 81.

But if the party arrested do escape, the officer upon fresh suit may take him again and again, so often as he escapeth, altho' he were out of view, or that he shall fly into another town or county. *Dalt. c.* 169.

V. What is to be done after the arrest.

By a private per-
son.

1. When a private person hath arrested a felon, or one suspected of felony, he may detain him in custody till he can reasonably dismiss himself of him; but with as much speed as conveniently he can, he may do any of these three things:

(1) He may carry him to the common gaol; but that is now rarely done. 1 *H. H.* 589. 2 *H. H.* 77.

(2) He may deliver him to the constable, who may either carry him to gaol, or to a justice of the peace. 1 *H. H.* 589.

(3) He may carry him immediately to a justice of the peace. 1 *H. H.* 589.

By a watchman.

2. If the constable, or his watch, hath arrested affrayers, or persons drinking in an alehouse disorderly at an unseasonable time of night, he may put the persons in the stocks, or in a prison if there be one in the vill, till the heat of their passion or intemperance is over, tho' he deliver them afterwards; or till he can bring them before a justice. 2 *H. H.* 95.

By an officer by
warrant.

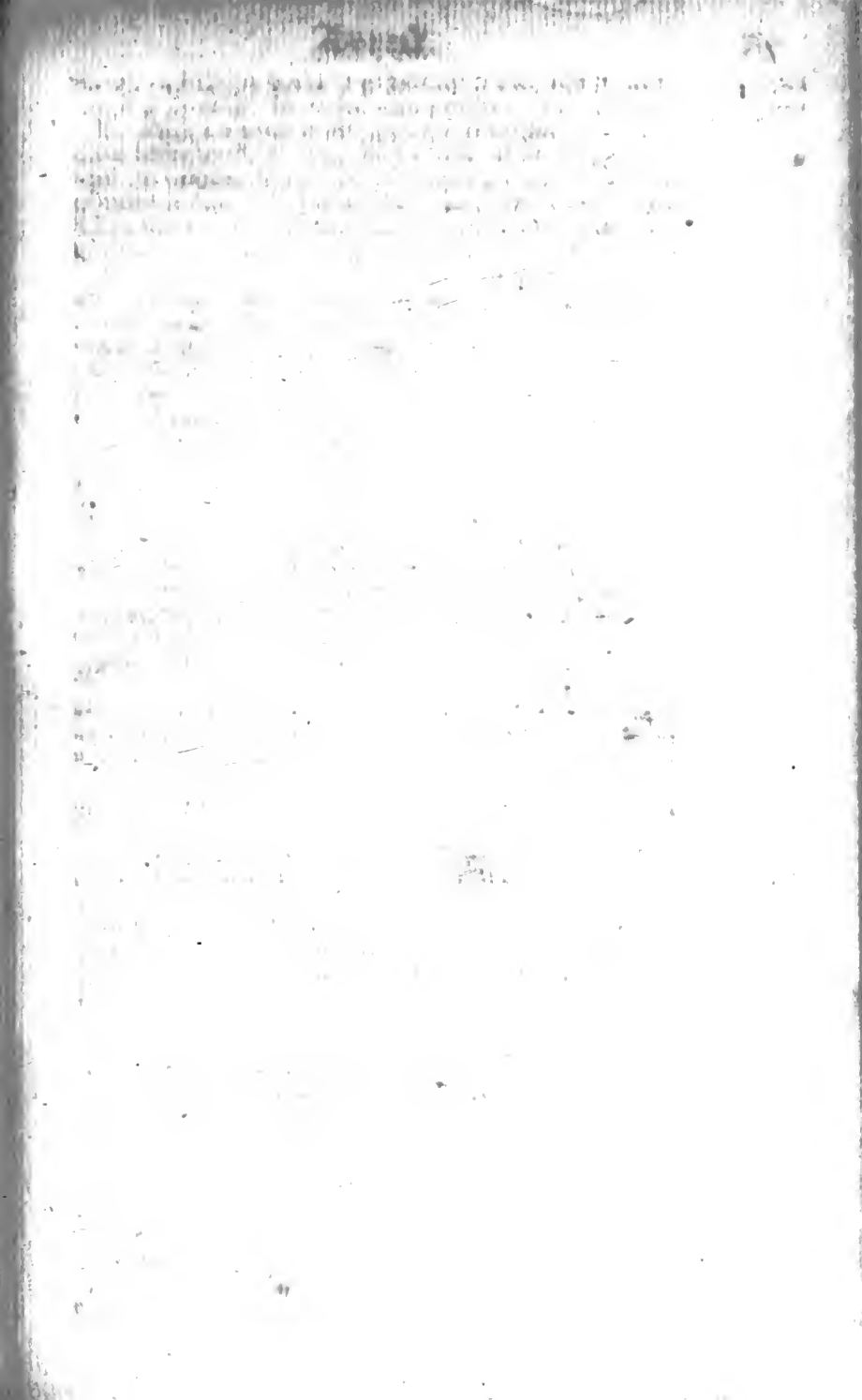
3. If the arrest is by virtue of a warrant, when the officer hath made the arrest, he is forthwith to bring the party, according to the direction of the warrant: If it be to bring the party before the justice who granted the warrant specially, then the officer is bound to bring him before the same justice; but if the warrant be to bring him before any justice of the county, then it is in the election of the officer, to bring him before what justice he thinks fit, and not in the election of the prisoner. 1 *H. H.* 582. 2 *H. H.* 112.

But if the time be unseasonable, as in or near the night, whereby he cannot attend the justice, or if there be danger of a present rescue, or if the party be sick, he may secure him in the stocks, or in an house, till the next day, or such time as it may be reasonable to bring him. 2 *H. H.* 120.

And when he hath brought him to the justice, yet he is in law still in his custody, till the justice discharge, or bail, or commit him. 2 *H. H.* 120.

Returning the
warrant.

4. But it is said, the constable is not obliged to return the warrant itself, but may keep it for his own justification, in case he should



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should be questioned for what he had done; but only to return what he has done upon it. Lord *Raym.* 1196.

5. And this seems to be implied in the statute of the 24 G. 2. Constable in-
c. 44. which enacteth, that no action shall be brought against any demised.
constable or other officer, or person acting by his order, and in his aid, for any thing done in obedience to the warrant of a justice of the peace, until demand hath been made, or left at the usual place of his abode, by the party, or by his attorney, in writing, signed by the party demanding the same, of the perusal and copy of such warrant, and the same hath been refused or neglected for six days after such demand: And if after compliance therewith, any such action shall be brought, without making the justice who signed the warrant defendant, on producing and proving such warrant at the trial, the jury shall give their verdict for the defendant. *f.* 6. And it is certain the constable cannot grant a perusal or copy of the warrant, unless he hath it in his custody.

6. By an ancient statute, 27 H. 6. c. 10. No sheriff shall take Fee for an arrest,
for any arrest, but 20*d.* and the bailiff which maketh the arrest 4*d.* on pain of 40*l.* half to the king, and half to him that will sue in sessions (or the courts above) and treble damages to the party injured.

Upon which statute perhaps may be founded the custom in many places, of giving 4*d.* to the constable with the warrant, for his trouble in executing the same: which indeed at that time might be a reasonable satisfaction; for 4*d.* then was worth more than ten times the value of 4*d.* now. Which decrease in the value of money, in this and many other cases depending upon ancient statutes, may seem to require some consideration.

The rewards for arresting or apprehending highwaymen and others, may be found under their respective titles.

Arson. See Burning.

Artificers. See Servants.

Assault and Battery.

I. *Assault, what.*

II. *Battery, what.*

III. *In what cases they may be justified.*

IV. *How punished.*

I. *Assault, what.*

ASSAULT, *assultus*, from the french *assayler*, is an attempt or offer, with force and violence, to do a corporal hurt to another; as by striking at him with or without a weapon; or presenting a gun at him, at such a distance to which the gun will carry; or pointing a pitch-fork at him, standing within the reach of it; or by holding up one's fist at him; or by any other such like act, done in an angry, threatenng manner. 1 *Harw.* 133.

And from hence it clearly follows, that one charged with an assault and battery, may be found guilty of the assault, and yet acquitted of the battery: But every battery includes an assault; therefore on an indictment of assault and battery, in which the assault is ill laid, if the defendant be found guilty of the battery, it is sufficient. 1 *Harw.* 134.

Notwithstanding the many ancient opinions to the contrary, it seems agreed at this day, that no words whatsoever can amount to an assault. 1 *Harw.* 134.

II. *Battery, what.*

Battery (from the Saxon *batte*, a club, or *beatan*, to beat, from whence cometh also the word *battle*) seemeth to be, when any injury whatsoever, be it never so small, is actually done to the person of a man, in an angry, or revengeful, or rude, or insolent manner, as by spitting in his face, or any way touching him in anger, or violently jostling him out of the way, and the like. 1 *Harw.* 134.

III. *In what cases they may be justified.*

A person may justify an assault, in defence of his person, or of his wife, or master, or parent, or child within age; and even a wounding may be justified in defence of his person, but not of his possessions. 3 *Salk.* 46.

Also if an officer having a lawful warrant lay hands on another to arrest him, or if a parent in a reasonable manner chastise his child, a master his servant, a schoolmaster his scholar, a gaoler his prisoner, and even a husband his wife as some say; or if one confine a friend who is mad, and bind and beat him in such a manner as is proper in his circumstances; or if a man force a sword from

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one who offers to kill another therewith; in all these cases, and such like, it is justifiable. 1 *Harv.* 130.

Likewise a person may justify in assault and battery of another, who doth menace or assault him, and attempt to beat him from his lawful watercourse or highway. *Pult.* 42.

Likewise, if a person comes into my house, and will not go out, I may justify laying hold of him, and turning him out. *Nels. Assault.*

And where a man in his own defence beats another who first assaults him, he may take advantage thereof, both upon an indictment, and upon an action; but with this difference, that on an indictment he may give it in evidence upon the plea of not guilty, but on an action he must plead it specially. 1 *Harv.* 134.

IV. How punished.

There is no doubt but that the wrong-doer is subject both to an action at the suit of the party, wherein he shall render damages; and also to an indictment at the suit of the king, wherein he shall be fined according to the heinousness of the offence. 1 *Harv.* 134.

And by 6 *G. c.* 23. *f.* 11. Assaulting in the street or highway, with intent to spoil people's cloaths, and so spoiling them, is felony and transportation.

And by 7 *G. 2. c.* 21. Assaulting with intent to rob, is also made felony and transportation.

And by 9 *An. c.* 16. Assaulting a privy counsellor in the execution of his office, is felony without benefit of clergy.

A private assault is not inquirable in the leet, not being a common nuisance, as all affrays are. 1 *Harv.* 135.

Warrant for an assault.

Westmorland. } To the constable of _____.

WHEREAS complaint hath been made before me J. P. esquire, one of his majesty's justices of the peace in and for the said county, upon the oath of A. I. of _____ in the said county, taylor, that A. O. of _____ aforesaid, butcher, did on the _____ day of _____ violently assault and beat him the said A. I. at _____ aforesaid in the county aforesaid: These are therefore in his said majesty's name, to command you forthwith to apprehend the said A. O. and to bring him before me to answer unto the said complaint, and to be further dealt withal according to law. Given under my hand and seal the _____ day of &c.

Indictment for an assault.

THE jurors for our lord the king upon their oath present, that A. O. of _____ in the said county, butcher, on the _____ day of _____ in the _____ year of the reign of _____ at _____ aforesaid in the county aforesaid, in and upon A. I. taylor, then and there being in the peace of god and of our said lord the king, with
force

force and arms, an assault did make, and him the said A. I. then and there did beat, wound, and evil i'treat, and then and there to him other enormous things did, to the great damage and hurt of him the said A. I. and to the evil example of all others offending in the like kind, and against the peace of our said lord the king, his crown and dignity.

Assizes.

Assize, what.

1. **A**SSISE (*assessio*) anciently signified in general, a court where the judges or assessors heard and determined causes; and more particularly upon writs of *assise* brought before them, by such as were wrongfully put out of their possessions. Which writs heretofore were very frequent; but now mens possessions are more easily recovered by ejectments, and the like. Yet still the judges in their circuits have a commission of *assise*, directed to themselves and the clerk of assize, to take assizes, and to do right upon such writs.

The circuit commissions.

2. To which commission of *assise*, four other commissions are now superadded; to wit,

(1) A commission of *general gaol delivery*, directed to the judges and the clerk of assize associate; which gives them power to try every prisoner in the gaol, committed for any offence whatsoever, but none but prisoners in the gaol.

(2) A commission of *oyer and terminer*, directed to the judges and many other gentlemen of the county; by which they are empowered to hear and determine treasons, felonies, and other misdemeanors, by whomsoever committed, whether the persons to be tried be in gaol or not in gaol.

(3) A commission or writ of *nisi prius*, directed to the judges and clerk of assize, by which civil causes brought to issue in the courts above, are tried in the vacation by a jury of twelve men of the county where the cause of action arises; and on return of the verdict of the jury to the court above, the judges there give judgment.

(4) A commission of the *peace* in every county of their circuit.

Sheriffs, justices, and others to attend there.

3. By the precept for the general gaol delivery abovementioned, the sheriff is commanded to attend there in person with his undersheriff; and to give notice to all justices of the peace, mayors, coroners, escheators, stewards, and also to all chief constables and bailiffs of hundreds and liberties, that they be then and there in their own persons, with their rolls, records, indentments, and other remembrances, to do those things which to their offices in that behalf appertain to be done.

By virtue whereof, all justices of the peace, mayors, and others abovementioned, of that county where the judges have their assizes, are bound to be present; and if they make default, without lawful impediment, the judges may set a fine upon them for their neglect.
Cr. Circ. 4.

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4. Also, by ancient custom (that is, by the common law of the land) before the coming of the judges, the high constables issue their warrants to the petty constables, to make presentments of all crimes and offences cognizable at the assizes; to the intent (as it seemeth) that the judges thereby may have a general information and knowledge, how the peace hath been kept: which presentments being delivered to the high constables, are by them delivered into court, and make up part of the rolls, and other remembrances abovementioned.

Constables presentments.

Which said warrants of the high constables perhaps may be best drawn upon the words of the commission of oyer and terminer, which is the largest of all the five commissions abovementioned: And then the form thereof may be thus;

Westmorland }
East Ward. } To the constable of — in the said county.

THES E are to require you the said constable, in his majesty's name, to make out a presentment in writing of all treasons, misprisions of treasons, insurrections, rebellions; counterfeitings, clipplings, washings, false coinings, and other falsities of the money of Great Britain, and of other kingdoms and dominions whatsoever; and of all murders, felonies, manslaughters, killings, burglaries, rapes of women, unlawful meetings and conventicles, unlawful uttering of words, assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligences, concealments, maintenance, oppressions, champerty, deceits, and all other evil doings, offences, and injuries whatsoever; and also the accessaries of them; by whomsoever, and in what manner soever, done, committed, or perpetrated, within your constableness. Which said presentment so made in writing as aforesaid, and signed by you, you are to deliver to me at — in the said county, on — the — day of — at the hour of — in the forenoon of the same day, that I may have the said presentment ready to be delivered to his said majesty's justices of oyer and terminer and general gaol delivery at the next assizes to be holden for the said county. Herein fail you not, as you will answer the contrary at your peril. Given under my hand, the — day of — in the year of our lord —

John Bownes, High Constable.

Attachment.

THIS word, as a law term, we have immediately from the French *attacher*, to tie, or make fast. The Italian word is *attacare*; the Spanish *attacar*; and the Saxon *tæcan*, to take.

It signifieth the taking of a man's body by commandment of a writ or precept; and is properly grantable in cases of contempts, against which for the most part all courts of record generally, but more especially those of Westminster hall, and above all the court of

Attachment.

king's bench, may proceed in a summary manner, according to their discretion. 2 *Haw.* 141.

But in the case of *K. and Bartlett*, H. 8 G. 2. it is said, that generally the sessions have not a power to award an attachment; but the court said, they would not determine how it would have been, if they had committed the person for contempt; but the ordinary and proper method is, by indictment. *Sess. Ca. V. 2.* 176.

Attainder.

THE difference between a man attainted and convicted is, that a man is said to be convicted before he hath judgment, as if a man be convicted by verdict or confession; and when he hath his judgment upon the verdict or confession, then he is said to be attainted. 1 *Inst.* 390.

That is to say, his blood is become (*attinctus*) tainted, stained, or corrupted: insomuch that by the common law, in cases of treason or felony, his children or other kindred cannot inherit his estate, nor his wife claim her dower; and the same cannot be restored or saved, but by act of parliament: and therefore in divers instances, there is a special provision by act of parliament, that such or such an attainder shall not work corruption of blood, loss of dower, nor disherison of heirs.

Attaint.

ATTAINT is a writ that lieth, where a false verdict in a court of record, upon an issue joined by the parties, is given. 1 *Inst.* 294. Which is treated of under title *Jurors*.

Attorney.

Derivation.

ATTORNEY is an ancient *English* word, and signifieth one that is set in the *turn*, stead, or place of another. 1 *Inst.* 51.

Acting before inrolled.

2. By the 2 G. 2. c. 23. (which by the 22 G. 2. c. 46. hath continuance to June 24. 1757, &c.) If any person shall act as attorney or solicitor, for gain or reward, without being duly admitted and inrolled; he shall forfeit 50*l.* with treble costs, to him who shall sue in 12 months in any court of record at *Westminster*, or at the assizes, or sessions where the offence shall be committed:

and no person shall be admitted to the
 office of a Justice of the Peace until he
 shall have taken the following oath:
 I, the undersigned, do hereby swear that
 I will faithfully discharge the duties
 of the office of Justice of the Peace
 assigned to me, and that I will not
 receive any bribe or reward for my
 services as such Justice of the Peace.
 Witness my hand and seal this _____
 day of _____ 19____.

 Justice of the Peace

and no proceedings thereupon shall be removed before judgment, or stayed by any *certiorari* or other writ. *f. 24, 25.*

3. No attorney or solicitor shall be capable to continue or be a justice of the peace, during such time as he shall continue in the business and practice of an attorney or solicitor. *5 G. 2. c. 18.* Acting as justice of the peace.

f. 2.

And if any person, not qualified according to the directions of this act, shall act as a justice of the peace; he shall forfeit 100 *l.* half to the king, and half to him that shall sue in any court of record.

f. 3.

4. No recusant convict shall practise as an attorney or solicitor; on pain of 100 *l.* in like manner. *3 F. c. 5. f. 8.* Acting being a recusant.

5. If any person who hath been convicted of forgery, perjury, or subornation, or common barratry, shall practise as an attorney or solicitor; he shall be transported for seven years. *12 G. c. 29.* Convicted of forgery, &c.

f. 4.

6. If any person, not legally admitted as an attorney or solicitor, shall act as such in any county court; he shall forfeit 20 *l.* with costs, to him who shall sue in 12 months in any court of record. *12 G. 2. c. 13. f. 7.* Who may act as attorney in the county court.

7. No person shall act as attorney or solicitor, at any general or quarter sessions of the peace, unless he hath been admitted and enrolled in one of the courts of record at *Westminster*; on pain of 50 *l.* with treble costs to him who shall sue in 12 months in any of the said courts at *Westminster*; and if any attorney shall permit any person to make use of his name in such sessions, he shall forfeit 50 *l.* in like manner. *22 G. 2. c. 46. f. 12.* Who may act as attorney in the sessions.

And no clerk of the peace, under-sheriff, or their deputies, shall act as solicitor, attorney, or agent at any general or quarter sessions; on like pain of 50 *l.* *f. 14.*

8. If a sworn attorney be chosen constable, he may have a writ of privilege for his discharge, because of his personal attendance which is required in the courts wherein he is an attorney. *2 Hawk. 63.* How far exempted from offices.

And, more generally, it is said, that attorneys shall not be elected to any office without their own consent, by reason of their said attendance in the courts. *Cro. Car. 11, 585.*

Yet it hath been said, that an attorney shall not be excused by privilege from offices, which may be executed by deputy; but only those which require personal duty. *March 39.*

Award.

IT is judged not foreign to the office of a keeper of the peace, to have some knowledge of the law contained under this title: Concerning which we will shew,

I. What things may be submitted to arbitration.

II. The several kinds of submission to arbitration.

III. The award; and therein what shall be deemed a good award, and what not.

I. What things may be submitted to arbitration.

Actions personal.

1. It is held clearly, that all matters of controversy, either of fact, or of a right in things and actions personal and uncertain, may be submitted to arbitration. 9 Co. 78.

Matters of freehold.

2. All matters of freehold, or any right and title to a freehold, cannot be submitted to arbitrament; for a freehold is not transferable from one to another, without livery and seisin: Yet if there be a submission concerning the right, title, or possession of lands and tenements, and the parties enter into mutual bonds, to stand to the award made relating to them, they forfeit their bonds unless they obey it. 1 Roll's Abr. 242, 244. Read. Arb. Wood 920.

A thing certain.

3. A thing certain, as a debt due by bond or record, an annuity, and the like, cannot be submitted otherwise than by writing; and it is most advisable that the parties enter into bonds. 1 Roll's Abr. 264. Cro. El. 422.

Criminal offences.

4. Criminal matters, as treasons, murders, felonies, and other offences indictable at the suit of the king, cannot be submitted to arbitrament; for it is for the good of the common wealth, that such offenders be made known and punished: and the king in such cases is a party, for whom the other parties cannot undertake. West. Symb. Part 2. f. 33.

But if the party injured proceeds by way of action, as he may in assaults and batteries, libels, and the like; the damages he sustained, or expects to recover, may be submitted to arbitration: for in such case the action is for himself, and not for the king. Compleat Arbitrator 28.

Matrimonial causes.

5. Also matrimonial causes, or any thing concerning the contract or dissolution of marriage, cannot be submitted to arbitrament. 1 Roll's Abr. 252.

But the damages a person sustained by a promise of marriage, or any thing relating to a marriage portion, may be submitted. 16 Ed. 4. 2.

II. The several kinds of submission to arbitration.

By parcel.

1. A submission by words is good, and the party in whose favour the award is made, hath a remedy to enforce a performance of

The first part of the book is devoted to a general history of the world, from the beginning of time to the present day. It is divided into three main periods: the ancient, the middle, and the modern. The ancient period covers the time from the beginning of the world to the fall of the Roman Empire. The middle period covers the time from the fall of the Roman Empire to the beginning of the modern period. The modern period covers the time from the beginning of the modern period to the present day.

The second part of the book is devoted to a general history of the United States, from the beginning of the country to the present day. It is divided into three main periods: the colonial, the revolutionary, and the modern. The colonial period covers the time from the beginning of the colony to the end of the colonial period. The revolutionary period covers the time from the beginning of the revolution to the end of the revolutionary period. The modern period covers the time from the beginning of the modern period to the present day.

The third part of the book is devoted to a general history of the world, from the beginning of time to the present day. It is divided into three main periods: the ancient, the middle, and the modern. The ancient period covers the time from the beginning of the world to the fall of the Roman Empire. The middle period covers the time from the fall of the Roman Empire to the beginning of the modern period. The modern period covers the time from the beginning of the modern period to the present day.

THE HISTORY OF THE UNITED STATES

The history of the United States is a story of growth and development. It begins with the first settlers who came to the New World in search of a better life. They found a land of opportunity and freedom, and they built a nation that has become a model for the world.

The story of the United States is a story of struggle and triumph. It is a story of a people who have overcome many hardships and challenges, and who have emerged as a great and powerful nation.

The history of the United States is a story of progress and achievement. It is a story of a people who have made great contributions to the world, and who have shown the way to a better future.

The history of the United States is a story of hope and faith. It is a story of a people who believe in the power of the American dream, and who are determined to make it a reality for all.

of it: Yet it is not expedient that any submission should be by parol, because the party may revoke it at pleasure, at any time before the award made, and that by word likewise; and the judges will rarely enforce the performance of an award, when either the submission or the award is by parol, because it lays so great a foundation for perjury. *Compl. Arb.* 21.

2. Submission may also be by *covenant*; but this method is seldom used: for tho' it contains the same certainty with a bond, yet the method of suing on a covenant is different, and more difficult than in suing on a bond. *Compl. Arb.* 7. 46. By covenant.

3. Submission by *rule of court* (A) is made in pursuance of the statute 9 & 10 W. c. 15. which enacteth as follows: By rule of court.

It shall be lawful for all merchants and traders, and others desiring to end any controversy, suit, or quarrel (for which there is no other remedy but by personal action, or suit in equity) by arbitration, to agree that their submission to the award or umpirage be made a rule of any of his majesty's courts of record, which the parties shall choose, and to insert such agreement in their submission, or the condition of the bond, or promise, whereby they submit themselves: Which agreement being so made, and inserted in their submission or promise, or condition of their respective bonds, shall or may, on producing an affidavit thereof, made by the witnesses thereunto, or any one of them, in the court of which the same is agreed to be made a rule, and reading and filing the said affidavit in court, be entred of record in such court; and a rule shall thereupon be made in the said court, that the parties shall submit to, and finally be concluded by such arbitration or umpirage; and in case of disobedience to such arbitration or umpirage, the party neglecting or refusing to perform the same, or any part thereof, shall be subject to all the penalties of contemning a rule of court; and the court on motion shall issue process accordingly; which process shall not be stopped or delayed in its execution, by any order of any other court of law or equity, unless it shall be made appear on oath to such court, that the arbitrators or umpire misbehaved themselves, and that such award was procured by corruption, or other undue means.

And this is allowed to be the most expeditious way; and the method is to get a counsel to move in any of the courts to have it made a rule, which in such case is never denied; and then the party is liable to the same penalties that he would be for disobeying any other rule of court. *Compl. Arb.* 6. 47.

4. Or lastly, the submission may be by *bond* (B). In which case, each party must give to the other a bond; which bond, and condition, must contain exactly the same words, only changing the names of the parties. And the penalty of the bond should at least be the value of the thing submitted; so that the party may rather abide by the award, than forfeit his obligation. *Compl. Arb.* 46. By bonds.

And undoubtedly a submission by bond in some respects, exceeds a submission by rule of court; for an award made pursuant to bonds of submission, may bind the parties executors; but if the party, who refuses to perform an award made pursuant to a rule

of court, shall die, the act of parliament directing that the prosecution shall be carried on by attachment, the remedy being lost, the award is lost likewise. *Compl. Arb. 34.*

Both by bond and rule of court.

5. Sometimes the submission is both by bond and rule of court, by adding the party's consent at the bottom of the condition of the bond; and this is still the best way, for then the party may proceed which way he pleases: and it is said, that he may proceed both ways; that is to say, both on the bond, and have an attachment likewise for the contempt. *1 Salk. 73.*

Whether the submission may be countermanded.

6. But in which way soever the submission is made, the same nevertheless may be revoked, tho' made irrevocable by the strongest words; for a man cannot by his own act, make such authority or power not countermandable, which by the law and in its own nature is countermandable. *8 Co. 82.*

But if the submission be by bond, if the party revokes, he forfeits his obligation, for that he hath broken the words of the condition, which are, that he shall stand to and abide the award. And if he revokes, he must likewise give notice of the revocation; and if the submission was by bond, the revocation must be in writing. *8 Co. 82.*

And if the submission be made a rule of court, pursuant to the act of parliament; if either of the parties revokes, the court will grant an attachment. *Compl. Arb. 82.*

But if the submission be by word, the party may revoke at pleasure, and he forfeits nothing; but he must in this case likewise give notice of the revocation, tho' it need not be in writing: and the notice must be to the arbitrators themselves. *8 Co. 82.*

III. The award (C); and therein what shall be deemed a good award, and what not.

Arbitrators cannot administer an oath.

Award best to be in writing.

Whether it shall be upon stamp.

Award to be according to the submission.

1. The arbitrators cannot injoin an oath to the witnesses, there being no law which gives them any such power.

2. It is highly convenient that the award be in writing, and so to be mentioned in the submission. *Compl. Arb. 34.*

3. It is not required by any of the stamp acts, that an award by name shall be on stamped paper or parchment; nor doth it seem to be comprehended under any description in the said acts, unless it be under these general words [*obligatory instrument*]; and if so, then it shall be on a double sixpenny stamp.

4. One thing essential to a good award, is, that it be made, with respect to persons and things, according to the submission. *Wood 921.*

Upon which ground, as the arbitrators are, with respect to the things submitted, circumscribed and tied down to the submission; so in several cases it has been disputed, whether their awarding releases to the time of the award, and not to the time of the submission, was good; it is therefore most advisable to award releases to the time of the submission; tho' it is now clearly held, that general releases shall extend only to the time of the submission, and that, if there be releases awarded to the time of the award, they shall be good, unless it be shewn on the other side, that some

The first part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Chief Justice". It appears to be a formal record or a list of officials. The text is somewhat faded and difficult to read in many places.

The Hon. Mr. Justice
 The Hon. Mr. Chief Justice

THE HON. MR. JUSTICE

The second part of the document contains several paragraphs of text, likely a report or a set of proceedings. The text is dense and contains many words that are difficult to decipher due to fading and the quality of the scan. It appears to be a formal document, possibly a court record or a government report.

The Hon. Mr. Justice
 The Hon. Mr. Chief Justice
 The Hon. Mr. Justice
 The Hon. Mr. Chief Justice

new matter hath arisen between the parties between the submission and award. 1 Roll Abr. 242. 6 Mod. 34.

If the submission be, *so as the award be ready to be delivered to the parties or to such of them as shall desire the same*, the parties so bound are themselves obliged to take notice of the award at their peril; but if the words of the submission be, *so that the award be delivered to each party by such a day*, then it must be delivered to each party accordingly. Read. Arb. Wood 921.

But tho' the words of the submission may be such, as will oblige the parties to take notice of the award at their peril; yet if the arbitrators award that one of the parties shall do an act, which depends upon another first to be done of the other party, he must have notice of it; at least the party who would take advantage of it, must shew that he hath done what was necessary on his part. Compl. Arb. 12.

5. Also, it is required, that the award be beneficial, and appoint something advantageous to either party; for an award of one side only, is not good: so if an award be, that one of the parties shall go to Rome, when it appears that there is no advantage to the other party by his going, it is void. Wood 922.

So if a man and woman submit themselves to an award, it is no good award that they shall intermarry, for this is not intended any advantage. 1 Roll Abr. 252.

6. Also it is required in a good award, that it be possible and lawful. Wood 922.

Thus, if an award be, that one of the parties shall kill, steal, forge a deed, or the like, it is void. 1 Inst. 206.

In like manner, if it be awarded, that money shall be paid to an infant, and that he shall make a release, it is void; for the infant's release is not good in law.

Also it is held, that where a thing is awarded to be done, which afterwards becomes impossible by the act of god, the party is excused; as if an award be, to deliver a horse before such a day, and he dies before that day. 21 Ed. 4. 70.

7. Also, it is required, that the award be certain and final. Wood 922.

Upon which ground it hath been resolved, that if the arbitrators award, that one of the parties beg the other's pardon before such a mayor, or such and such persons, it is good and certain enough; but if the award be, that he shall beg pardon in such manner and in such place as the other party shall appoint, it is not good: for the arbitrators are to determine, and not to make such party his own judge in his own cause. And tho' the time and place be but circumstances, yet in this sort of satisfaction they make the most considerable part. 1 Salk. 71.

Upon which ground also, the arbitrators cannot regularly reserve any thing for their future judgment, when the time allowed them is expired; for then such their award is not certain and final. Cro. Jac. 585.

H. 13 G. Dudley and Nettleford. Upon a reference it was awarded, that the plaintiff should pay the costs; and there being

no body appointed to tax them, the court supplied it by ordering the matter to do it. *Strange 737.*

Award to be construed favourably, except in case of partiality or corruption.

8. But if these things are observed, the award shall be expounded according to the intent of the arbitrators, and not literally, and shall not be unravelled in a court of equity, unless there was corruption in the arbitrators. *10 Co. 57. Wood 922. Read. Arb.*

But in the case of corruption, or other unfair practice, it is enacted by the aforefaid statute of 9 & 10 W. c. 15. that any arbitration or umpirage procured by corruption or undue means, shall be deemed void, and accordingly be set aside by any court of law or equity, so as complaint thereof be made in the court where the rule is made, before the last day of the next term after publishing the arbitration. *f. 2.*

But generally, as the arbitrators are persons of the parties own chusing, and as the law presumes that every man will be so wise as to pitch upon a person whose understanding and honesty he can rely on; it hath seldom happened, that an award was held void when there appeared nothing else to vitiate it, especially in a court of law: yet awards have been, and are often set aside in a court of equity, for corruption and want of understanding in the arbitrators. *Compl. Arb. 73.*

Therefore it is the interest of both parties, to chuse men of honesty and understanding to be their arbitrators, and to acquaint them truly with the facts they are to go upon; for if they appear to be mistaken in a matter of fact, a court of equity will set aside the award. *2 Vern. 705.*

But a bare suggestion of want of understanding, or want of honesty, will not be sufficient; the proof must be strong, and the rather, because (as was said) they are of the party's own chusing, who by his choice of them, admitted them to be wise and honest enough for his purpose. *Compl. Arb. 74.*

If a submission is to three arbitrators, or any two of them, and two of them by fraud or force will exclude the other; that alone is sufficient to vitiate the award; or if they have private meetings, and admit one of the parties, but give no notice to the other, but suffer the attorney of the party whom they admitted, to draw up the award; such award shall be set aside for partiality and unfairness. *2 Vern. 514.*

It is a general rule in equity, that when it appears that any one of the arbitrators were any way interested in the matters in controversy, the award is to be set aside. *Compl. Arb. 75.*

And it is the strongest argument of partiality, to shew that the arbitrators received from either of the parties any considerable sum of money, or any other present which may be a temptation to act corruptly; but the sum or present must be proved to be so exorbitant, as to induce the court to believe that it biased their judgments; otherwise it will be of no effect. *Compl. Arb. 76.*

Where the award appoints no time, the thing is to be done immediately.

9. If the arbitrators award a thing to be done, it may be proper for them to appoint a time and place for the doing of it; and the party who would take advantage of it, must shew that he has done

The first of these is the fact that the
 government has been unable to raise
 sufficient funds to meet its obligations.
 This is due to a number of causes,
 including the high cost of the war,
 the depreciation of the paper money
 issued, and the refusal of the states
 to contribute their share. The
 result has been a severe financial
 crisis, with the government unable to
 pay its debts or to meet its other
 obligations. This has led to a
 loss of confidence in the government
 and to a general feeling of despair
 among the people. The government
 has been forced to resort to
 desperate measures, such as the
 printing of more paper money, in
 order to keep the country from
 sliding into bankruptcy. These
 measures have only made the
 situation worse, and the government
 is now in a desperate straits.
 It is clear that the government
 must take immediate action to
 reform its financial system and to
 restore confidence in its ability to
 manage the country's affairs. This
 will require a complete reorganization
 of the government's financial
 structure, and a new system of
 raising revenue. The government
 must also take steps to reduce its
 expenditures, and to improve its
 efficiency. Only by these means
 can the government hope to meet
 its obligations and to restore
 confidence in its ability to govern
 the country.

done what was requisite on his part: but if a thing is to be done generally, without mentioning time and place, it shall be done immediately. 2 *Brown.* 311.

10. If the submission is by rule of court, it is necessary that there be a personal demand of the thing awarded; and the party must make affidavit of such demand, before he can have an attachment. 1 *Salk.* 83. Demand to be before attachment.

11. If a sum of money be awarded to one of the parties, and that upon the payment thereof they both shall give mutual releases; if he who is to receive the money, refuses it, yet upon a tender and refusal, he is as much obliged to sign a release as if he actually received it. 1 *Salk.* 75. On tender and refusal, the party refusing shall nevertheless sign a release.

A. Form of a submission by rule of court.

WHEREAS divers disputes and controversies have arisen, and are now depending, between A. B. of _____ in the county of _____ yeoman, of the one part, and C. D. of _____ in the said county, yeoman, of the other part, touching and concerning _____ Now for the ending and deciding thereof, it is hereby mutually agreed by and between the said parties, that all matters in difference between them for, touching, and concerning all and every the matters and things herein above specified and particularly mentioned, shall be referred and submitted to the arbitrament, final end, and determination of A. A. of _____ in the said county, gentleman, B. A. of _____ in the said county, yeoman, and C. A. of _____ in the said county, yeoman, or any two of them, arbitrators indifferently elected by the said parties, so as the said arbitrators, or any two of them, do make and publish their award in writing ready to be delivered to the said parties, or such of them as shall desire the same, on or before the _____ day of _____ next ensuing the date hereof: And it is hereby mutually agreed by and between the said parties, that this submission shall be made a rule of his majesty's court of king's bench at Westminster. In witness whereof the said parties to these presents have hereunto set their hands this _____ day of _____ in the _____ year &c.

B. Arbitration bond.

KNOW all men by these presents, that I A. B. of _____ in the county of _____ gentleman, am held and firmly bound to C. D. of _____ in the said county of _____ yeoman, in _____ pounds of good and lawful money of Great Britain, to be paid to the said C. D. or to his certain attorney, his executors, administrators, or assigns: To which payment well and truly to be made, I bind my self, my heirs, executors, and administrators firmly by these presents, sealed with my seal, and dated the _____ day of _____ in the _____ year of the reign of our sovereign lord George the second, of Great Britain, France and Ireland, king,

king, defender of the faith, and so forth, and in the year of our lord _____.

Condition to stand to the award of two arbitrators, in common form:

THE condition of the above obligation is such, that if the above bound A. B. his heirs, executors, and administrators, and every of them, for and on his and their parts and behalfs, do and shall well and truly stand to, obey, abide, perform, observe and keep the award, order, arbitrament, final end and determination of A. A. of _____ esquire, and B. A. of _____ gentleman, arbitrators indifferently named, elected, and chosen, as well for and on the part and behalf of the abovebound A. B. as of the abovenamed C. D. to arbitrate, award, order, adjudge and determine of and concerning all and all manner of action and actions, cause and causes of action and actions, suits, bills, bonds, specialties, judgments, executions, extents, accounts, debts, dues, sum and sums of money, quarrels, controversies, trespasses, damages and demands whatsoever, both in law and equity, or otherwise howsoever, which at any time or times heretofore have been had, made, moved, brought, commenced, sued, prosecuted, committed, omitted, done or suffered by or between the said parties, so as the said award be made in writing, and ready to be delivered to the said parties, on or before the _____ day of _____ now next ensuing, then this obligation to be void, otherwise of force.

If the parties have a mind to make their submission a rule of court, then this may be added:

And the abovebound A. B. doth agree and desire, that this his submission be made a rule of his majesty's court of king's bench at Westminster, pursuant to the act of parliament in such case made and provided.

Condition to stand to the award of three arbitrators, or any two of them, and an umpire appointed:

THE condition of this obligation is such, that if the abovebound A. B. his heirs, executors, and administrators, for and on his and their parts and behalfs, shall and do well and truly stand to, obey, abide, observe, perform, fulfil, and keep the award, order, arbitrament, final end and determination of _____ or any two of them, arbitrators indifferently elected and made, as well by and on the part and behalf of the said A. B. as by and on the part and behalf of the abovenamed C. D. to arbitrate, award, order judge and determine, of and concerning all and all manner of action and actions, cause and causes of action and actions, suits, bills, bonds, specialties, covenants, contracts, promises, accounts, reckonings,

The first of these is the fact that the
 government has been successful in
 maintaining a high level of
 economic growth. This has been
 achieved through a combination of
 factors, including a strong
 industrial base, a highly skilled
 workforce, and a stable political
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 also been successful in
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 inflation, which has helped to
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 currency and the confidence of
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ings, sums of money, judgments, executions, extents, quarrels, controversies, trespasses, damages and demands whatsoever, at any time heretofore had, made, moved, brought, commenced, sued, prosecuted; done, suffered, committed, or depending by or between the said parties; so as the award of the said arbitrators, or any two of them, be made and set down in writing, under their or any two of their hands and seals, ready to be delivered to the said parties in difference, on or before the _____ day of _____ now next ensuing; then this obligation to be void, otherwise of force.

And if the said arbitrators shall not make such their award of and concerning the premises, within the time limited as aforesaid, then if the said A. B. his heirs, executors, and administrators, for and on his and their part and behalf, do and shall well and truly stand to, observe, perform, fulfil and keep the award, determination, and umpirage [if the umpire be named] of _____ being a person indifferently named and chosen between the said parties, for umpire; [if not named] of such person as the said arbitrators shall indifferently chuse for umpire in and concerning the premises; so as the said umpire do make and set down his award and umpirage in writing, under his hand and seal, ready to be delivered to the said parties in difference, on or before the _____ day of _____ now next ensuing: Then this obligation to be void, otherwise of force.

[And the abovebound A. B. doth agree and desire, that this his submission be made a rule of his majesty's court of king's bench at Westminster, pursuant to the act of parliament in such case made.]

C. Form of an award.

TO all to whom these presents shall come, we A. B. of _____ and C. D. of _____ do send greeting.

Whereas there are several accounts depending, and divers controversies have arisen, between _____ of _____ yeoman, of the one part, and _____ of _____ yeoman, of the other part; And whereas, for the putting an end to the said differences, they the said _____ and _____ by their several bonds or obligations bearing date _____ last past, are reciprocally become bound each to the other, in the penal sum of _____ to stand to, abide, perform, and keep the award, order, and final determination of us the said _____ so as the said award be made in writing and ready to be delivered to the parties in difference on or before _____ next ensuing, as by the said obligations and conditions thereof may appear: Now know ye, that we the said arbitrators, whose names are hereunto subscribed, and seals affixed, taking upon us the burden of the said award, and having fully examined and duly considered the proofs and allegations of both the said parties, do make and publish this our award between the said parties in manner following; that is to say, First, we do award and order, that all actions, suits, quarrels, and controversies whatsoever, had, moved, arisen, and depending between the said parties in law or equity, for any manner of cause whatsoever touching the said premises, to the day of the date here-

of,

of, shall cease and be no farther prosecuted; and that each of the said parties shall pay and bear his own costs and charges in any wise relating to, or concerning the premisses. And we do also award and order, that the said _____ shall deliver or cause to be delivered to the said _____ at _____ within the space of _____ &c. And further, we do hereby award and order, that the said _____ shall on or before _____ pay or cause to be paid unto the said _____ the sum of _____ We do also award and order &c. And lastly, We do award and order, that the said _____ and _____ on payment of the said sum of _____ shall in due form of law, execute each to the other of them, or to the other's use, general releases, sufficient in the law for the releasing by each to the other of them, his heirs, executors, and administrators, of all actions, suits, arrests, quarrels, controversies, and demands whatsoever, touching or concerning the premisses aforesaid, or any matter or thing thereunto relating, from the beginning of the world, until the _____ day of _____ last past (viz. the day of the date of the arbitration bonds). In witness whereof we have hereunto set our hands and seals the _____ day of _____.

Form of an umpirage.

(RECITE the arbitration bonds, as before) Now know ye, that I _____ umpire indifferently chosen by _____ having deliberately heard and understood the griefs and allegations and proofs of both the said parties, and willing (as much as in me lieth) to set the said parties at unity and good accord, do by these presents arbitrate, award, order, decree, and judge as followeth; That is to say, &c.

The first of these is the fact that the
 population of the city has increased
 rapidly since the war. This is due
 to the fact that the city has
 become a center of industry and
 commerce. The second fact is
 that the city has become a center
 of education. The third fact is
 that the city has become a center
 of culture.

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Badger of Corn. See Corn.

Bail.

I. What it is.

II. Difference between bail and mainprise.

III. When a person may be discharged without bail.

IV. Who may or may not be bailed.

V. Who may bail, and the manner of it.

VI. Requiring excessive bail.

VII. Denying bail where it ought to be granted.

VIII. Granting bail where it ought to be denied.

IX. Of bail by writ of habeas corpus.

X. Acknowledging bail in another man's name.

I. What it is.

BAIL (from the French *bailler*, to deliver) signifies the delivery of a man out of custody, upon the undertaking of one or more persons for him, that he shall appear at a day limited, to answer and be justified by the law. *Hale's Pl. 96.*

II. Difference between bail and mainprise.

The difference between bail and mainprise is, that mainpernors are only surety, but bail is a custody; and therefore the bail may retake the prisoner, if they doubt he will fly, and detain him, and bring him before a justice, and the justice ought to commit the prisoner in discharge of the bail, or put him to find new sureties. *Hale's Pl. 96.*

III. Where a person may be discharged without bail.

If a person be brought before a justice, if it appears that no felony is committed, he may discharge him; but if a felony be committed, tho' it appears not that the party accused is guilty, yet he cannot discharge him, but must commit or bail him. *Hale's Pl. 98.*

IV. Who may or may not be bailed.

At the common law, bail was allowed in all cases but homicide; but now the statute of the 3 Ed. 1. c. 15. directeth what offenders shall be bailed, and what not. *Hale's Pl. 97.*

It is true, the said statute only prescribeth, who shall or shall not be let to bail by the *sheriff*; but by the 1 *Q* 2 *P.* & *M.* c. 13. it is enacted, that no justice or justices of the peace shall let to bail or mainprise any person not replevisable by the said statute of 3 *Ed.* 1. c. 15.

Which statute is as follows: *Forasmuch as sheriffs and others, which have taken and kept in prison persons detested of felony, and incontinent have let out by replewin such as were not replevisable, and have kept in prison such as were replevisable, because they would gain of the one party and grieve the other; and forasmuch as before this time it was not determined which persons were replevisable, and which not, but only those that were taken for the death of man, or by commandment of the king, or of his justices, or for the forest: It is provided, that such prisoners as before were outlawed, and they which have abjured the realm, provors, and such as be taken with the manner, and those which have broken the king's prison, thieves openly defamed and known, and such as be appealed by provors so long as the provors be living, (if they be not of good name,) and such as be taken for houseburning feloniously done, or for false money, or for counterfeiting the king's seal, or persons excommunicate taken at the request of the bishop, or for manifest offences, or for treason touching the king himself, shall be in no wise replevisable by the common writ, nor without writ. But such as be indicted of larceny by inquest taken before sheriffs or bailiffs by their office, or of light suspicion, or for petit larceny, that amounteth not above the value of 12 d. if they were not guilty of some other larceny aforetime, or guilty of receipt of felons, or of commandment, or force, or of aid in felony done, or guilty of some other trespass for which one ought not to lose life nor member, and a man appealed by a provor after the death of the provor (if he be no common thief nor defamed), shall from henceforth be let out by sufficient surety, whereof the sheriff will be answerable, and that without giving ought of their goods.*

Sheriffs and others) That is to say, sheriffs and gaolers that have custody of gaols; so that this act extends not to any of the king's justices or judges of any superior courts of justice. 2 *Inst.* 185. But by a subsequent statute (as hath been said) it is extended to justices of the peace.

But only those, &c.) Here are first set down four sorts of persons which before this act were not bailable by the common writ *de homine replegiando*:

1. *Those that were taken for the death of a man*] By the ancient law of the land, in all cases of felony, if the party accused could find sufficient sureties, he was not to be committed to prison; but afterwards it was provided by parliament, that in case of homicide the offender was not bailable. 2 *Inst.* 186.

And even if a person hath dangerously wounded another, the justice ought to be very cautious how he takes bail, till the year and day be past; for if the party die, and the offender appear not, he is in danger of being severely fined. 1 *Harw.* 138.

And this statute makes no distinction between such homicide as is malicious, and that which happens by misadventure or in self defence:

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...the ... of ... the ... of ... the ... of ...

...the ... of ... the ... of ... the ... of ...

...the ... of ... the ... of ... the ... of ...

...the ... of ... the ... of ... the ... of ...

...the ... of ... the ... of ... the ... of ...

...the ... of ... the ... of ... the ... of ...

The first thing I noticed when I stepped
 out of the train was the cold air. It was
 a sharp contrast to the warm, humid
 climate of the South. I had heard that
 the weather in the North was harsh, but
 I didn't realize how different it would
 be. The trees were bare, and the ground
 was covered in a thin layer of snow.
 I had never seen snow before, and it
 was a beautiful sight. I had heard
 that the people in the North were
 different, but I didn't know how
 different they would be. They were
 more reserved, more formal, and more
 serious. I had heard that the people
 in the South were more relaxed, more
 friendly, and more open. I had heard
 that the people in the North were
 more educated, more cultured, and
 more sophisticated. I had heard that
 the people in the South were more
 simple, more practical, and more
 down-to-earth. I had heard that the
 people in the North were more
 ambitious, more driven, and more
 successful. I had heard that the
 people in the South were more
 content, more satisfied, and more
 happy. I had heard that the people
 in the North were more
 intelligent, more thoughtful, and
 more creative. I had heard that the
 people in the South were more
 loyal, more devoted, and more
 honest. I had heard that the people
 in the North were more
 independent, more self-reliant, and
 more confident. I had heard that the
 people in the South were more
 dependent, more trusting, and more
 humble. I had heard that the people
 in the North were more
 assertive, more assertive, and more
 confident. I had heard that the
 people in the South were more
 passive, more passive, and more
 humble. I had heard that the people
 in the North were more
 assertive, more assertive, and more
 confident. I had heard that the
 people in the South were more
 passive, more passive, and more
 humble.

defence: And it seems agreed, that justices of the peace, who have power at this day to bail a man arrested for a *light suspicion* of homicide, cannot bail any such person for manslaughter, or even excusable homicide, if it manifestly appear that he was guilty of the fact, let it be ever so plain that it cannot amount to murder. 2 *Harw.* 95, 105.

2. *Or by commandment of the king*] That is, by matter of record in one of his courts, according to law; and not an extrajudicial commandment. 2 *Inst.* 186, 187. So also it is provided in the petition of rights 3 *Car.* that no person shall be detained in prison by the king's special command, without cause certified.

And because some courts, as the king's bench, are before the king, and some before his justices, therefore the act saith, *by commandment of the king*, and the next words be, *or of his justices.* 2 *Inst.* 186.

3. *Or of his justices*] That is, of any of the courts of *Westminster*, or justices of assize. 2 *Harw.* 96.

4. *Or for the forest*] But as to imprisonment for offences in forests, the law hath been much mitigated by later statutes. 2 *Harw.* 98.

All these four are excepted out of the common writ *de homine replegiando*, that the sheriff in his county court, which is not a court of record, shall not replevy any of these four that are committed, altho' it should be by an unlawful commitment; but the superior courts at *Westminster*, upon an *habeas corpus*, shall do justice to the party in all these four cases. 2 *Inst.* 187.

Next, the act doth further provide, that these kinds of prisoners hereafter following (being 13 in number) shall not be replevisable:

1. *Such prisoners as before were outlawed*] Persons outlawed are *attainted* in law, and therefore are not bailable; for the intentment of the law is, that the person standeth indifferent whether he be guilty or no; and not if he be convicted or attainted. 2 *Inst.* 188.

2. *And they which have abjured the realm*] For these also are attainted upon their own confession, and therefore not bailable at all by law. 2 *Inst.* 188.

3. *Provors*] A provor, or approver, is a person that confesseth the felony with which he is charged, and undertakes to *prove* another guilty of the same crime; which if he does, he saves his own life, otherwise he shall be immediately executed. And the reason why they are not bailable is, because they are guilty by their own confession, and therefore they do not stand indifferent. 2 *Inst.* 188.

But this concerns not justices of the peace, because no man can become an approver before them, for that they cannot assign a co-roner. *Hale's Pl.* 102.

4. *And such as be taken with the manner*] For in this case likewise, he standeth not indifferent whether he be guilty or no, being taken with the *mainer*, that is, with the thing stolen as it were in his *band*, anciently called *handbabbend*, and the like was anciently called

called *backberend*, as a bundle or fardle at his back; which was used to signify manifest theft. 2 *Inst.* 188.

5. *And those which have broken the king's prison*] Here are two offences; first, his breaking of the prison, for it is presumed that he who is innocent will never break prison: and secondly, his flying, because he confesseth the fact who flies from judgment. 2 *Inst.* 188.

6. *Thieves openly defamed and known*] Who, as it seems, ought not to be bailed for any fresh felony, whereof there is probable evidence against them. But this seems in a great measure to be left to the discretion of the person who has power to bail them, who on consideration of the circumstances of the whole matter, and the probabilities on both sides, if he finds it reasonable strongly to presume them to be guilty, ought not to bail but commit them. 2 *Harv.* 99.

7. *Such as be appealed by provors, so long as the provors be living, if they be not of good fame*] The appeal of the approver is forcible against the appellee, because the approver confesseth himself guilty of the same felony, and therefore it serveth in nature of an indictment against the appellee, so long as the approver liveth, unless the appellee be of good fame. 2 *Inst.* 188.

8. *And such as be taken for houseburning feloniously done*] This was felony by the common law. 2 *Inst.* 188.

9. *Or for false money*] This was treason by the common law. 2 *Inst.* 188.

10. *Or for counterfeiting the king's seal*] This was also treason by the common law. 2 *Inst.* 188.

11. *Or persons excommunicate, taken at the request of the bishop*] That is, he that is certified into the chancery by the bishop to be excommunicated, and after is taken by force of the king's writ of *excommunicato capiendo*, is notailable: For in ancient time men were excommunicated but for heresies, or other heinous causes of ecclesiastical cognizance, and not for small or petty causes; and therefore in those cases the party was notailable by the sheriff or gaoler without the king's writ; but if the party offered sufficient caution *de parendo mandatis ecclesiae in forma juris*, then should the party have the king's writ to the bishop to accept his caution, and to cause him to be delivered: And if the bishop will not fend to the sheriff to deliver him, then shall he have a writ out of the chancery to the sheriff for his delivery: Or if he be excommunicated for a temporal cause, or for a matter whereof the ecclesiastical court hath no cognizance, he shall be delivered by the king's writ without any satisfaction. 2 *Inst.* 189.

12. *For manifest offences*] Which seems to be understood of inferior crimes of an enormous nature under the degree of felony; as dangerous riots, exorbitant rescoues, misprision of treason, *præmunire*, and such like heinous offences. Yet it seems to be in a great measure left to discretion, to judge in what cases their crime

The first part of the book is devoted to a general introduction to the subject of the history of the world. The author begins by pointing out that the history of the world is not a mere chronicle of events, but a study of the human mind and its development. He then proceeds to discuss the various stages of human civilization, from the earliest times to the present day. The author's treatment is comprehensive and covers a wide range of subjects, including politics, economics, and social customs. The book is written in a clear and concise style, and is suitable for both students and general readers.

The second part of the book is devoted to a detailed study of the history of the world. The author begins by discussing the early history of the world, from the time of the first man to the beginning of the Christian era. He then proceeds to discuss the history of the world from the beginning of the Christian era to the present day. The author's treatment is comprehensive and covers a wide range of subjects, including politics, economics, and social customs. The book is written in a clear and concise style, and is suitable for both students and general readers.

The third part of the book is devoted to a detailed study of the history of the world. The author begins by discussing the early history of the world, from the time of the first man to the beginning of the Christian era. He then proceeds to discuss the history of the world from the beginning of the Christian era to the present day. The author's treatment is comprehensive and covers a wide range of subjects, including politics, economics, and social customs. The book is written in a clear and concise style, and is suitable for both students and general readers.

The fourth part of the book is devoted to a detailed study of the history of the world. The author begins by discussing the early history of the world, from the time of the first man to the beginning of the Christian era. He then proceeds to discuss the history of the world from the beginning of the Christian era to the present day. The author's treatment is comprehensive and covers a wide range of subjects, including politics, economics, and social customs. The book is written in a clear and concise style, and is suitable for both students and general readers.

The fifth part of the book is devoted to a detailed study of the history of the world. The author begins by discussing the early history of the world, from the time of the first man to the beginning of the Christian era. He then proceeds to discuss the history of the world from the beginning of the Christian era to the present day. The author's treatment is comprehensive and covers a wide range of subjects, including politics, economics, and social customs. The book is written in a clear and concise style, and is suitable for both students and general readers.

The sixth part of the book is devoted to a detailed study of the history of the world. The author begins by discussing the early history of the world, from the time of the first man to the beginning of the Christian era. He then proceeds to discuss the history of the world from the beginning of the Christian era to the present day. The author's treatment is comprehensive and covers a wide range of subjects, including politics, economics, and social customs. The book is written in a clear and concise style, and is suitable for both students and general readers.

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crime is so flagrant and enormous, that they ought not to have the benefit of it. 2 *Harw.* 99.

13. *Or for treason touching the king himself*] By the common law, a man accused or indicted of high treason, or of any felony whatsoever, was bailable upon good surety, until he were convicted; for at common law, the gaol was his pledge or surety, that could find none. 2 *Inst.* 189.

Shall be in no wise replevisable by the common writ, nor without writ] That is, the sheriff shall not replevy them by the common writ *de homine replegiando*, nor without writ, that is, *ex officio*: But all or any of these may be bailed in the king's bench. 2 *Inst.* 189.

Next the act setteth down seven kinds of offenders that may be bailed:

1. *Such as be indicted of larceny by inquests taken before sheriffs or bailiffs*] That is, before sheriffs in their torns, or lords in their leets, or those that have *infangthief* and *oufngthief*. Yet this is expounded that they be of good fame. 2 *Inst.* 190.

2. *Or of light suspicion*] But if the presumption be strong, or the defamation great, the justices may refuse to bail him. *Hale's Pl.* 102. And this is expounded also that they be of good fame. 2 *Inst.* 190.

3. *Or for petit larceny that amounteth not above the value of 12 d. if they were not guilty of some other larceny aforesaid*] This act divideth larceny into two kinds; grand larceny, when the thing stolen is above the value of 12 d. and petit larceny, when it is of the value of 12 d. or under. 2 *Inst.* 189.

And it seems to be agreed, that there is no necessity that such persons be of good fame; yet upon the construction of the whole statute, if such persons be taken with the manner, or confess the fact, or their crime be otherwise open and manifest, it seems that they ought not to be bailed; but if there be any colour of probability for their innocence, it seems most agreeable to the intention of the statute to bail them. 2 *Harw.* 101.

4. *Or guilty of receipt of felons*] These are accessaries after the fact. 2 *H. H.* 100.

5. *Or of commandment, or force, or of aid in felony done*] These are accessaries before the fact. 2 *H. H.* 100.

But accessaries to felonies are not to be bailed, unless they be of good reputation: And it seems at this day to be settled, that where there are strong presumptions of guilt, such accessaries are not bailable by this statute. 2 *Harw.* 102.

6. *Or guilty of some other trespass, for which one ought not to lose life nor member*] But it seems reasonable to qualify the generality of this expression, with this limitation, that such accusation ought to be either on a light suspicion, or else that the offence be inconsiderable, or that it be not excluded from bail by some special act of parliament. 2 *Harw.* 99. 2 *H. H.* 135.

7. *And a man appealed by a provor, after the death of the provor, if he be no common thief, nor defamed]* And by parity of reason, he may be bailed, if the approver waive his appeal, or be vanquished. 2 *Harw.* 98.

Be let out by sufficient surety] If a justice take insufficient surety, and the party appear not, he is finable by the judge of assize. *H. P.* 97. But if the prisoner appear thereupon, the justice is safe. 2 *Harw.* 89.

And if a person who has power to take bail, be so far imposed upon, as to suffer a prisoner to be bailed by insufficient persons, it is said, that either he, or any other person who hath power to bail him, may require the party to find better sureties, and to enter into a new recognizance with them, and may commit him on his refusal, for that insufficient sureties are no sureties. 2 *Harw.* 89.

And the person who is to take the bail, may examine them on their oaths concerning their sufficiency. 2 *Harw.* 89. 2 *H. H.* 125.

It is to be observed, that the abovesaid statute extends only to bail in criminal offences, and therefore gives no power at all to justices of the peace to bail any persons on process in civil actions, or for contempts to superior courts. 2 *Harw.* 106.

There are furthermore many statutes, which prohibit bail and mainprise in very many cases, and allow the same in many others, which are interspersed among the several titles which treat of those matters.

And where a statute ordaineth, that an offender shall be imprisoned at the king's will or pleasure, there the prisoner cannot be bailed, till he hath redeemed his liberty by such fine or ransom as shall be assessed by the king's justices in his courts. *Dalt.* c. 167.

Altho' a person be committed to be detained without bail or mainprise, yet if the offence be by law bailable, he that hath power of bailing may bail him. 2 *H. H.* 135.

V. *Who may bail, and the manner of it.*

By the common law, the sheriff and every constable, being conservators of the peace, might have bailed one suspected of felony; but this authority is transferred from them to the justices of the peace by the several statutes. *Lamb.* 15.

And it seems to be a good general rule, that so far as any persons are judges of any crime, so far they have power of bailing a person indicted before them of such crime: And upon this ground it seems clear, that any two justices (1 *Q.*) may of common right bail persons indicted at the sessions, for that any two such justices may hear and determine the indictment. Also it hath been holden, that any one justice hath the like power; and this seems to be implied by the statute of 1 *R.* 3. c. 3. which giving one justice power of bailing persons arrested for felony, *in like form as if such persons had been indicted at the sessions*, clearly supposes, that if such persons had been indicted at the sessions, they might have been bailed by any one justice. And if any one justice had such power,

The first part of the book is devoted to a general
introduction of the subject, and to a description
of the various kinds of plants which are found
in the country.

The second part is devoted to a description
of the various kinds of animals which are found
in the country, and to a description of the
various kinds of insects which are found
in the country.

The third part is devoted to a description
of the various kinds of minerals which are found
in the country, and to a description of the
various kinds of rocks which are found
in the country.

The fourth part is devoted to a description
of the various kinds of plants which are found
in the country, and to a description of the
various kinds of animals which are found
in the country.

The fifth part is devoted to a description
of the various kinds of minerals which are found
in the country, and to a description of the
various kinds of rocks which are found
in the country.

The sixth part is devoted to a description
of the various kinds of plants which are found
in the country, and to a description of the
various kinds of animals which are found
in the country.

The seventh part is devoted to a description
of the various kinds of minerals which are found
in the country, and to a description of the
various kinds of rocks which are found
in the country.

The eighth part is devoted to a description
of the various kinds of plants which are found
in the country, and to a description of the
various kinds of animals which are found
in the country.

The ninth part is devoted to a description
of the various kinds of minerals which are found
in the country, and to a description of the
various kinds of rocks which are found
in the country.

The tenth part is devoted to a description
of the various kinds of plants which are found
in the country, and to a description of the
various kinds of animals which are found
in the country.

The eleventh part is devoted to a description
of the various kinds of minerals which are found
in the country, and to a description of the
various kinds of rocks which are found
in the country.

The twelfth part is devoted to a description
of the various kinds of plants which are found
in the country, and to a description of the
various kinds of animals which are found
in the country.

The thirteenth part is devoted to a description
of the various kinds of minerals which are found
in the country, and to a description of the
various kinds of rocks which are found
in the country.

The first part of the report is devoted to a general
 description of the country and its resources. It is
 found that the country is well adapted for
 agriculture and stock raising. The soil is fertile
 and the climate is healthy. There is a great
 abundance of timber and other natural resources.
 The population is increasing rapidly and the
 country is becoming more and more settled.
 The government has done much to improve the
 country and to encourage industry and commerce.
 It has built roads and bridges and has
 established schools and hospitals. It has also
 done much to improve the land and to
 encourage agriculture and stock raising.
 The country is now a beautiful and fertile
 land and is well adapted for all the
 purposes of civilization. It is a land of
 hope and promise and is destined to
 become one of the great nations of the
 world.

before the statutes specially relating to the power of justices in granting bail, it seems that he hath still the same power in relation to persons so indicted of any bailable crime under the degree of *felony*, because the said statutes seem not to restrain him in any such case, under the degree of felony, from any power which he lawfully might claim before. 2 *Haw.* 103.

But it seems difficult to maintain the power of one justice to bail a person, for any crime *before* indictment, unless by some statute it be limited to the conuance of one justice, or unless it be an offence directly tending to the breach of the peace, the bailing of persons for which seems properly to come under their conuance as conservators of the peace. 2 *Haw.* 105.

And Mr. *Dalton* says, if it is not in case of felony, it seemeth that any one justice alone may bail a prisoner, except where it is otherwise ordered in particular instances by some special statute. *Dalt. c. 12.*

And it seems to be agreed, that any one justice might always in his discretion either bail or imprison one who has given another a dangerous wound, according as it shall appear from the whole circumstances that the party is most likely to live or die; for that every such justice being a principal conservator of the peace, the offence at present being only an enormous breach thereof, and no felony, seems properly to come under his conuance. 2 *Haw.* 103.

But by 1 & 2 P. & M. c. 13. *If a person be arrested for manslaughter, or felony, or suspicion thereof, being bailable by law, he shall not be let to bail or mainprise by any justices, but in open sessions, except it be by two justices at the least (1 Q.), and the same to be present together at the time of the said bailment: Which bail they shall certify in writing subscribed or signed with their own hands, at the next general gaol delivery to be holden within the county where the person shall be arrested or suspected.*

And the said justices, or one of them, being of the Quorum, when any such prisoner is brought before them, for any manslaughter or felony, before any bailment, shall take the examination of the said prisoner, and information of them that bring him, of the fact and circumstances thereof, and the same or as much thereof as shall be material to prove the felony, shall put in writing before they make the bailment: Which examination together with the bailment, the said justices shall certify at the next general gaol delivery to be holden within the limits of their commission.

And the said justices shall have power to bind all such by recognizance as do declare any thing material to prove the offence, to appear at the next general gaol delivery, to give evidence against the party on his trial: And shall certify the same in like manner.

And any justice offending contrary to this act, shall on due proof by examination, be fined by the judges of assize.

But in London, Middlesex, and in other cities and towns corporate, justices may let prisoners to bail, as they might before this act; but when they do bail, they are to take and certify the bail and examination as is here directed.

VI. Requiring excessive bail.

By the declaration of rights 1 *W. sess.* 2. c. 2. Excessive bail ought not to be required.

VII. Denying bail where it ought to be granted.

To refuse bail where the party ought to be bailed (the party offering the same) is a misdemeanor punishable not only by the suit of the party, but also by indictment. 2 *Haw.* 90. *H. P.* 97.

VIII. Granting bail where it ought to be denied.

Admitting bail where it ought not, is punishable by the judges of assize by fine; or punishable as a negligent escape at common law. *H. P.* 97.

If the keeper of a prison bail any not bailable, he shall lose his fee and office; if another officer, he shall have three years imprisonment, and make fine at the king's pleasure. 3 *Ed.* 1. c. 15.

M. 18 *G.* 2. *K.* and *William Clarke*, esquire. He as a justice of *Surrey* committed a man on suspicion of stealing a mare, and bound over the owner to prosecute. Afterwards upon examining two other persons, he admitted the party to bail. The prosecutor appeared at the assizes, and found a bill, but the party accused did not appear. And the court granted an information against the justice, declaring they should not have bailed the man themselves. *Str.* 1216.

IX. Of bail by writ of habeas corpus.

If bail cannot otherwise be obtained, the law hath provided a remedy in most cases by the *habeas corpus* act 31 *C.* 2. c. 2. The substance of which is briefly thus:

If the commitment is for treason or felony, plainly and specially expressed in the warrant of commitment; also if any person is committed and charged as accessory before the fact to any petty treason or felony, or upon suspicion thereof, or with suspicion of petty treason or felony, which petty treason or felony shall be plainly and specially expressed in the warrant of commitment: In such cases the person shall not be bailed on a writ of habeas corpus; otherwise he may be bailed.

Also if a person is committed for treason or felony specially expressed, yet if he shall in open court the first week of the term, or first day of assize, petition to be tried, and shall not be indicted sometime in the next term or assize after the commitment, he shall upon motion the last day of the term or assize, be bailed, unless it shall appear to the judge upon oath that the king's witnesses could not be produced within that time; and then if he is not tried in the second term or assize, he shall be discharged.

Previous to the aforesaid bailment, the prisoner or some person on his behalf, shall demand of the officer or keeper, a true copy of the warrant

warrant of commitment, which he shall deliver in six hours, on pain of 100l. to the party grieved, for the first offence, and 200l. and forfeiture of his office for the second.

Then application is to be made in writing, by the prisoner or any person for him, attested and subscribed by two witnesses who were present at the delivery thereof, to the court of chancery, king's bench, common pleas, or exchequer, or if out of term time, to the lord chancellor or one of the judges; and a copy of the warrant of commitment shall be produced before them, or oath made that such copy was denied.

But if any person hath wilfully neglected by the space of two terms to apply for his enlargement, he shall not have a habeas corpus granted in the vacation.

This being done, the lord chancellor, or judges respectively, shall award an habeas corpus under the seal of the court, on pain of 500l. to be marked in this manner, Per statutum tricesimo primo Caroli secundi Regis, and signed by the person that awards the same; and shall be directed to the officer or keeper, returnable immediate.

And the charges of bringing the prisoner shall be ascertained by the judge or court that awarded the writ, and indorsed thereon, not exceeding 12d. a mile.

Then the writ shall be served on the keeper, or left at the gaol with any of the under officers; and the charges so indorsed, shall be paid or tendered to him, and the prisoner shall give bond to pay the charges of carrying him back if he shall be remanded, and that he will not make any escape by the way.

This done, the officer shall within three days after service (if it is within twenty miles) return the writ, and bring the body, and shall then likewise certify the true cause of the imprisonment; if above twenty miles, and less than an hundred, then within ten days; if above an hundred, then within twenty days; on like pain as before.

But after the assizes are proclaimed for the county where the prisoner is detained, he shall not be removed.

Then if it shall appear to the said lord chancellor or judges, that the prisoner is detained on a legal process, order, or warrant, out of some court that hath jurisdiction of criminal matters, or by warrant of a judge or justice of the peace for matters for the which by law he is not bailable; in such case the prisoner shall not be discharged.

If he shall be discharged, he shall thereupon enter into recognizance to appear on his trial; and the writ, and return thereof, and recognizance shall be certified into the court where the trial must be.

But persons charged in debt, or other action, or with process in any civil cause, after their discharge for a criminal offence, shall be kept in custody for such other suit.

And persons so set at large, shall not be re committed for the same offence, unless by order of court; on pain of 500l. to the party grieved.

Two things I shall observe upon this statute :

1. That altho' the constable by his own authority, without any warrant of commitment, may carry an offender to gaol, and this

was the method of securing prisoners, before that there were any justices of the peace; yet since the institution of that magistrate, it is better that they be carried before him, to be sent by him to gaol by warrant of commitment; otherwise they have a right to be bailed upon this act, whatever the offence may be.

2. That the warrant of commitment ought to set forth the cause specially; that is to say, not for treason or felony in general, but treason for counterfeiting the king's coin, or felony for stealing the goods of such a one to such a value, and the like; that so the court may judge thereupon, whether or no the offence is such, for which a prisoner ought to be admitted to bail.

X. Acknowledging bail in another man's name.

By the 21 J. c. 26. *If any person shall acknowledge, or procure to be acknowledged, any bail in the name of any other not privy to the same; he shall be guilty of felony without benefit of clergy.*

In the name of any other] T. 6 G. Two people put in bail in feigned names, and because there were no such persons, they could not be prosecuted for personating bail on this statute. So the court ordered them and the attorney to be set in the pillory, which was done accordingly. *Str.* 384.

Bail taken before a judge is not within this statute, till it be filed of record. 1 H. H. 696. But it is within the following statute of 4 W. c. 4. by which it is enacted, that any who shall personate another before those who have authority to take bail, so as to make him liable to the payment of any sum of money in that suit or action, shall be guilty of felony (but within clergy).

Form of bail.

Westmorland. **B**E it remembered, that on the _____ day of _____ in the _____ year of the reign of _____ A. O. of _____ yeoman, A. B. of _____ yeoman, and B. B. of _____ yeoman, came before us John Moore, esquire, and Richard Burn, clerk, two of his majesty's justices of the peace in and for the said county, one whereof is of the Quorum, and severally acknowledged themselves to owe to our said lord the king, that is to say, the said A. O. 20l. and the said A. B. and B. B. 10l. each, to be respectively levied of their lands and tenements, goods and chattels, if the said A. O. shall make default in the performance of the condition indorsed, [or, underwritten].

John Moore,
Richard Burn.

The condition of this recognizance is such, that if the within [above] bound A. O. shall personally appear before the justices of our sovereign lord the king assigned to keep the peace within the said county, and likewise to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, at the next general quarter sessions of the peace [or, before his majesty's justices of gaol

The first part of the document is a letter from the Secretary of the
 Board of Education to the Board of Trustees of the University of
 the State of New York. The letter is dated the 15th day of
 January, 1892, and is addressed to the Board of Trustees of the
 University of the State of New York, at Albany, New York.
 The letter is signed by the Secretary of the Board of Education,
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 and is accompanied by a copy of the report of the Board of
 Education for the year 1891.

MEMORANDUM

TO : [Illegible]

FROM : [Illegible]

SUBJECT: [Illegible]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

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[Illegible text]

[Illegible text]

gaol delivery, at the next general gaol delivery] to be holden in and for the said county, then and there to answer to our said sovereign lord the king, for and concerning the felonious taking and stealing of ——— the property of A. M. of ——— yeoman, with the suspicion whereof the said A. O. stands charged before us the said justices, and to do and receive what shall by the court be then and there enjoined him, and shall not depart the court without licence, then the above [within] written recognizance shall be void.

Or if the party is in prison, and so absent, Lord Hale says, this is the true form from Lambard.

Westmorland. **B**E it remembered, that on the ——— day of ——— in the ——— year of the reign of ——— before us John Moore, esquire, and Richard Burn, clerk, two of the justices of our said lord the king, assigned to keep the peace within the said county, and one of us of the Quorum, at Grimeshill in the said county, did come A. B. and B. B. of ——— in the said county, yeoman, and took in bail until the next gaol delivery to be holden in the said county, one A. O. of ——— labourer, taken and detained in prison for suspicion of a certain felony in stealing ——— the property of ——— and took upon themselves each of the said A. B. and B. B. under the penalty of 20l. of good and lawful money of Great Britain, of the goods and chattels, lands and tenements, of them and each of them, to the use of our said lord the king, his heirs and successors, to be levied, if the said A. O. shall not personally appear at the said next gaol delivery, before the justices of our said lord the king, assigned to deliver the said gaol, to stand to right concerning the felony aforesaid, according to the law and custom of England. Given under our seals &c.

But the seal need not be, for they are judges of record; only it may be barely subscribed by them: or thus,

Taken and acknowledged the day and year abovescribed, before us the abovesaid

John Moore,
Ri. Burn.

And hereupon a warrant issues for his deliverance, thus:

Westmorland. **J**OHN Moore, esquire, and Richard Burn, clerk, two of the justices of ——— and one of us of the Quorum, To the keeper of his majesty's gaol at ——— in the said county, greeting. Forasmuch as A. O. ——— labourer, hath before us found sufficient sureties to appear before the justices of gaol delivery at the next general gaol delivery to be holden in the said county, to answer to such things as shall be then on the behalf of our said sovereign lord objected against him, and namely, to the felonious taking of ——— (for the suspicion whereof he was taken,

Banks destroying.

and committed to your said gaol); We command you on the behalf of our said sovereign lord, that if the said A. O. do remain in your said gaol for the said cause, and for none other, then you forbear to detain him any longer, but that you deliver him thence, and suffer him to go at large, and that upon the pain that will thereon ensue. Given under our seals at Orton in the said county, the ——— day of ——— in the ——— year ———.

Lord Hale says, the advantage of this latter kind of bail is this, that it is not only a recognizance in a sum certain, but also a real bail, and they are his keepers, and may be punished by fine beyond the sum mentioned in the recognizance, if there be cause; and may re seize him if they doubt his escape, and have him committed, and so be discharged of the recognizance.

Bailiff. See Sheriff.

Baker. See Bread.

Banks destroying.

Powdike.

1. EVERY perverse and malicious cutting down and breaking up of any part of the dike called new *Powdike* in *Marshland* in the county of *Norfolk*, and the broken dike called *Old field dike* by *Marshland* in the isle of *Ely*, or of any other bank being parcel of the rind and uppermost part of the said country of *Marshland*, made for the defence and salvation of the said country of *Marshland*, shall be adjudged felony. And the sessions may determine the same. 22 H. 8. c. 11.

Sea and river banks.

2. By a clause in the statute of 6 G. 2. c. 37. s. 5. which clause by a subsequent act of 10 G. 2. c. 32. s. 4. is incorporated with the act, commonly called the *Black act* (9 G. c. 22.) and which has continuance to Sep 1. 1757, &c. If any person (during the continuance of the said act) shall unlawfully and maliciously break down or cut down the bank of any river, or any sea bank, whereby any lands shall be overflowed or damaged; he shall be guilty of felony without benefit of clergy.

And the hundred shall make satisfaction for the damages, not exceeding 200*l.* as may be seen more at large under the title *Black act*.

Piles for securing banks.

3. And moreover, by the statute of 10 G. 2. c. 32. s. 5. If any person shall unlawfully cut off, draw up, or remove and carry away any piles, chalk, or other materials, driven into the ground, and used for the securing any marsh or sea walls, or banks, in order to prevent the lands lying within the same from being overflowed and damaged; on complaint or information thereof made upon oath to any justice residing near the place, such justice shall summon the party complained of, or shall issue his warrant to apprehend and bring such person before him; and upon his appearance,

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Journal

The first day of the month was spent in the
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 second day was devoted to the study of
 the natural history of the country. The
 third day was spent in the study of
 the political history of the country. The
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 the philosophy history of the country.

pearance, or neglect to appear, he shall proceed to examine the fact, and upon due proof thereof made either by confession, or oath of one witness, shall convict the offender; who shall thereupon forfeit 20 l. half to the informer, and half to the overseer for the use of the poor, to be levied by distress and sale: For want of sufficient distress, to be committed to the house of correction, to be kept to hard labour for six months.

Bankrupt.

1. **L**ORD Coke says, that *banque* in French signifies the same Derivation. as *mensa* in Latin; and that *route* is a sign or mark, as we say a cart route is the sign or mark where the cart hath gone; and that metaphorically a *bankrupt*, or *banqueroute*, is taken for him, that hath wasted his estate, and removed his *banque* so as there is left but a mention thereof. 4 Inst. 277.

But as the first bankers to us came from Italy, it seemeth more probable that they brought their name along with them; and consequently that the word *bankrupt* or *banqueroute* cometh from the Italian *banco rotto*, the *bench* being broken. The *banker* himself was so called from the *bench* or table which he used, with his name inscribed, and when he failed, his *bench* was broken. Which word *rotto* is what remaineth in that country of the Latin *ruptus*; all which, both word and metaphor, we preserve in our language, when we say that a person is *bankrupt*, or that such a one is broken.

2. The description of a bankrupt, within the several statutes Description of a brought together into one view, seemeth to be as follows: Every bankrupt. person using the trade of merchandize, by way of bargaining, exchange, bartry, chevifance, or otherwise, in gross, or by retail, or seeking his trade of living by buying and selling, or that shall use the trade or profession of a scrivener receiving other mens monies or estates into his trust or custody, who shall (1) depart the realm; or (2) begin to keep his house, or otherwise to absent himself; or (3) take sanctuary; or (4) suffer himself willingly to be arrested for any debt or other thing not grown or due for money delivered, wares sold, or any other just or lawful cause or good consideration or purposes; or (5) shall suffer himself to be outlawed; or (6) yield himself to prison; or (7) willingly or fraudulently shall procure himself to be arrested, or his goods to be attached or sequestred; or (8) depart from his dwelling house; or (9) make any fraudulent grant or conveyance of his lands or goods, to the intent or whereby his creditors shall and may be defeated or delayed for the recovery of their just debts; or (10) shall obtain any protection, other than such person as shall be lawfully protected by privilege of parliament; or (11) shall prefer to any court any petition or bill against any of his creditors, thereby endeavouring to enforce them to accept less than their just debts, or to procure time, or longer days of payment than was given at the time of their original contracts; or (12) being arrested for debt,

Bankrupt.

shall lie in prison two months; or (13) being arrested for 100 l. or more, shall escape out of prison, — shall be adjudged a bankrupt; (and in the said cases of arrest, or lying in prison, from the time of his first arrest.) 1 J. c. 15. f. 2. 21 J. c. 19. f. 2, 15. 10 An. c. 15. f. 1.

Using the trade of merchandize] But no person who shall adventure any money in the East-India company, and shall receive his dividend in merchandize, and shall sell or exchange the same, shall be judged thereby a merchant or trader without any statute for bankrupts. 13 & 14 G. 2. c. 24. f. 3, 4.

Seeking his trade of living by buying and selling] He that buys only, or sells only, is not within this description. *Read. Bankr.*

Also no farmer, grazier, or drover of cattle, shall be deemed a bankrupt. 5 G. 2. c. 30. f. 40.

Also an innkeeper is said not to be a trader within these statutes. 1 *Salk.* 110.

It is likewise held, that a taylor is not within the statutes of bankruptcy, because he gets not his living by buying and selling; but shoemakers, weavers, dyers, tanners, and bakers have been held to be within the said statutes. *Read. Bankr.*

Moreover, such farmer, if he shall deal in wool, hops, or the like, shall be deemed a bankrupt; otherwise any person by taking a farm, might avoid the statutes. Also, an innkeeper, if he shall buy corn, and sell the same, again in quantities which are not consumed in his house, may become a bankrupt. And in the case of *Mayo and Archer, E. 8 G.* A farmer who planted potatoes, but withal bought divers large quantities of potatoes, and sold the same again, was adjudged a bankrupt. *Strange* 513.

Receiving other mens monies or estates into his trust or custody] Bankers, brokers, and factors are within this description. 5 G. 2. c. 30. f. 39.

But no receiver general of any taxes granted by act of parliament, shall be deemed a bankrupt. 5 G. 2. c. 30. f. 40.

For what debts a commission shall be issued, and what is to be done previous thereto.

3. But notwithstanding that a person may have committed any of the abovesaid acts of bankruptcy, yet nevertheless no commission of bankrupt shall be issued, on the petition of one or more creditors, unless the single debt of such creditor, or of two or more being partners, amount to 100 l. or of two such creditors petitioning amount to 150 l. or of three or more to 200 l.

And the creditor or creditors petitioning, shall before the commission shall be granted, make affidavit before a master in chancery (to be filed with the proper officer) of the truth of the debt, and shall also give 200 l. bond to the lord chancellor for proving the debt as well before the commissioners, as upon a trial at law, if the due issuing of the commission shall be contested, and also for proving the party a bankrupt, and further to proceed on such commission as hereafter is mentioned: and if it shall appear, that the commission was taken out fraudulently, the lord chancellor may order satisfaction, and may assign such bond to the party injured. 5 G. 2. c. 30. f. 23.

The first part of the day was spent in the
 study of the various papers and reports
 which had been prepared for the
 meeting. The second part was spent
 in the discussion of the various
 subjects which were brought up
 by the members of the society.
 The third part was spent in the
 reading of the papers which had
 been presented to the society.
 The fourth part was spent in the
 discussion of the various subjects
 which were brought up by the
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 papers which had been presented
 to the society. The eighth part
 was spent in the discussion of
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 the society. The ninth part was
 spent in the reading of the
 papers which had been presented
 to the society. The tenth part
 was spent in the discussion of
 the various subjects which were
 brought up by the members of
 the society.

The meeting was held in the
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 The meeting was very
 interesting and profitable.
 The various subjects which
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 had been presented to the
 society were read and
 discussed in a very
 interesting and profitable
 manner.

4. But these circumstances abovementioned being observed, then the lord chancellor may on such complaint in writing as aforesaid, by commission under the great seal, appoint such wise and honest discreet persons as to him shall seem good, to be commissioners. *13 El. c. 7. s. 2.* Issuing the commission.

5. Which commissioners, before they act, shall administer to each other the following oath; " I A. B. do swear, that I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the several powers and trusts reposed in me as a commissioner in a commission of bankrupt against ——— and that without favour or affection, prejudice or malice. So help me god." *5 G. 2. c. 30. s. 43.* Commissioners oath.

And they shall keep a memorial thereof, signed by them, amongst the proceedings. *id. s. 44.*

6. Then the commissioners shall cause notice of the commission being issued to be given in the gazette, and likewise notice in writing to be left at the bankrupt's usual place of abode, or personal notice to be given if he is in prison; in which notice also shall be appointed a time and place of meeting of the commissioners, which meeting shall be at three several times within forty-two days, the last of which shall be on the forty-second day; within which time the bankrupt shall surrender, and discover his estate and effects. *5 G. 2. c. 30. s. 1.* Notice in the gazette of the commission being issued.

But the lord chancellor may enlarge the time for such surrender and discovery, not exceeding fifty days from the end of the said forty-two days; so as such order be made by him, six days before the expiration of the forty-two. *id. s. 3.*

7. The first meeting shall be for chusing an assignee or assignees of the bankrupt's estate and effects (which in London shall be at Guildhall). *5 G. 2. c. 30. s. 26.* Chusing assignees.

8. But before assignees are chosen, the major part in value of the creditors may direct how and with whom the money to be received shall remain till divided; to which the assignees shall conform, as often as 100*l.* shall be got in. *5 G. 2. c. 30. s. 32.* The money with whom to be lodged.

9. And the creditor or creditors who shall sue out the commission, shall prosecute the same at their own expence till assignees be chosen; and the commissioners shall at the meeting for chusing assignees, ascertain such costs, and by writing under their hands order the assignees to reimburse the same, out of the first effects that shall be got in. *5 G. 2. c. 30. s. 25.* Expences of the commission.

10. At the said meeting for chusing assignees, the commissioners shall admit the proof of any creditor's debt, that lives remote from the place of meeting, by affidavit; and also permit any person duly authorized by letter of attorney from such creditors (oath being first made of the due execution thereof, either by affidavit sworn before a master in chancery, or before the commissioners *viva voce*; and in case of creditors residing in foreign parts, such affidavits to be made before a magistrate where the party shall be residing, and together with such creditors letters of attorney, to be attested by a notary publick) to vote in the choice of an assignee or assignees in the place of such creditor: And the commissioners shall assign the estate and effects unto such person or persons,

sons, as the major part in value of the creditors, according to the debts then proved, shall choose. 5 G. 2. c. 30. f. 26.

But no creditor shall so vote, whose debt shall not amount to 10*l.* *id.* f. 27.

Choosing new assignees.

11. And the commissioners may from time to time appoint new assignees, if the major part of the creditors, whose debts amount to 10*l.* shall think fit; and the former assignees shall assign to them in ten days after notice of such choice, and of the new assignees acceptance thereof, signified under their hands; on pain of 200*l.* to the creditors, with full costs. 5 G. 2. c. 30. f. 30.

And the lord chancellor, on petition of any creditors, may order former assignments to be vacated, and new assignments to be made, of the effects not received; and the commissioners shall cause notice thereof to be given in the two next gazettes, and that the debtors do not pay to the assignees removed. *id.* f. 31.

Bankrupt to be apprehended.

12. On certificate under the hands and seals of the commissioners, that such commission is issued, and such person proved before them to become bankrupt, any judge or justice of the peace, shall on application to them for that purpose made, grant their warrant (A) for the taking and apprehending such person, and commit (B) him to the common gaol, there to remain until he be removed by order of the commissioners by their warrant. And the gaoler shall forthwith give notice to one or more of the commissioners, of such person being in his custody; whereupon they shall send their warrant to him to deliver him to the person who shall be named in the warrant, who shall convey him to the commissioners to be examined. And the commissioners by such or any other their warrant, may seize the goods and papers of such bankrupt which shall be in any prison (necessary wearing apparel of himself, and wife, and children excepted). 5 G. 2. c. 30. f. 14.

But if the person so apprehended shall, within the time allowed, submit to be examined, and in all things conform, he shall have the same benefit as if he had surrendered. 5 G. 2. c. 30. f. 15.

Bankrupt to deliver up.

13. The bankrupt after assignees shall be appointed, shall deliver up to them on oath (to be administered by a master in chancery, or justice of the peace) all his books of account, papers, and writings not seized by the messenger of the commission, and not before delivered up, and then in his power, and discover such as are in the power of others; and, being not in custody, shall at all times attend the assignees, on reasonable notice given to him in writing, or left for him at his place of abode, in order to assist in making out the account of his estate. 5 G. 2. c. 30. f. 4.

Bankrupt to be at liberty to inspect his papers.

14. And such bankrupt having surrendered, shall at all seasonable times, before expiration of the forty-two days, or further term, be at liberty to inspect his papers, in presence of the assignees, or some person appointed by them, and to bring with him for his assistance any persons not exceeding two at a time, and to make extracts from thence, the better to enable him to discover his effects. 5 G. 2. c. 30. f. 5.

Shall be freed from arrest.

And in order thereto, he shall be free from arrest or imprisonment of his creditors, in coming to surrender, and from his surrender,

The first day of the month was a very busy one. I went to the office at 8 o'clock and found a number of letters waiting for me. I spent the morning in writing and dictating. In the afternoon I went to the bank and attended to some business. The evening was spent in reading and writing.

The second day was also a busy one. I went to the office at 8 o'clock and found a number of letters waiting for me. I spent the morning in writing and dictating. In the afternoon I went to the bank and attended to some business. The evening was spent in reading and writing.

The third day was a very busy one. I went to the office at 8 o'clock and found a number of letters waiting for me. I spent the morning in writing and dictating. In the afternoon I went to the bank and attended to some business. The evening was spent in reading and writing.

The fourth day was a very busy one. I went to the office at 8 o'clock and found a number of letters waiting for me. I spent the morning in writing and dictating. In the afternoon I went to the bank and attended to some business. The evening was spent in reading and writing.

The fifth day was a very busy one. I went to the office at 8 o'clock and found a number of letters waiting for me. I spent the morning in writing and dictating. In the afternoon I went to the bank and attended to some business. The evening was spent in reading and writing.

The sixth day was a very busy one. I went to the office at 8 o'clock and found a number of letters waiting for me. I spent the morning in writing and dictating. In the afternoon I went to the bank and attended to some business. The evening was spent in reading and writing.

render, for the said forty-two days or further term; provided he was not in custody at the time of surrender. And if he be arrested for debt, or on an escape warrant, coming to surrender, or after surrender within the said term; then, on producing the notice under the hands of the commissioners or assignees, to the officer who shall arrest him, and making it appear to such officer that such notice is signed by them, and giving the officer a copy thereof, he shall be immediately discharged: And if any officer shall in such case detain him, he shall forfeit to him for his own use 5*l.* a day, by action of debt, with full costs. *id.*

15. And if the bankrupt be in prison or custody at the time of issuing the commission, and is willing to surrender and be examined, and can be brought before the commissioners and creditors, the expence thereof shall be paid out of his estate: But if he is in execution, or cannot be brought before the commissioners, then they shall attend him in prison; and the assignees may appoint a person to attend him in prison, and to produce to him his books and papers, in order to prepare his last discovery and examination; a copy whereof the assignees shall apply for, and the bankrupt shall deliver to them, ten days before such last examination. 5 G. 2. c. 30. f. 6.

Bankrupt in prison when the commission is issued.

16. And the commissioners may examine him (on oath, 21 f. c. 19. f. 9.) *as well by word of mouth, as on interrogatories in writing*, touching his trade, dealings, estate, and effects; and take down in writing his answer to verbal examinations; which he shall sign: And if he shall refuse to answer, or not answer fully all lawful questions, or refuse to sign the same; the commissioners may by warrant commit him to prison without bail, till he shall submit to them, and full answer make, and sign the same; which warrant shall specify such questions. 5 G. 2. c. 30. f. 16, 17.

Bankrupt to be examined,

As well by word of mouth, as on interrogatories in writing] M. 4 G. 2. K. and Solomon Nathan. The defendant was committed by the commissioners, who in their warrant recite, that he had been examined before them upon his oath, upon which examination he had notoriously prevaricated; they therefore commit him without bail or mainprize, until he shall make a full and true disclosure and discovery of his estate and effects, or be otherwise delivered by due course of law. Upon a *habeas corpus* it was moved, that the defendant might be discharged. One reason whereof was, because the statute requires, that there shall be interrogatories exhibited for his examination, that so he may have time to consider of his answer, and it can then appear to the court, whether he is bound to answer: perhaps this prevarication might be in a matter they had no power to inquire into. And by the court; Interrogatories are a term known in law, and import that the questions are put in writing. And they said that Holt Ch. J. held, that the bankrupt ought to have a copy, and time to consider of his answer. *Strange* 880.

Or not answer fully] In the aforesaid case of K. and Solomon Nathan, another objection against the commitment was, that they commit him, because upon his examination he had notoriously prevaricated;

varicated; this being too loose an expression, for he might prevaricate, and yet give a full answer at last. And by the court; Where these special authorities are given, the words of the act ought to be pursued. *Strange* 880.

Till he shall submit to them, and full answer make] In the same case, the commitment was, *until he shall make a full and true disclosure and discovery of his estate and effects, or be otherwise delivered by due course of law*. And by the court; This commitment not pursuing the words of the statute, the prisoner must be discharged. *Strange* 880.

M. 8 W. Bracy's case. A commitment *until he should conform himself to their authority*, was adjudged ill, because too general; since they have authority in other matters besides that: and it is best in the like cases, strictly to pursue the statute. *L. Raym.* 100.

Another commitment *till discharged by due course of law*, adjudged ill for the same reason. *id.* 851.

But if on an *habeas corpus* there appear insufficiency in the warrant of commitment, the judge nevertheless shall commit him to the same prison, to remain as aforesaid, unless it be made appear that he hath fully answered all lawful questions, or unless it appear that he had sufficient reason for not signing. 5 G. 2. c. 30. f. 18.

And if the gaoler shall suffer him to escape, or to go without the walls or doors of the prison; he shall, on conviction by indictment or information, forfeit 500 l. to the creditors. *id.*

Also the gaoler shall, on request of any creditor who shall have proved his debt, and producing a certificate thereof under the hands of the commissioners, produce and shew him to such creditor; on pain of 100 l. to the creditors, by action of debt. *id.* f. 19.

Bankrupt not
surrendring and
conforming, fe-
lony.

17. And by the said statute it is enacted, that if he shall not within the said time surrender himself to the commissioners, and sign such surrender, and also submit to be examined from time to time on oath, and in all things conform to the statutes concerning bankrupts, and also on his examination fully discover all his estate, and how disposed of, except what hath been *bona fide* disposed of in the way of his trade and dealings, and except what hath been laid out in the ordinary expence of his family, and also deliver up to them all his effects (except the necessary wearing apparel of himself, and wife, and children); then in case of any default and wilful omission in not surrendring and submitting to be examined, or in case he shall remove, conceal, or embezzle any part of his estate to the value of 20 l. or any books of account, or writings relating thereto, with intent to defraud his creditors, and being thereof convicted by indictment or information, he shall be guilty of felony without benefit of clergy, and his estate shall be divided amongst his creditors. 5 G. 2. c. 30. f. 1.

And by the 20 G. 2. c. 52. All offences by bankrupts made felony by the several acts concerning bankruptcy, are excepted out of the general pardon.

The first part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Chief Justice". The text is heavily obscured by noise and artifacts, making it difficult to read. The names appear to be of British or Canadian origin, possibly related to a legal or governmental proceeding.

The second part of the document contains several paragraphs of text, which are also heavily obscured by noise. The text appears to be a formal report or a set of proceedings, possibly detailing a legal case or a government action. The language is formal and appears to be in English.

The first of the month was a fine day, and we
 went out for a walk in the park. The children
 were very happy and played for hours. We
 saw many beautiful flowers and trees. The
 weather was just what we needed.

On the second day, we went to the market.
 There were many stalls and people. We
 bought some fresh fruit and vegetables.
 The prices were very reasonable. We
 also saw some interesting things.

The third day was a busy day. We
 had to go to work. The children
 were very tired. We went to bed
 early. The night was very quiet.

On the fourth day, we went to the
 cinema. The film was very good.
 We enjoyed it very much. We
 went home late. The children
 were very happy.

The fifth day was a day of rest.
 We stayed at home. The children
 read books and played. The weather
 was very nice. We were very
 happy.

On the sixth day, we went to the
 beach. The water was very blue.
 We played in the sand. The children
 were very happy. We had a
 picnic.

The seventh day was a day of
 fun. We went to the park. The
 children played on the swings.
 We saw many beautiful things.
 The weather was very nice.

On the eighth day, we went to the
 museum. There were many
 interesting things. We saw
 some old paintings. The children
 were very interested.

The ninth day was a day of
 learning. We went to school.
 The children learned many
 things. They were very
 happy.

18. And every person who shall accept any trust, or conceal any estate of the bankrupt, and shall not in forty-two days after issuing the commission, and notice thereof in the gazette, discover the same in writing to one or more commissioners or assignees, and submit himself to be examined; shall forfeit to the creditors 100*l.* and double value of the estate concealed, by action of debt, with full costs. 5*G. 2. c. 30. f. 21.*

Other persons concealing the bankrupt's effects.

19. Also the commissioners may examine on oath the bankrupt's wife, like as other persons. 21*J. c. 19. f. 5, 6.*

Bankrupt's wife may be examined.

20. As also they may examine in like manner every other person, duly summoned before, or present at their meeting, touching the person, trade, dealings, estate, and effects of the bankrupt, and any acts of bankruptcy by him committed; and may take down in writing the answers of verbal examinations, which the party shall sign: And if any of them shall refuse to answer, or not answer fully all lawful questions, or refuse to sign the same, the commissioners may by warrant commit him to prison without bail, till he shall submit to them, and full answer make, and sign the same; in like manner as is said before in section the 16th concerning the bankrupt himself. 5*G. 2. c. 30. f. 16, 17, 18, 19.*

And every other person.

21. The said commissioners shall have power, by their discretions to take such order with the lands of such bankrupt, as well copy or customary hold as freehold, which he had in his own right before he became a bankrupt; or which he purchased jointly with his wife or child to the only use of such offender, or for such use or interest as he may lawfully part with; or with any person of trust to any secret use of such offender; and also with all his money, goods, chattels, wares, merchandizes, and debts; and cause all the same to be searched and appraised to the best value they may; and the same to be sold by deed indented, and inrolled in a court of record; or otherwise ordered for payment of the creditors, to every creditor a portion rate like, according to the quantity of his debts. 13*El. c. 7. f. 2.*

Bankrupt's estate how to be ordered.

And if any lands or goods shall descend or come to the bankrupt afterwards, before the debts be fully paid; the same shall be disposed of in like manner. 13*El. c. 7. f. 11.*

But this shall not extend to lands assured by such person before he becomes bankrupt; provided the assurance be made *bona fide*, and not to his own use only, or of his heirs; and that the party to whose use they are assured, be not privy to the fraudulent purpose of the bankrupt to deceive his creditors. 13*El. c. 7. f. 12.*

Lands sold bona fide.

Also the commissioners may by deed indented, and inrolled at *Westminster* in six months, sell the bankrupt's estate in tail, whereof no reversion or remainder is in the king, or of the king's gift; which sale shall be good against all persons, whom the bankrupt by common recovery, or otherwise, might cut off. 21*J. c. 19. f. 12.*

Estate tail.

Also if the bankrupt hath conveyed any estate, on condition, or power of redemption, at a day to come, by payment of money, or otherwise; the commissioners before the time of the performance of such condition, may appoint under their hands and seals any person to make tender or payment of money, or other performance,

Estate mortgages.

mance, as fully as the bankrupt might have done; and may dispose of the estate redeemed for the use of the creditors, as fully as any other estate of the bankrupt. 21 *J. c.* 19. *f.* 13.

Customary lands to pay fine.

Persons purchasing copyhold or customary lands shall pay fine to the lord of the manor, who shall thereupon admit them. 13 *El. c.* 7. *f.* 4.

Commissioners may break open doors.

22. Commissioners and others by warrant under their hands and seals, may break open the bankrupt's houses, doors, trunks, and chests, where he or any of his goods shall be reputed to be, and seize upon, and order his body and goods as before is said. 21 *J. c.* 19. *f.* 8.

Bankrupt fraudulently conveying.

23. If the bankrupt shall convey to any of his children, or other person, any lands or goods, or transfer his debts into other mens names, except the same be conveyed or transferred on marriage of any of his children, or for some valuable consideration; the same may be disposed of in like manner. 1 *J. c.* 15. *f.* 5.

And if the bankrupt shall on his examination be found fraudulently to have conveyed his lands, goods, or estate, to the value of 20*l.* to defraud his creditors, and shall not discover the same, and (if it lie in his power) deliver the same to the commissioners; or if he cannot make it appear to the commissioners that he hath sustained some casual loss whereby he is disabled to pay what he oweth; he shall, on conviction upon indictment at the assizes or sessions, be set on the pillory in some publick place for two hours, and have one of his ears nailed to the pillory, and cut off. 21 *J. c.* 19. *f.* 7.

Bankrupt compounding with the person suing out the commission.

24. And if any bankrupt, after issuing the commission, shall compound with the person suing out the same, for more than his proportion with the rest of the creditors; such commission may be superseded, and the lord chancellor may award to any creditor petitioning another commission, and the person so compounding shall lose his whole debt, and deliver up to the new commissioners all he shall have so received, for the use of the other creditors. 5 *G. 2. c.* 30. *f.* 24.

Debtor paying to a bankrupt.

25. If a debtor to a bankrupt pays him voluntarily, he must pay it over again; but it is otherwise, if he pays him by compulsion of law. *Read. Bankr.*

Money received of a bankrupt.

26. But no real creditor of a bankrupt shall be liable to refund to the assignees, any money which before the suing forth the commission was in course of trade received by him of the bankrupt, before he had knowledge of the person's becoming a bankrupt, or being insolvent. 19 *G. 2. c.* 32. *f.* 1.

Purchaser not to be impeached after five years.

27. And no purchaser for valuable consideration shall be impeached, unless the commission be sued out in five years after the person shall become bankrupt. 21 *J. c.* 19. *f.* 14.

Bankrupts conveying their goods, and keeping possession.

28. If the bankrupt, at the time he shall become bankrupt, shall by consent of the true owner, have in his possession and disposition any goods whereof he shall be reputed owner, and take upon him the sale or disposition thereof as owner; the commissioners may dispose of the same, as fully as any other part of the bankrupt's estate. 21 *J. c.* 19. *f.* 11.

The first part of the book is a history of the
 country from the first settlement to the
 present time. It is a very interesting
 and useful work. The second part
 is a history of the people of the
 country. It is a very interesting
 and useful work. The third part
 is a history of the government of the
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 is a history of the external relations of the
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 and useful work.

29. If any estate of the bankrupt be extended after he is become bankrupt, by any person under pretence of his being an accountant or indebted to the king; the commissioners may examine on oath, whether the said debt were due to such debtor or accountant, on any contract originally made between such accountant and the bankrupt; and if it was made with any other person than the said accountant, or for the use of any other person, the commissioners proceedings shall be available against the said extent. 21 *J. c. 19. f. 10.*

Debt due to the king.

30. The commissioners or assignees may state accounts between the bankrupt and his debtors or creditors, and set one debt against another, and the balance only shall be paid on either side. 5 *G. 2. c. 30. f. 28.*

Commissioners may state accounts.

31. Also the assignees, with consent of the major part in value of the creditors present at a meeting pursuant to notice to be given in the gazette, may submit disputes relating to the bankrupt's estate to arbitration; and may compound for debts owing to the bankrupt. 5 *G. 2. c. 30. f. 34, 35.*

May refer to arbitration, and compound.

32. Two joint traders, one of them became a bankrupt: By *Holt Ch. J.* the commissioners cannot meddle with the interest of the other, for it is not affected by the bankruptcy of his companion. 3 *Salk. 61.*

Partner not affected.

33. Every person who shall, after the time of surrender, voluntarily make discovery to the commissioners or assignees, of any part of the bankrupt's estate, not before come to the knowledge of the assignees, shall have 5 *l. per cent.* and such further reward as the assignees and the major part of the creditors in value, present at any meeting, shall think fit. 5 *G. 2. c. 30. f. 20.*

Reward for discovering.

34. Every creditor shall be at liberty to prove his debt, without paying any thing for the same. 5 *G. 2. c. 30. f. 25.*

Creditor may prove his debt gratis.

35. And at the meeting for chusing assignees, (as hath been said) the commissioners shall admit the proof of any creditor's debt, that lives remote from the place of meeting, by *affidavit*. 5 *G. 2. c. 30. f. 26.*

By affidavit.

36. Creditors having security by judgment, statute, recognition, specialty with penalty or without, or other security, or having no security, or having made attachments in *London* or elsewhere by any custom, of the goods of such bankrupt, whereof there is no execution or extent served and executed upon the lands, goods, or estate of such bankrupt before he shall become bankrupt, shall not be relieved for more than a rateable part with the other creditors, notwithstanding any penalty or greater sum contained in such security. 21 *J. c. 19. f. 9.*

Persons having security, to have only their share.

37. Persons taking securities payable at a future day, for goods delivered to persons who shall become bankrupts before the time of payment, shall be admitted to prove their securities, and receive their proportion, deducting interest from the time of payment to the time it would have become due. 7 *G. c. 31. f. 1, 2.*

Securities for money not become due.

38. The obligor in any bottom-ree, or *respondentia* bond, and the assured in a policy of insurance, shall be admitted to claim; and after the loss or contingency, to prove the debt thereon, in

Bottom-ree insurance.

like manner as if the same had happened before issuing the commission. 19 G. 2. c. 32. f. 2.

Mortgagee. 39. The mortgagee may chuse whether he will come in as a creditor. *Read. Bankr.*

Execution. 40. But the plaintiff that hath the defendant's body in execution, shall not come in to be relieved. *Read. Bankr.*

Swearing to a false debt. 41. If any person shall swear that any sum is due to him from the bankrupt, which is not due, or more than is due; he shall suffer as in cases of perjury, and moreover forfeit double to the creditors. 5 G. 2. c. 30. f. 29.

Assignees to keep books. 42. The assignees shall keep books of account of all sums and effects received; which every creditor who hath proved his debt may inspect at all seasonable times. 5 G. 2. c. 30. f. 26.

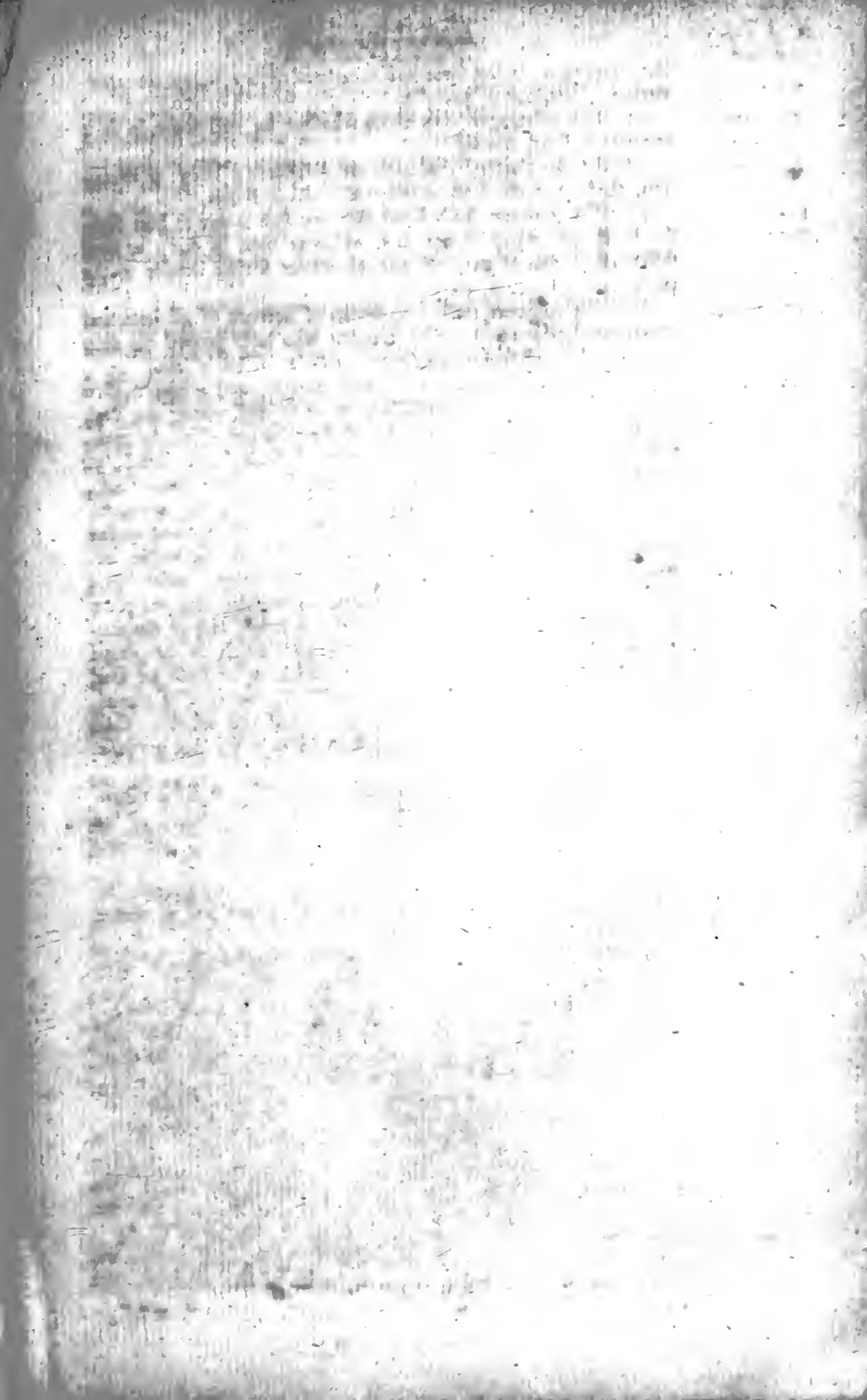
First dividend. 43. The assignees shall, after four months, and within twelve months after issuing the commission, cause at least twenty-one days notice to be given in the gazette, of the time and place the commissioners and assignees intend to meet to make a dividend; at which time, the creditors who have not before proved their debts, may prove them: and the assignees shall produce fair accounts, and be sworn to them before the commissioners, if required by the creditors; and they shall be allowed therein all reasonable expences. And the commissioners may then order, under their hands, a distribution; which order shall contain the time and place of making it, and the total of the debts proved, and of the money in the hands of the assignees, and how much in the pound shall be then distributed; one part of which order shall be filed among the proceedings under the commission, and each of the assignees shall have a duplicate thereof. And the assignees shall take receipts for the same, in a book to be kept for that purpose. 5 G. 2. c. 30. f. 33.

Allowance to the bankrupt. 44. The bankrupt surrendering and conforming, shall be allowed 5*l.* *per cent.* if after such allowance, the neat produce of his estate will pay 10*s.* in the pound; so as the said 5*l.* *per cent.* amount not to above 200*l.* 5 G. 2. c. 30. f. 7.

And if the neat produce will pay 12*s.* 6*d.* in the pound; he shall be allowed 7*l.* 10*s.* *per cent.* so as it amount not to above 250*l.* *id.*

And if it will pay 15*s.* in the pound, he shall be allowed 10*l.* *per cent.* so as it exceed not 300*l.* and such bankrupt shall be discharged from all debts by him owing at the time he became bankrupt: And if he shall be arrested or prosecuted for any debt due before such time, he shall be discharged on common bail, and may plead in general, that the cause of action did accrue before he became bankrupt, and may give this act, and the special matter in evidence; and the certificate of his conforming (as hereafter mentioned), and allowance thereof, shall be sufficient evidence of the trading, bankruptcy, commission, and other proceedings precedent to the obtaining the certificate; and a verdict shall pass for the defendant, unless the plaintiff can prove that the certificate was obtained fraudulently, or can make appear a concealment by the bankrupt to the value of 10*l.* And if the plaintiff is cast, the defendant shall have full costs. *id.*

But



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92. The ninety-first part of the work 92

93. The ninety-second part of the work 93

94. The ninety-third part of the work 94

95. The ninety-fourth part of the work 95

96. The ninety-fifth part of the work 96

97. The ninety-sixth part of the work 97

98. The ninety-seventh part of the work 98

99. The ninety-eighth part of the work 99

100. The ninety-ninth part of the work 100

101. The hundredth part of the work 101

But if any commission of bankruptcy shall issue against any person who shall have been discharged by this act, or shall have compounded with his creditors, or delivered to them his estate, and been released by them, or been discharged by an act of insolvency; then the body only of such person conforming shall be free from arrest and imprisonment, but his future estate shall remain liable to his creditors (his tools of trade, necessary household goods and furniture, and necessary wearing apparel of himself and wife and children only excepted), unless the estate of such person shall produce clear of all charges 15 s. in the pound. *id. f. 9.*

If the neat produce will not pay 10 s. in the pound, the bankrupt shall be allowed so much as the assignees and commissioners shall think fit, not exceeding 3 l. per cent. *id. f. 8.*

45. But no discovery on oath shall intitle the bankrupt to the said allowance, unless the commissioners shall, under their hands and seals, certify to the lord chancellor, that he hath made a full discovery of his estate, and in all things conformed himself; and that there doth not appear to them any reason to doubt of the truth of such discovery, or that the same is not a full discovery; and unless four parts in five in number and value of the creditors, who shall be creditors for not less than 20 l. and who have proved their debts, or some person by them authorized thereto, shall sign such certificate, and testify their consent to such allowance and certificate, and to the bankrupt's discharge, to be also certified by the commissioners; but the commissioners shall not certify the same, till they have proof by affidavit of such creditors, or of the person by them respectively authorized, signing the said certificate, and of the power by which any person is so authorized (and the letter of attorney of a creditor residing in foreign parts, attested by a notary publick, shall be sufficient evidence in such case of such power, 24 G. 2. c. 57. f. 10.) Which said affidavit, together with such power to sign, shall be laid before the lord chancellor with the certificate in order for allowing the same;—and unless the bankrupt make oath, that the certificate and consent of the creditors were obtained fairly and without fraud; and unless the certificate shall, after such oath, be allowed and confirmed by the lord chancellor, or two of the judges to whom he shall refer it: and any of the creditors shall be allowed to be heard against making the certificate, and against the confirmation of it: nor shall any commissioner sign the certificate, till after four parts in five in number and value of the creditors shall have signed it. 5 G. 2. c. 30. f. 10.

And every security given to the use of any creditor, to induce him to sign such allowance or certificate, shall be void. *id. f. 11.*

Moreover, no bankrupt shall be intitled to such allowance, who hath upon marriage of any child given above 100 l. unless he prove by his books, or upon his oath, that he had remaining at the time sufficient to pay his debts; or who hath lost in one day the value of 5 l. or in the whole the value of 100 l. in 12 months next before his becoming bankrupt, at cards, dice, tables, tennis, bowls, billiards, shovelboard, cock-fighting, horse-

aces, dog-matches, foot-races, or other pastime or game, or in bearing a part in the stakes, or by betting; or hath in 12 months before lost 100*l.* by contracts for the stock of any company, or publick funds, where the contract was not to be performed within a week, or where the stock was not actually transferred. 5 G. 2. c. 30. f. 12.

And moreover, by 24 G. 2. c. 57. When any person shall fraudulently swear, before the major part of the commissioners, or by affidavit exhibited to them, that a sum of money is due to him from the bankrupt, which shall in fact not be really owing; and shall, in respect of such fictitious debt, sign the certificate for such bankrupt's discharge; in such case, unless the bankrupt shall, before the major part of the commissioners have signed the certificate, by writing signed by him and delivered to one or more of the commissioners or assignees, disclose the fraud, and object to the reality of such debt, the certificate shall be void, and the bankrupt shall not be intitled to his discharge or allowance. f. 9.

Bankrupt's duty after allowance. 46. The bankrupt, after allowance of the certificate, shall attend on notice in writing from the assignees, to settle accounts, and shall have 2*s.* 6*d.* a day allowed for attendance; and if he shall neglect or refuse, he shall, on oath made by the assignees before the commissioners, be apprehended and committed to close gaol, by warrant of the said commissioners, till he conform. 5 G. 2. c. 30. f. 36.

Commissioners pay. 47. To prevent expences, no money shall be paid out of the effects for eating or drinking of the commissioners, or of any other person; nor shall the commissioners have above 20*s.* each for each meeting; nor any schedule be annexed to the deed of assignment: Commissioners acting contrary hereto, shall be disabled for ever to act as such. 5 G. 2. c. 30. f. 42.

Half fees on renewing the commission. 48. If by the death of commissioners, or otherwise, it be necessary to renew the commission, half fees only shall be paid. 5 G. 2. c. 30. f. 45.

Attorney's bill. 49. All bills of fees or disbursements demanded by any solicitor, clerk, or attorney, shall be settled and certified by a master in chancery, who shall have for the same 20*s.* 5 G. 2. c. 30. f. 46.

Bankrupt dying. 50. Bankrupt dying before distribution, shall not hinder the distribution. 1 J. c. 15. f. 17.

Second dividend. 51. In 18 months after issuing the commission, the assignees shall make a second dividend, and shall cause notice to be inserted in the gazette of the time and place the commissioners intend to meet to make a second distribution, and for the creditors who have not proved their debts to come and prove them: And at such meeting, the assignees shall produce their account on oath, and what is in their hands shall by order of the commissioners be forthwith divided. Which second dividend shall be final, unless a suit in law or equity be depending, or part of the estate standing out that cannot have been disposed of, or that the major part of the creditors shall not have agreed to be sold, or unless some other or future estate of the bankrupt shall come to the assignees; which they shall, as soon as may be, convert into money, and in two months distribute the same in like manner. 5 G. 2. c. 30. f. 37.

Journal

The first of the month was a very busy day. I went to the office and saw the manager. He was very kind and gave me some advice. I was very grateful to him.

I went to the bank and saw the cashier. He was very friendly and helped me with my money. I was very happy to see him.

I went to the school and saw the teacher. He was very nice and gave me some books. I was very happy to see him.

I went to the store and saw the clerk. He was very helpful and gave me some things. I was very happy to see him.

I went to the park and saw the children. They were very happy and played with me. I was very happy to see them.

I went to the church and saw the pastor. He was very kind and gave me some advice. I was very grateful to him.

I went to the hospital and saw the doctor. He was very nice and gave me some medicine. I was very happy to see him.

I went to the library and saw the librarian. She was very helpful and gave me some books. I was very happy to see her.

I went to the post office and saw the clerk. He was very friendly and helped me with my mail. I was very happy to see him.

I went to the police station and saw the officer. He was very kind and gave me some advice. I was very grateful to him.

I went to the court and saw the judge. He was very nice and gave me some advice. I was very grateful to him.

I went to the prison and saw the warden. He was very kind and gave me some advice. I was very grateful to him.

I went to the factory and saw the worker. He was very helpful and gave me some things. I was very happy to see him.

I went to the office and saw the manager. He was very kind and gave me some advice. I was very grateful to him.

But no suit in equity shall be commenced by the assignees, without consent of the major part in value of the creditors, who shall be present at a meeting of the creditors pursuant to notice in the gazette. *id. f. 38.*

52. If the bankrupt shall be taken in execution, or detained in prison, for debt owing before his bankruptcy, by reason that judgment was obtained before the certificate was allowed and confirmed; any judge of the court, on producing the certificate, may order him to be discharged without fee. *5 G. 2. c. 30. f. 13.*

Bankrupt's discharge.

53. But by the discharge of a bankrupt from the debts owing by him at the time he became a bankrupt, his partner shall not be discharged, but shall be liable as if the bankruptcy had not been. *10 An. c. 15. f. 3.*

Partner not discharged.

54. The commissioners shall, on lawful request of the bankrupt, declare how they have bestowed his lands and goods, and pay to him the overplus, if any there be. *13 El. c. 7. f. 4.*

Commissioners to account, and pay the overplus.

55. On petition to the lord chancellor, he may order the proceedings to be entred of record, to be at any time searched and produced as evidence. *5 G. 2. c. 30. f. 41.*

Proceedings to be entred of record.

56. Commissioner sued for any thing done on the statutes of *13 El.* and *1 J.* may plead the general issue; and if he recovers, shall have his costs. *1 J. c. 15. f. 16.* But there is no provision for any thing done by them, or by the assignees, on any of the subsequent statutes.

Remedy on commissioner being sued.

57. The commission shall not abate by the death of the king. *5 G. 2. c. 30. f. 45.*

King's death not to abate the commission.

Note; The act of *5 G. 2. c. 30.* so often mentioned above, is but temporary, and by the last continuance is of force till *Sep. 1. 1757, &c.*

A. Warrant to apprehend a bankrupt.

Westmorland. } To _____.

WHEREAS a certificate under the hands and seals of _____ hath this day been produced before me _____ setting forth that a commission of bankruptcy is issued against _____ and that the said _____ is proved before them the said _____ being the major part of the commissioners authorized in the said commission, to be a bankrupt; and whereas application hath been made to me by _____ by order of the said commissioners, for the apprehending the said _____ These are therefore to require you, on sight hereof, to take and apprehend the said _____ and bring him before me or some other of his majesty's justices of the peace for the said county, to be proceeded against according to law. Given under my hand and seal this _____ day of &c.

B. Commitment thereupon.

Westmorland. } To the keeper of the common gaol at ———.

I Send to you herewith ——— being duly certified to be a bankrupt, requiring you to keep him in the said gaol until he shall be discharged according to law. Given ———.

Bargain and Sale. See Inrollment.

Barratry.

I. What it is.

II. How punished.

I. What it is.

THIS word *barratry* we have received either from the Danes, or Normans, or both: for *baratta* in the Danish, and *baret* in the Norman, do equally signify a quarrel or contention.

And a *barrator*, in legal acceptation, doth signify a *common mover*, *exciter*, or *maintainer of suits or quarrels*, either in courts, or in the country. 1 *Inst.* 368. 1 *Haw.* 243.

A common mover] It seems clear, that no one can be a barrator in respect of one act only; for every indictment for such crime must charge the defendant with being a *common barrator*. 1 *Haw.* 243, 4.

Mover, exciter, or maintainer] Yet it seemeth, that an attorney is in no danger of being judged guilty of an act of barratry, in respect of his maintaining another in a groundless action, to the commencing whereof he was no way privy. 1 *Haw.* 243.

Also, it hath been holden, that a man shall not be adjudged a barrator, in respect of any number of false actions brought by him in his own right: for in such cases he is liable to costs. 1 *Haw.* 243.

In courts] Either courts of record; or not of record, as in the county, hundred, or other inferior courts. 1 *Inst.* 368.

Or in the country] In three manners: 1. In disturbance of the peace. 2. In taking or keeping of possessions of lands in controversy, not only by force, but also by subtilty and deceit, and most commonly in suppression of truth and right. 3. By false inventions, and sowing of calumniation, rumors, and reports, whereby discord and disquiet may grow between neighbours. 1 *Inst.* 368.

II. How

The first part of the history is divided into three books. The first book contains the history of the world from the beginning to the birth of Christ. The second book contains the history of the world from the birth of Christ to the present time. The third book contains the history of the world from the present time to the end of the world.

The second part of the history is divided into three books. The first book contains the history of the world from the birth of Christ to the present time. The second book contains the history of the world from the present time to the end of the world. The third book contains the history of the world from the end of the world to the beginning of the world.

The third part of the history is divided into three books. The first book contains the history of the world from the birth of Christ to the present time. The second book contains the history of the world from the present time to the end of the world. The third book contains the history of the world from the end of the world to the beginning of the world.

The fourth part of the history is divided into three books. The first book contains the history of the world from the birth of Christ to the present time. The second book contains the history of the world from the present time to the end of the world. The third book contains the history of the world from the end of the world to the beginning of the world.

The fifth part of the history is divided into three books. The first book contains the history of the world from the birth of Christ to the present time. The second book contains the history of the world from the present time to the end of the world. The third book contains the history of the world from the end of the world to the beginning of the world.

The sixth part of the history is divided into three books. The first book contains the history of the world from the birth of Christ to the present time. The second book contains the history of the world from the present time to the end of the world. The third book contains the history of the world from the end of the world to the beginning of the world.

The seventh part of the history is divided into three books. The first book contains the history of the world from the birth of Christ to the present time. The second book contains the history of the world from the present time to the end of the world. The third book contains the history of the world from the end of the world to the beginning of the world.

MEMORANDUM

TO: THE PRESIDENT

FROM: THE SECRETARY OF STATE

SUBJECT: [Illegible]

[Illegible]

[Illegible]

[Illegible]

[Illegible]

II. How punished.

By the statute of 34 Ed. 3. c. 1. *The justices of the peace shall have power to restrain all barrators, and to pursue, arrest, take, and chastise them, according to their trespass or offence.*

And altho' this statute doth not create the offence, but supposes it at common law, and only appoints the punishment, yet an indictment of barratry, concluding *against the form of the statute*, is holden to be good, and agreeable to many precedents. *Cro. Eliz.* 148. *1 Haw.* 244.

But it hath been resolved, that such indictment is not good, without also concluding *against the peace*; for this is an essential part of it, as being an offence by the common law. *1 Haw.* 244.

And it hath been holden, that an indictment of this kind may be good, without alledging the offence at any certain *place*; because from the nature of the thing, consisting of the repetition of several acts, it must be intended to have happened in several places; for which cause it is said, that a trial ought to be by a jury from the body of the county. *1 Haw.* 244.

Which case, and that of a common scold, seem to be the only offences for which a general indictment will lie, without shewing any of the particular facts in the indictment; for barratry is an offence of a complicated nature, consisting in the repetition of divers acts in disturbance of the peace, and it would be too prolix to enumerate them in the indictment; and therefore experience hath settled it to be sufficient to charge a man generally as a common barrator, and before the time to give the defendant a note of the particular matters which are intended to be proved against him; for otherwise it will be impossible to prepare a defence against so general and uncertain a charge, which may be proved by such a multiplicity of different instances; and therefore the court generally will not suffer the prosecution to go on in the trial of the indictment, without such note being given to the defendant. *1 Haw.* 244. *2 Haw.* 226, 7.

As to the kind and manner of punishment, it is said, that if the offender be a common person, he shall be fined and imprisoned, and bound to his good behaviour; and if he be of any profession relating to the law, that he ought also to be farther punished, by being disabled to practise for the future. *1 Haw.* 244.

Warrant for a barrator.

Westmorland. } To the constable of _____.

WHEREAS complaint upon oath hath been made unto me _____ one of his majesty's justices of the peace in and for the said county, that A. O. of _____ in the said county, yeoman, on the _____ day of _____ in the _____ year of the reign

reign of ——— and on divers other days and times as well before as afterwards, at ——— aforesaid in the county aforesaid, and at divers other places within the county aforesaid, was and yet is a common barrator, and daily disturber of the peace of our sovereign lord the king, and also a common brawler, wrangler, fighter, scandalizer, and sower of seditions, suits, and discords between his neighbours, and other the liege people and subjects of our said sovereign lord the king, to the great damage and disturbance of the said liege people and subjects of our said lord the king, and against the peace of our said lord the king, and to the evil example of all others in the like case offending: These are therefore to command you forthwith to bring the said A. O. before me to answer unto the said complaint, and to find sureties for his personal appearance at the next general quarter sessions of the peace to be holden for the said county, then and there to answer unto an indictment on the behalf of our said sovereign lord the king to be preferred against him for the said offences. Hereof fail not upon the peril that shall ensue thereon. Given under my hand and seal the ——— day of ———.

Bastards.

Concerning the settlement of bastard children.

See title *1002*.

- I. Who shall be deemed a bastard.
- II. Securing the reputed father till the filiation shall be made.
- III. Order of filiation, and appealing therefrom.
- IV. Punishment of the mother and reputed father.
- V. Mother or reputed father running away.
- VI. Murdering a bastard child.
- VII. Capacity of a bastard child as to inheritance.

I. Who shall be deemed a bastard.

Meaning of the word bastard.

1. **T**HE word *bastard* seemeth to have been brought unto us by the Saxons; and to be compounded of *base*, vile or ignoble, and *start*, or *steert* signifying a rise or original. By the common people in the north (amongst whom is preserved much of the ancient Saxon) it is still pronounced *bastart*, denoting a person sprung from a vile or spurious origin; even as an *upstart* is a person suddenly risen from a mean extraction in general.

2. Lord

The first of these is the fact that the
 government has been successful in
 maintaining a high level of
 economic growth. This has been
 achieved through a combination of
 sound fiscal and monetary policy,
 and a strong commitment to
 free trade and international
 cooperation. The result has been
 a steady increase in the standard
 of living, and a reduction in
 unemployment. This has led to
 a more stable and prosperous
 society.

The second of these is the fact
 that the government has been
 successful in maintaining a high
 level of social stability. This has
 been achieved through a
 combination of sound social
 policy, and a strong commitment
 to the rule of law. The result
 has been a more harmonious
 and peaceful society.

The third of these is the fact
 that the government has been
 successful in maintaining a high
 level of environmental protection.
 This has been achieved through
 a combination of sound
 environmental policy, and a
 strong commitment to the
 protection of the natural world.
 The result has been a more
 beautiful and sustainable
 environment.

The fourth of these is the fact
 that the government has been
 successful in maintaining a high
 level of international relations.
 This has been achieved through
 a combination of sound
 foreign policy, and a strong
 commitment to international
 cooperation. The result has
 been a more peaceful and
 stable world.

The fifth of these is the fact
 that the government has been
 successful in maintaining a high
 level of domestic relations.
 This has been achieved through
 a combination of sound
 social policy, and a strong
 commitment to the rule of law.
 The result has been a more
 harmonious and peaceful
 society.

2. Lord Coke says, We term all by the name of bastards that are born out of lawful marriage. By the common law, if the husband be within the four seas, that is, within the jurisdiction of the king of *England*, if the wife hath issue, no proof is to be admitted to prove the child a bastard, unless the husband hath an apparent *impossibility* of procreation, as if the husband be but eight years old, or under the age of procreation, such issue is bastard, albeit he be born within marriage. But if the issue be born within a month, or a day, after marriage, between parties of full lawful age, the child is legitimate. 1 *Inst.* 244.

Bastard born in lawful marriage.

M. 6 G. 2. Lomax and Holmden. In ejectionment the question on a trial at bar was, whether the lessor was son and heir of *Calcib Lomax*, esquire, deceased; which depended on the question of his mother's marriage. And that being fully proved, and evidence given of the husband's being frequently at *London*, where the mother lived, so that access must be presumed; the defendants were admitted to give evidence of his inability from a bad habit of body. But their evidence not going to an *impossibility*, but an *improbability* only; that was not thought sufficient, and there was a verdict for the plaintiff. *Strange* 940.

And it is said, that formerly if the husband was within the four seas, no proof of *non-access* to his wife was admitted, but the child was deemed to be his; but as this notion was built on no rational foundation, it is now intirely departed from; and though the husband and wife are both in *England*, if there is sufficient proof that he had no access to her, the child will be a bastard. And this was determined, in the case of *Pendrell and Pendrell*, *M. 5 G. 2.* which was an issue out of chancery, to try whether the plaintiff was the heir at law of one *Thomas Pendrell*. It was agreed, that the plaintiff's father and mother were married, and cohabited for some months; that they parted, she staying in *London*, and he going into *Staffordshire*; that at the end of three years the plaintiff was born. And there being some doubt upon the evidence, whether the husband had not been in *London* within the last year, it was sent to be tried. And the plaintiff rested at first upon the presumption of law in favour of legitimacy, which was encountered by strong evidence of no access. And it was agreed by court and counsel, on the trial at *Guildhall* before Lord Ch. J. *Raymond*, that the old doctrine of being within the four seas was not to take place, but the jury were at liberty to consider of the point of access, which they did, and found against the plaintiff. And the court of chancery acquiesced in the determination. *Strange* 925. *Andr.* 9.

T. 10 G. 2. K. and the Inhabitants of Bedall in Yorkshire. An order was made upon one *Moor*, as the putative father of two bastards, born of the body of *Elizabeth* the wife of *Richard Sharples*: in which it is stated, that for seven years before, the husband had had no access to her, she having never seen or heard of him all that time, and not knowing whether he was alive or dead; which the justices adjudge to be true, and that *Moor* is the father of them, and order him to provide accordingly. Upon appeal to the sessions, the case is stated with some variation: that in 1726, she was married

ried to *Sharplefs*, then a foldier in *Mullins's* troop, in a barn, by a person not in the habit of a clergyman; that there had been no access for seven years: but it appearing by a certificate from the commissary general's office, and from the evidence of *Simon Clarkson*, that one *Richard Sharplefs*, who he was told was formerly in *Mullins's* troop, was mustered as a private gentleman in the third troop of horse guards, from *June 25. 1733* to *Feb 23. 1735*. though *Clarkson* said he could not take upon him to swear that it was the same *Richard Sharplefs* pretended to be married as aforesaid; upon this supposition of the husband's being alive, the sessions were of opinion, the children were not bastards, and reversed the order of the two justices. And now upon debate, the order of sessions was quashed, and the order of two justices confirmed: for it being stated in both orders, that there was no access, according to the case of *Pendrell and Pendrell*, it was immaterial whether the husband was alive or not. *Strange 1076.*

And, *M. 10 W. K. and Abberton*. The case was, a feme covert, during the absence of her husband at *Cadiz*, was brought to bed of a bastard; and her husband was not in *England* from the time of her conception, till she was brought to bed. The question was, whether this child was a bastard, especially within the words of the statute of the 18 *Eliz.* (hereafter following) which saith, *children begotten and born out of lawful matrimony*; which cannot be said of this case, the mother being married at the time of the birth of the child; and if such a mother should kill such a child, she could not be guilty of murder within the statute of the 21 *J. c. 27*. But by the court; He is a bastard who is begotten and born of a feme covert, whilst the husband is beyond the four seas. And in a real action, if general bastardy was pleaded, the bishop ought to certify such a one a bastard. And where a man is bastard, he is such to all purposes, and why not within the 18 *El.* For though the statute of 21 *J.* is a penal law, yet the act of 18 *El.* is a remedial law. *L. Raym: 395, 396.*

How far the wife's oath shall be admitted in such case.

3. But this non access of the husband ought to be proved otherwise than upon the wife's oath; as in the following case: *M. 8 G. 2 K. and Reading*. The defendant *Reading* was adjudged by an order of bastardy, to be the putative father of a bastard child, begotten of the wife of one *Almont of Sherborn*. The said woman, on the appeal, gave evidence, that the said *Reading* had carnal knowledge of her body in or about *August 1732*, and several times since; and that her husband had no access to her from *May 1731*, to the time of her examination in that court, being the 3d of *Oct. 1733*. and that the said *Reading* was the father of the said child. And the question on removal of the same into the king's bench was, whether the wife in this case could be admitted as an evidence for or against her husband, and to bastardize her own child. And the whole court were of opinion, that the wife could be a witness to no other fact but that of incontinence, and that this she must be admitted to be a witness to from the necessity of the thing; but not to the absence of her husband, which might properly be proved by other witnesses; and likened it to the case of hue and cry, where the person robbed shall be

The first part of the book is devoted to a general introduction to the subject of the history of the English language. The author discusses the various theories of the origin of the English language and the influence of other languages on it. He also deals with the question of the standardization of the English language and the role of the English language in the world today.

The second part of the book is devoted to a detailed study of the history of the English language from the beginning of the 15th century to the present day. The author discusses the changes in the English language over time and the influence of various factors on these changes. He also deals with the question of the relationship between the English language and other languages.

The third part of the book is devoted to a study of the English language in the 19th and 20th centuries. The author discusses the changes in the English language during this period and the influence of various factors on these changes. He also deals with the question of the relationship between the English language and other languages.

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The book is written in a clear and concise style and is suitable for students of English language and literature. It provides a comprehensive overview of the history of the English language and is a valuable resource for anyone interested in the subject.

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The book is a valuable resource for anyone interested in the history of the English language and is a must-read for students of English language and literature. It provides a comprehensive overview of the subject and is written in a clear and concise style.

MEMORANDUM

TO : [Illegible]

FROM : [Illegible]

SUBJECT : [Illegible]

1. [Illegible]

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be admitted a witness of the fact of robbery, but not to prove any other matter relating thereto, as in what hundred the place was, and the like, because that may be proved by others. *Seff. C. V. 2. 175.*

But in the case of *K. and Bedall* abovementioned, The order reciting, that on the examination of the mother, *and on other proof*, it appeared, that her husband had no access to her, was held to be good; for there the woman's oath is not set forth as the only evidence; but *other proof*, which must be intended legal proof. *Andr. 8.*

4. *M. 5 An. St. George's and St. Margaret's Westminster.* Where a woman is separated from her husband by a divorce *a mensa & thoro*, the children she has during the separation are bastards; for a due obedience to the sentence shall be intended, unless the contrary be shewed: but if a husband and wife, without sentence, do part and live separate, the children shall be taken to be legitimate, and so deemed till the contrary be proved, for access shall be intended. But if a special verdict find the man had no access, it is a bastard; and so was the opinion of Lord Hale; in the case of *Dickens and Collins.* 1 *Salk. 123.*

Child born during a divorce.

5. The law hath appointed no exact certain time, for the birth of legitimate issue, by the widow after the death of her husband. 1 *Danv. 726.*

Widow having a child after her husband's death.

M. 7 J. Alfop and Bowtrell. The question was, whether, the woman being delivered of a child forty weeks and nine days after the death of her husband, such child should be deemed a bastard. And it was proved, that her deceased husband's father did much abuse her, and caused her to lie in the streets; and three physicians (two of them being doctors of physick) made oath, that the child came in time convenient to be the child of the party who died; and that the usual time for a woman to go with child, is nine months and ten days, to wit, solar months, at thirty days to the month, and not lunar months; and that by reason of the want of strength in the woman or the child, or by reason of ill usage, she might be a longer time, *viz.* to the end of ten months or more. And the physicians further affirmed, that a perfect birth may be at seven months, according to the strength of the mother or child, which is as long before the time of the proper birth. And by the same reason it may be as long deferred by accident, which is commonly occasioned by infirmities of the body, or passions of the mind. And the child was adjudged to be legitimate. *Cro. Ja. 541.*

II. Securing the reputed father till the filiation shall be made.

By the 6 G. 2. c. 31. *If any single woman shall be delivered of a bastard child, which shall be chargeable, or likely to become chargeable, to any parish or extraparochial place; or shall declare her self to be with child, and that such child is likely to be born a bastard, and to be chargeable to any parish or extraparochial place, and shall in either of such cases, in an examination (A) to be taken*

in writing, upon oath, before one justice of the county, city, or town corporate, where such parish or place shall lie, charge any person with having gotten her with child, it shall be lawful for such justice, upon application made to him by the overseers of the poor of such parish, or one of them, or by any substantial householder of such extraparochial place, to issue out his warrant (B) for the immediate apprehending such person so charged as aforesaid, and for bringing him before such justice, or before any other of his majesty's justices of the peace of such county, city, or town corporate: And the justice before whom such person shall be brought, shall commit (C) him to the common gaol or house of correction, unless he shall give security (D) to indemnify such parish or place, or shall enter into a recognizance (E) with sufficient surety, upon condition to appear at the next general quarter sessions, or general sessions, of the peace, to be holden for such county or liberty, and to abide and perform such order or orders as shall be made, in pursuance of an act passed in the 18th year of the reign of her late majesty queen Elizabeth, concerning bastards begotten and born out of lawful matrimony. s. 1.

[Issue out his warrant for the immediate apprehending] If the constable, having a warrant to apprehend the reputed father, shall willingly or negligently suffer him to escape; he may be bound over to the sessions, and there indicted, fined, and imprisoned: and under the influence thereof be compelled to make satisfaction to the prosecutors.

[The next general quarter sessions] Here is no power to bind the man but to the next sessions, which often happeneth before the child is born: What shall be done with him at such sessions is not very clear; for he is only bound to abide such order as shall then and there be made by the 18 *El.* which supposeth the child to be then born. Perhaps the sessions, upon application of the overseers, may bind him again till the next sessions, especially if the mother shall come to make oath before them; but if the mother be lying in, and cannot come, it is to be considered, whether her examination taken before the first justice, being proved before them, shall be a sufficient ground for them to proceed upon; or whether the first justice, upon the application and examination already made before him, may bind him again to the next sessions. At least, it seemeth, that the justice cannot bind him generally at the first, unto the sessions which shall happen next after the child shall be born; for that such binding is not warranted by the statute.

Elizabeth] This statute recites the name of queen *Elizabeth* with an *s*; whereas the statutes themselves of that queen's reign do always exhibit her name with a *z*. Which is noted here only, as not exactly agreeable to that precision which ordinarily is required in reciting acts of parliament in cases penal.

And if such woman shall die, or be married, before she shall be delivered, or miscarry of such child, or shall appear not to have been with child at the time of her examination, such person shall be discharged from his recognizance at the next sessions, or immediately released

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released out of custody by warrant of one justice residing in or near the limits where such parish or place shall lie. §. 2.

And on application made by any such person, who shall be committed to any gaol or house of correction, or by any person on his behalf, to any justice residing in or near the limits where such parish or place shall lie; such justice shall summon the overseers of such parish, or one or more substantial householders of such extraparochial place, to appear before him at a time and place to be mentioned in such summons, to shew cause why such person should not be discharged: And if no order shall appear to have been made, in pursuance of the 18th of Elis. within six weeks after such woman shall have been delivered, such justice may discharge him from his imprisonment. §. 3.

But it shall not be lawful for any justice, to send for any woman, before she shall be delivered, and one month after, in order to her being examined concerning her pregnancy; or to compel any woman, before she shall be delivered, to answer any questions relating to her pregnancy. §. 4.

To compel any woman] M. 11 G. K. and Chandler. Indictment for secreting a woman big with an illegitimate child, so that she could not be had to give evidence about the father. The defendant demurred. And by the court, Judgment must be given for the defendant, for the child cannot be illegitimate before it is born, there being always a possibility that it may be born in lawful wedlock. And by this act the woman is not to be compelled. Str. 612. L. Raym. 1368.

III. Order of filiation, and appealing therefrom.

In treating hereof, I will first set forth the statutes, whereon the order is to be framed; then will insert the approved form of an order of bastardy, together with the adjudged cases upon the several parts thereof; and last of all, will consider certain other resolutions upon the said statutes, not relating to the form of such order.

The statutes are these:

By the 18 El. c. 3. it is enacted as follows; Concerning bastards begotten and born out of lawful matrimony, the said bastards being now left to be kept at the charges of the parish where they be born, to the great burden of the same parish, and to the evil example and encouragement of lewd life, it is enacted, that two justices (1 Q.) in or next unto the limits where the parish church is, within which parish such bastard shall be born, upon examination of the cause and circumstance (F), shall and may by their discretion, take order (G) as well for the punishment of the mother and reputed father, as also for the better relief of such parish, in part or in all; and shall and may, by like discretion, take order for the keeping of every such bastard child, by charging such mother or reputed father, with the payment of money weekly, or other sustentation for the relief of such child, in such wise as they shall think meet and convenient: And if after the same order by them subscribed under their hands, the mother or reputed father, upon notice thereof, shall not for their part observe and perform the said order, that then every such party so making de-

fault

fault in not performing the said order, to be committed to ward to the common gaol, there to remain without bail or mainprife, except he or she shall put in sufficient surety (H) to perform the said order, or else personally to appear at the next general sessions of the peace, to be holden in that county where such order shall be taken; and also to abide such order, as the said justices, or the more part of them, then and there shall take in that behalf (if they then and there shall take any); and that if at the said sessions, the said justices shall take no other order, then to abide and perform the order before made, as is abovesaid.

And by 3 Car. c. 4. All justices of the peace within their several limits and precincts, and in their several sessions, may do and execute all things concerning the statute of 18 El. that by the justices in their several counties are by the said statute limited to be done. s. 15.

Upon which statutes, the form of an order of bastardy may be to this effect:

Westmorland. **T**HE order of J. P. and K. P. esquires, two of his majesty's justices of the peace in and for the said county, one whereof is of the quorum, and both residing [in, or] next unto the limits of the parish church within the parish of _____ in the said county, made the _____ day of _____ in the _____ year _____ concerning a (male) bastard child, lately born in the parish of _____ aforesaid, of the body of A. M. single woman:

Whereas it hath appeared unto us the said justices, as well upon the complaint of the churchwardens and overseers of the poor of the said parish of _____ as upon the oath of the said A. M. that she the said A. M. on the _____ day of _____ now last past, was delivered of a (male) bastard child at _____ in the said parish of _____ in the said county, and that the said bastard child is now chargeable to the said parish of _____ and likely so to continue; and further, that A. F. of _____ in the said county, yeoman, did beget the said bastard child on the body of her the said A. M. And whereas the said A. F. hath appeared before us, in pursuance of our summons for that purpose, but hath not shewed any sufficient cause why he the said A. F. shall not be the reputed father of the said bastard child: [Or, And whereas it hath been duly proved to us upon oath, that the said A. F. hath been duly summoned to appear before us the said justices, to the end we might examine into the cause and circumstance of the premises; and whereas he the said A. F. hath neglected to appear before us, according to such summons:] We therefore upon examination of the cause and circumstance of the premises, as well upon the oath of the said A. M. as otherwise, do hereby adjudge him the said A. F. to be the reputed father of the said bastard child.

And thereupon we do order, as well for the better relief of the said parish of _____ as for the sustentation and relief of the said bastard child, that the said A. F. shall and do forthwith, upon notice

The first of these is the fact that the
 government has been unable to raise
 the necessary funds to meet its
 obligations. This is due to a
 variety of causes, including the
 high cost of the war and the
 depreciation of the paper money
 issued to finance it. The result
 has been a severe financial crisis
 which has led to the suspension
 of specie payments and the
 establishment of a fiat money
 system. This has had a
 profound effect on the economy
 and has led to a general
 depression.

The second cause of the
 financial crisis is the
 depreciation of the paper
 money issued by the
 government. This is due to
 the fact that the paper
 money is not convertible
 into specie and is therefore
 subject to the same
 depreciation as any other
 fiat money. This has led to
 a loss of confidence in the
 paper money and a general
 decline in its value.

The third cause of the
 financial crisis is the
 high cost of the war. This
 is due to the fact that the
 government has had to
 raise a large amount of
 money to finance the war.
 This has led to a
 general increase in the
 cost of living and a
 decline in the value of
 property.

The fourth cause of the
 financial crisis is the
 depreciation of the paper
 money issued by the
 government. This is due to
 the fact that the paper
 money is not convertible
 into specie and is therefore
 subject to the same
 depreciation as any other
 fiat money. This has led to
 a loss of confidence in the
 paper money and a general
 decline in its value.

MEMORANDUM

TO: Mr. [Name]

FROM: Mr. [Name]

SUBJECT: [Topic]

1. [Text]

2. [Text]

3. [Text]

4. [Text]

5. [Text]

6. [Text]

7. [Text]

8. [Text]

tice of this our order, pay or cause to be paid to the said churchwardens and overseers of the poor of the said parish of ——— or to some or one of them, the sum of ——— for and towards the lying-in of the said A. M. and the maintenance of the said bastard child, to the time of making this our order.

And we do also hereby further order, that the said A. F. shall likewise pay or cause to be paid, to the churchwardens and overseers of the poor of the said parish of ——— for the time being, or to some or one of them, the sum of ——— weekly and every week from this present time, for and towards the keeping, sustentation, and maintenance of the said bastard child, for and during so long time, as the said bastard child shall be chargeable to the said parish of ———.

And we do further order, that the said A. M. shall also pay or cause to be paid to the said churchwardens and overseers of the poor of the said parish of ——— for the time being, or to some or one of them, the sum of ——— weekly and every week, so long as the said bastard child shall be chargeable to the said parish of ——— in case she shall not nurse and take care of the said child her self.

Given under our hands and seals the day and year first above written.

One whereof is of the quorum] Many orders formerly have been quashed, for want of setting forth that one of the justices was of the *quorum*; but now by the statute of 26 G. 2. c. 27. no order shall be quashed for that defect only.

Whereas it hath appeared unto us] K. and Beard. The examination of the woman must be by two justices, as well as the ordering part; for the examination is a judicial act, and ought to be by both; and it is not enough that one should examine, and make report to the other; but if they are both present, and one only examine, it is well enough, for it is in fact the examination of both. 2 Salk. 478.

As well upon the complaint of the churchwardens and overseers] An order made without the complaint of the parish officers, is not good. Black. 44.

As upon the oath of the said A. M.] It seemeth, that the mother may be examined upon oath, concerning the reputed father, and of the time and other circumstances; for that in this case, the matter, and the trial thereof, dependeth chiefly upon the examination and testimony of the mother. Dalt. c. 11.

Was delivered of a (male) bastard child] H. 8 G. K. and England. An order was quashed, because the sex of the bastard, or the name of it were not mentioned; only, a certain bastard child born of the body of such a woman. Strange 503.

At ——— in the said parish of ———] M. 11 An. 2. and Casb. The order did not set forth that the child was born in the parish; and by the statute the justices cannot make an order to compel a man to contribute towards the maintenance of a bastard child,

child, but in case of that parish where the child was born : And quashed for this reason. *Case of S. 59.*

T. 7 G. K. and Butcher. Exception was taken to an order of bastardy, that it did not appear the child was born in the parish to which the relief is ordered ; for it ran, *We two justices of the borough of Lime Regis, residing within the limits where the parish church is, within which parish the child was born*—— Which is only an averment, that the justices resided in that parish where the child was born, but that might not be the same parish ordered to be relieved. And for this fault the order was quashed. *Strange 437.*

E. 10 G. 2. K. and Greaves. The parish where the child is born, is only to be indemnified ; and if the bastard has acquired a settlement elsewhere, the father is then discharged. *Nels. Bast.*

And upon this head it is observable, that there is one case, which although it frequently happeneth, yet is not within the statute ; and that is, where a bastard is born in a parish where the mother hath no settlement. The child shall go with its mother for nurture, whilst it is a nurse child, to her place of settlement ; and such place can have no remedy upon this statute, for that the child was not born there. And it seemeth that the parish, where it was born, shall not be liable to maintain it, until the child shall be lawfully removed thither, as to its place of settlement.

Upon which ground also, it seemeth not safe, to grant a certificate with a woman with child of a bastard, thereby indemnifying the parish where it shall be born, and promising to receive and provide for the bastard child when it shall become chargeable. For the parish granting such certificate, can have no remedy against the mother or reputed father, but only the parish where the child was born ; nor can that parish neither, because it is indemnified.

Chargeable to the said parish] Order to provide for a bastard child : Exception was taken, that the order doth not set forth that he is chargeable to the parish, or likely to be so. And quashed by the court. *Comb. 32.*

But in *K. and Matthews, H. 8 W.* Exception was taken, that the order doth not set forth that the child is likely to become chargeable : But this exception was over-ruled ; for that it is self evident, that every bastard child is likely to become chargeable. *2 Salk. 475, 6.*

And further, that A. F. of—— *in the said county, yeoman, did beget the said bastard child]* *T. 2 G. 2. K. and Browne.* Upon an order of bastardy it was stated, that the husband had been absent six years, and that during his absence the defendant had had carnal knowledge of the wife, and therefore they adjudge him to be the putative father. But by the court, This order must be quashed ; for his lying with her is not a sufficient reason to infer him the father of this child : and though the justices need not shew the grounds they go upon, yet if they do, and it appears no sufficient ground, their order will be bad. *Strange 811.*

NOTICE

I have the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the above mentioned matter. I have the pleasure to inform you that the same has been forwarded to the proper authorities for their consideration. I am, Sir, very respectfully,
 Yours obedient servant,
 J. M. [Name]
 [Address]

Summons] If the order do not set forth, that the defendant was duly summoned to appear, and for what cause, it ought to be quashed. *K. and Glegg, Cases in L. and E. 4.*

T. 6 & 7 G. 2. K. and Cotton. Motion for an information against the defendant, who with another justice made an order of bastardy upon one *Fitzgerald*, without summoning him to appear before them to make his defence: Upon appeal to the sessions he was acquitted, and put to great expences; which it was insisted was contrary to natural justice. By Mr. Justice *Page*; No man in an office can be supposed to be so ignorant, as not to know it is against natural justice, to convict a man without a summons; the examination ought to be so made, that the truth may appear, and that must be by examining both sides, otherwise it is partial; the scandal, the expence, and the disorder in Mr. *Fitzgerald's* family, are things that ought to be considered; here was no taking by warrant, and therefore an action of false imprisonment would not lie; and this is the only method can be used, to punish the justice. Mr. *J. Probyn*; The principal objection about a summons is right in law, and in reason; possibly an action on the case might be framed; there may possibly have been only an error in judgment, and it is hard to grant an information. Mr. *J. Lee*; If this was strictly a conviction, against which no appeal lies, an information ought to be granted; but he thought the matter was not so very strong in the case of orders. And the rule was discharged. *Seff. C. V. 1. 179.*

E. 8 G. 2. K. v. Taylor and Neale. Motion in the king's bench for an information against the defendants, two justices of *Devonshire*, for making an order on one *Nicholas Mould*, adjudging him to be the putative father of a bastard child, without summoning him, and also for refusing to hear his witnesses. On shewing cause, it appeared that he was summoned by a third justice, which the court held to be sufficient; but that the defendant not appearing himself, the justices would not hear his witnesses. And by the court, supposing the man was summoned, and did not appear, the justices are not then bound to hear any evidence for him; and this court will not hear any evidence in behalf of a person, who should attend here, and does not. *Seff. C. V. 2. 192.*

Do hereby adjudge] *T. 4 An. Q. and Weston.* The great objection which stuck long with the court, was, that it was said in the order, we the said justices *doth* adjudge, instead of *do* adjudge; and after the case had depended two terms, and been several times stirred, the court for that exception, the last day of the term, quashed the order. *L. Raym. 1198.*

And afterwards, *H. 4 An.* The same justices made another order, with the very same fault in it, *viz. doth* adjudge; and upon a *certiorari*, that was quashed. *L. Raym. 1198.*

Adjudge the said A. F. to be the reputed father] *E. 20 C. 2. K. and Perkasse.* An order was quashed, because there was no adjudication, that the person against whom the complaint was made, was the reputed father. *2 Sid. 363.*

H. 9 G. 2. K. and Jenkins. Motion to quash an order of two justices, whereby they adjudge, that such a person is *not* the putative father of a bastard child, and therefore they discharge him; and the rather, because in such a case the parish cannot appeal, because an appeal is only, when the party refuses to give security to come to sessions. And by the whole court, the two justices have no such authority; for their whole power depends on the statute of 18 *El.* and that is only to take order for punishment of the parties, and for relief of the parish; and this order is for neither the one nor the other. *Sess. C. V. 2. 161. Strange 1050.*

The sum of ——— for and towards the lying-in] M. 12 An. 2. and Odam. Order for maintenance of a bastard child, was accepted to, because the defendant is upon sight of the order to pay 9*l.* in gross; and after that, so much weekly. And by the court; By the statute the justices are to take order for relief of the parish, and keeping of the child, by payment of money weekly, or other sustentation; and this may be only indemnifying the parish for money laid out before the reputed father was found. *1 Salk. 124.*

The sum of ——— weekly] E. 20 C. 2. K. and Percaffé. It was moved in the court of king's bench, to quash an order for maintaining a bastard child made at the quarter sessions, and the exception was, because it was unreasonable, in respect of the smallness of the sum; namely, but 2*d.* a week for the maintenance of the child: And the court were of opinion that it should be quashed, unless cause shewn; and they said, that altho' none but the justices could declare the father, yet if they were unreasonable in the sum, the court might judge of that. *2 Sid. 363.*

During so long time as the said bastard child shall be chargeable] E. 9 W. K. and Barebaker, Order to pay so much money by the week, till the child shall be fourteen years of age, is naught; for the justices have no power but to indemnify the parish; and that is only to oblige him to maintain the child, as long as it is or may be chargeable. *1 Salk. 121. 2 Salk. 478.*

An order that the putative father should pay so much a week, until it should be able to get its living by working, was quashed; it should have been for so long time, as the child shall be chargeable to the parish. *1 Vent. 210.*

M. 1 G. 2. K. and Street. An order of bastardy was made, to pay so much weekly, till the child was nine years old, if it should so long live. And by the court, It is a good order, for we cannot intend it able to provide for it self sooner. *Strrange 788.* But then it may be bound an apprentice into another parish before that age, and having gained a settlement in such other parish, the effect of the order should then cease. Therefore it is best in this and all such like cases to hold to the statute: and the statute here only gives power to the justices *to take order for the relief of the parish where the child shall be born.*

T. 9 W. Brown's case. The justices cannot order a sum, for putting out the child an apprentice. *Comb. 448.*

But in the case of *K. and Blackwell, M. 4 G.* The order was, that the reputed father shall pay to the churchwardens so much weekly

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weekly from the time of the birth of the child, until he shall attain the age of 12 years, if he shall so long continue chargeable; and when he shall attain the age of 12 years, to pay 4*l.* to put him out apprentice, and this was held good. The same resolved, *Cases in L. and E.* 85. And *H. 2 G. K. and Stone. Nels. Bast.*

But it seemeth not necessary to incumber the order therewith; for it may be the same thing if the parish bind him out, and pay the money; for until such sum shall be run off by the weekly payments, so long the child continues chargeable.

But after all, so far as these errors above rehearsed shall affect only the form of the order, and not the merits thereof; the same may be amended at the sessions, by the 5 G. 2. c. 19. before the appeal shall be proceeded upon, and then the court shall go upon the merits.

HAVING thus distinctly considered the form of an order of bastardy as established upon the statutes foregoing, I proceed to some other resolutions upon the said statutes, concerning divers matters not relating to the form of such order: Which are these.

1. In what time the order shall be made.
2. Whether the justices can order security to be given to perform their order.
3. To what sessions the appeal against the order shall be.
4. Whether the sessions can proceed originally in the case of bastardy.
5. Whether on appeal it is necessary that the reputed father shall be present in court.
6. In what case the order of the sessions shall be final.
7. In what manner the sessions shall enforce their own order.
8. What shall be done if the two next justices cannot agree.
9. What security shall be requisite to indemnify the parish, to prevent any order from being made.

(1) *In what time the order shall be made.* There is no time limited by the statute, in which the order shall be made; so that it may be made at any time after the birth of the child.

And in the case of *K. and Miles, M. 1 G.* On motion to quash an order of bastardy, it was resolved, that if the father run away, and return, tho' 14 years after, yet an order to fix the child on him is good; for there is no statute of limitation in these cases. *Sess. C. V. 1. 77.*

But by the aforesaid statute of 6 G. 2. if the reputed father is in prison, and no order shall be made in six weeks after the birth of the child, he may in such case be discharged from his imprisonment; but the order nevertheless made upon him afterwards, will be good.

(2) *Whether the justices can order security to be given to perform their order.* *E. 2 An. Q. and Chaffey.* Exception was taken, that the order was, that the defendant should give security for payment of the sum by them imposed for the maintenance of the child; when it did not appear, that the defendant had disobeyed the order in point of payment. And for this reason, the order was quashed as to that part. *L. Raym. 858. 3 Salk. 66.*

And with this all the other resolutions do agree. *T. 11 An. Q. and Clogg. 4 G. K. and Buckle. T. 8 & 9 G. 2. K. and Messenger. Nels. Bast.*

And so are the words of the statute; *viz. if the party shall not perform the said order*, he shall then (so making default) be committed, unless he shall put in surety to perform the same, or to appear at the sessions.

And therefore that part of the form of an order, which directeth such security to be given, and which runs thro' almost all the books, seems to be not good.

And here then will be a gap left open, by a defect in the law, for the reputed father to run away, and (if he leave no effects) to avoid the future payments, by obeying the order for the present, in paying off so far as shall be then due; for here seemeth to be no power to compel security to be given for the future, unless only in the case of disobedience.

(3) *To what sessions the appeal against the order shall be.* The statute directeth, that the appeal shall be *to the next general sessions of the peace to be holden in that county, where such order shall be taken.*

Next general sessions] That is to say, The next general sessions after notice of such order. 3 *Keb.* 551.

General sessions] *T. 10 W. K. and Shaw.* An order was made by two justices, adjudging *Shaw* to be the reputed father of a bastard; whereupon he appealed to the next *quarter* sessions after notice; where the order of the two justices was discharged: And now it was moved to quash the order of sessions, because by the statute the appeal must be to the next *general* sessions, and there might have been a general sessions before the general quarter sessions, as in *London and Middlesex*, where there are four general sessions in the year, besides the quarter sessions. And quashed for this fault. 2 *Salk.* 482.

To be holden in that county] It was moved to quash an order, for that it was at the sessions of the peace in the county aforesaid, and did not say *for* the county; but this was overruled, for that there is not so much strictness required in orders, as there is in indictments. 1 *Ventr.* 37.

To which may be added also, that this is according to the words of the statute.

In that county where such order shall be taken] *T. 15 C. 2. K. and Coystan.* Resolved, that this shall be intended of the next sessions of that part of the county, where it was made, and not at the next sessions in the county at large; for that would be mischievous in many counties, where there are several sessions in distinct parts of the county. 1 *Sid.* 149.

(4) *Whether the sessions can proceed originally in the case of bastardy.* It hath been much disputed, whether the sessions may make an original order, in the case of bastardy, by the statute of the 3 *Car. c. 4.* in like manner as the two justices may do by the 18 *El.* If a conjecture may be allowed, after so long a space of time from the making of the said acts, and after the opinions of so many learned men thereupon, it should be this: In the first place, as to those who hold the negative, namely, that the sessions

sions cannot proceed originally upon the said statute of 3 *Car.* it is clearly observable, albeit their opinion may be true, that it resteth upon a false foundation, namely, upon a supposition that the said statute of 3 *Car.* is expired; which is none other than a palpable oversight committed by one author, and followed by others without examination (a thing not unusual in this kind of learning). Supposing therefore that the statute of the 3 *Car.* is of force, let us put the case, that the sessions may proceed originally thereupon, in like manner as the two justices may do by the 18 *El.* then there will appear this difficulty upon the face of it, that after the sessions shall have made such order, if the party shall make default in the performance thereof, then (according to the directions of the said statute of 18 *El.*) the party so making default shall put in surety to perform the said order, or else personally to appear at the next sessions, to abide such order as shall there be made in the premises, or shall be committed for his refusal. Which implies an appeal from one sessions to another; a thing which is unknown to our laws, an appeal always supposing a removing the cause from an inferior to an higher jurisdiction, and not from the same court to the same court. Now the obvious resolution of the matter perhaps may be this; the statute of the 18 *El.* which was a temporary act, doth require, that if the party shall make default in performance of the order of the two justices, they shall commit him to gaol, unless he shall put in surety to perform the said order, or else personally to appear at the next sessions, and to *abide such order as the justices there shall take in that behalf (if they then and there shall take any) and that if at the said sessions they shall take no other order, then to perform the said order before made;* without any special power given to the sessions, either by that act, or by any other, to take any order therein at all. Then comes the statute of 3 *Car. c. 4.* which enacteth, that the said statute of 18 *El.* shall be continued, together with this supplementary clause, *that the justices in sessions may do and execute all things concerning the said statute of 18 El. that by the justices in the several counties are by the said statute limited to be done.* And then the whole taken together will amount to no more than this; that the two justices out of sessions shall take order for the punishment of the mother and reputed father, and for the relief of the parish, and that if upon appeal the matter shall come before the sessions, the sessions shall have power to determine thereupon, and to take such order therein, as the two justices may do out of sessions.

So that upon this supposition, the statute of the 3 *Car.* doth not give the sessions a power to proceed originally, and so deprive the party of the benefit of an appeal, but only explains the power intended by the 18 *El.* of the sessions upon an appeal to hear and determine the same

And nothing is more frequent, in the like cases, than for an act continuing a former act, to add an explanatory clause of some doubtful part of such former act; of which we have an instance at hand in this very same statute of 3 *Car. c. 4.* which, continuing the statute of the 43 *El.* concerning the power given to the overseers to bind out poor children apprentices, adds this ex-

planatory clause, *viz.* that all persons to whom the overseers shall bind such poor children apprentices, may take and receive them as apprentices.

(5) *Whether on appeal it is necessary that the reputed father shall be present in court.* *H. 8 W. K. and Matthews.* The court will not quash an order of bastardy, unless the reputed father be present in court. *2 Salk. 475.*

And the reason is, that if the cause shall go against him, he may be proceeded against, in case of contempt or disobedience.

(6) *In what case the order of the sessions shall be final.* *M. 13 G. K. and Tenant.* The order of two justices being quashed upon the merits by the sessions on an appeal, the defendant is thereby legally acquitted, and cannot be drawn in question again for the same fact. *L. Raym. 1423, 4. Strange 716.*

If the two next justices make an order, and the party appeals to the next sessions, and they alter, or discharge, or confirm that order, any other sessions cannot order any thing contrary thereto, for the order upon the appeal is final. *Cro. Car. 341, 350. Pridgcon's case.*

T. 1 G. 2. K. and Arundell. Two justices make an order, that the defendant shall pay a sum in gross, and also 2s. a week so long as the child shall be chargeable. The party appeals to the sessions, who confirm the order. At a subsequent sessions, the father of the bastard desired to have the keeping of it, and that the payment of the 2s. a week should cease; which the second sessions ordered. Motion was made to quash this last order of sessions, because in this case they had no jurisdiction. And the court held, that the second sessions had no authority to order the subtraction of the 2s. a week; and the order was quashed, because it was made out of time (being three years after the appeal), and therefore the justices had no jurisdiction. *Seff. C. V. 1. 234.*

(7) *In what manner the sessions shall enforce their own order.* *T. 4 An. Q. and Weston.* The case was, *Weston* had appealed to the sessions, where the order was confirmed, and he committed for not paying the money ordered: And exception was taken, that the sessions should have proceeded against him upon his recognizance. And by *Holt Ch. J.* If they proceed on the 18 *El.* the sessions hath no power to commit, but to proceed on his recognizance; but if on the 3 *C.* the sessions may commit as the two justices might have done, that is, unless the party put in security to perform the order, or to appear at the next sessions. *1 Salk. 122. L. Raym. 1157.*

Note; This case goes upon the supposition that the sessions may proceed originally on the statute of 3 *C. c. 4.* and thereupon inferreth the absurdity abovementioned, of appealing from one sessions to another. But the method of proceeding against the reputed father, in case of disobedience to the order of sessions, seemeth to be not difficult; if he is bound over to abide the order of the sessions, his recognizance may be estreated; if he hath not been bound over, he may be indicted, fined, and imprisoned for the contempt.

The first part of the report
 deals with the general
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(8) *What shall be done if the two next justices cannot agree.* In this matter the statute of 18. El. is different from most other statutes; for generally where power is given to two justices, the statutes express that two or more justices may do such a thing; but here the statute saith only, that two justices, dwelling in or next unto the parish, shall have power to take order therein. And Mr. Dalton makes a *quære*, what shall be done, if the two next justices cannot agree in the order, or shall make no order: And this case, tho' likely enough to happen sometimes, hath not yet been determined. If they will not proceed at all, there seemeth to be no doubt, but that they may be compelled by a *mandamus*; and if they cannot agree, yet still it seemeth, that they may in like manner be compelled, for till that is done, they have taken no order for the relief of the parish, which the statute requires that they shall do. But whether, if one of the next justices shall refuse, and another not the next shall or may act in such case, doth not appear to have been adjudged.

(9) *What security shall be requisite to indemnify the parish, to prevent any order from being made.* E. 11 An. 2. and Smith. If the father will take the child (and the mother is willing to part with it, being a nurse child) he must do it at first; and by suffering the order to be made, it shall be deemed a refusal in law: besides, he shall not then be suffered; he may sell it, or make away with it, as too often happens. *Caf. of S. 64.*

Whether a bond or other security ought to be made to the churchwardens and overseers and their successors, or to their executors or administrators, hath been questioned; concerning which, the author of the readings upon the statutes saith thus: Those gentlemen who have taken upon them, to direct the officers, to have such bonds or other securities made to them and their successors, would do well to consider, whether the churchwardens and overseers are such a corporation as can purchase, sue and be sued. And whether bonds, being things in action, it may not be difficult for the successors of the churchwardens and overseers, to whom they were made, to maintain an action, on a bond made to their predecessors. 'Tis true, churchwardens may maintain an action for the goods of their church. But they are not such a corporation, as can take or purchase lands, or take securities for the use of their church, except in *London*. And it never was pretended, that the churchwardens and overseers of the poor are a corporation in any respect, in relation to the poor, and consequently, can neither sue nor be sued as such. *Read. Bast.*

And indeed, upon the whole, the taking of a bond in any kind seemeth not so convenient for the parish, as an order made by the justices; because the suing upon a bond is both tedious and expensive, whereas the course of carrying of an order into execution is very short and easy. But then, on the other hand, a bond will bind a man's executors; but the order of the justices being obligatory only upon the man himself, when he dies, the order dieth with him.

IV. Punishment of the mother and reputed father.

By the 18 El. c. 3. Concerning bastards being left to be kept at the charges of the parish where born, to the great burden thereof, and to the evil example and encouragement of lewd life, it is enacted, that the two next justices shall take order therein, as well for the punishment of the mother and reputed father, as for the relief of the parish.

And by 7 J. c. 4. Every lewd woman which shall have any bastard which may be chargeable to the parish, the justices of the peace shall commit such lewd woman to the house of correction, there to be punished and set on work, during the term of one whole year; and if she shall afterwards offend again, then to be committed to the said house of correction as aforesaid, and there to remain, until she can put in good sureties for her good behaviour, not to offend so again. s. 7.

For the punishment of the mother and reputed father] That is, by corporal punishment: But a woman shall not be punished both by corporal punishment, and by being sent to the house of correction, for that no one ought to be punished twice for one and the same offence. *Dalt. c. 11.*

Bastard which may be chargeable] It seemeth by these words, that such a woman shall not be sent to the house of correction, until after the child be born, and that it be living; for it must be such a child as may be chargeable to the parish. *Dalt. c. 11.*

And if she will discharge the parish of keeping the bastard, she cannot be punished by this statute of 7 J.

But nevertheless she may be punished (Lord Coke says) by the statute of 18 El. 2 *Inst.* 733.

Which opinion seems justly questionable: for the preamble of the said act of 18 El. (as hath been rehearsed) seemeth to restrain the jurisdiction of the justices to the parents of such bastard children only as may be chargeable.

But the proper punishment in such case, seems to be by presentment in the spiritual court.

The justices of the peace shall commit] It seemeth that such commitment ought to be by two justices at the least; and by comparing the two statutes together, it seemeth fittest for the two next justices authorized by the 18 El. *Dalt. c. 11.*

Shall commit such lewd woman] But such punishment shall not be, until after that the woman is delivered of her child; neither are the justices to meddle with the woman, until the child be born, and she strong again. *Dalt. c. 11.*

Also it seemeth, that such bastard child is not to be sent with the mother to the house of correction, but rather that the child should remain in the town where it was born (or settled with the mother) and there to be relieved by the work of the mother, or by relief from the reputed father; and yet the common opinion and practice is otherwise, *viz.* to send the child with the mother

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Journal

The first day of the month was a fine day, with a
 clear sky and a gentle breeze. We went for a walk
 in the park and saw many beautiful flowers.
 The children were very happy and played for
 hours. We had a picnic under a big tree.
 The weather was just what we needed.

The second day was a bit cloudy, but we
 still went out for a walk. The children
 found some interesting insects. We saw
 a butterfly and a ladybug. The
 weather was still pleasant.

Notes on the children's behavior

The children were very curious about the
 insects they found. They wanted to know
 what they were and how they lived. I
 explained to them that butterflies are
 very beautiful and that ladybugs are
 good for the garden. They were
 very interested and asked many questions.
 I showed them some pictures of
 different insects and they were
 fascinated.

The children also enjoyed playing
 in the sandpit. They built a castle
 and a fort. They were very creative
 and had a lot of fun. I saw
 them playing happily and
 laughing. They were very
 energetic and full of life.

The children were very happy and
 enjoyed their day in the park. They
 were very active and played for
 hours. They were very curious
 about the world around them and
 wanted to learn more. I was
 glad to see them so happy and
 engaged. They were very
 interested in the insects and
 the sandpit. They were very
 creative and had a lot of fun.
 They were very energetic and
 full of life.

to the house of correction; and this may also seem reasonable, where the child sucketh on the mother. *Dalt. c. 11.*

But it seemeth much the best, to commit the mother only, and not the child, but leave it to her choice whether she will take it with her; and if she will not, then to send it to its lawful place of settlement.

Then to be committed to the said house of correction as aforesaid }
Which words do imply that she shall not be punished as for a second offence, unless she hath been committed and punished in the house of correction for the first.

V. Mother or reputed father running away.

Whereas the putative fathers and lewd mothers of bastard children run away out of the parish and sometimes out of the county, and leave the bastard children upon the charge of the parish where they are born, altho' they have estates sufficient to discharge the parish; it shall be lawful for the churchwardens and overseers of such parish where any bastard child shall be born, to take and seize so much of the goods, and receive so much of the annual rents of the lands of such putative father or lewd mother, as shall be ordered by any two justices, towards the discharge of the parish, to be confirmed at the sessions, for the bringing up and providing for such bastard child; and thereupon the sessions may make an order for the churchwardens or overseers of such parish, to dispose of the goods by sale or otherwise, or so much of them for the purposes aforesaid, as the court shall think fit, and to receive the rents and profits of the lands, or so much of them as shall be so ordered by the sessions. 13 & 14 C. 2. c. 12. f. 19.

E. 2 An. Q. and Chaffey. Order to the churchwardens and overseers, to seize of the putative father's goods, what they should judge proper for securing of the parish, quashed; for that it should be, what the justices think proper, and not what the churchwardens and overseers think proper. *L. Raym. 858.*

VI. Murdering a bastard child.

1. By the 21 J. c. 27. *If any woman be delivered of any issue of her body, male or female, which being born alive, should by the laws of this realm be a bastard, and she endeavour privately, either by drowning, or secret burying thereof, or any other ways, either by her self, or the procuring of others, so to conceal the death thereof, as that it may not come to light, whether it were born alive or not, but be concealed, she shall suffer death as in case of murder, except she can prove by one witness at the least, that the child was born dead.* Concealing the death of a bastard child.

And it hath been adjudged, that in order to convict a woman by force of this statute, there is no need that the indictment be drawn specially, or conclude against the form of the statute; for the statute doth not make a new offence, but only make such concealment an undeniable evidence of murder. *2 Harw. 438.*

Also,

Also, it hath been agreed, that where a woman appears to have endeavoured to conceal the death of such child within the statute, there is no need of any proof that the child was born alive, or that there were any signs of hurt upon the body, but it shall be undeniably taken that the child was born alive, and murdered by the mother. 2 *Haw.* 438.

But it hath been adjudged, that where a woman lay in a chamber by her self, and went to bed without pain, and waked in the night, and knocked for help but could get none, and was delivered of a child, and put it in a trunk, and did not discover it till the following night, yet she was not within the statute, because she knocked for help. 2 *Haw.* 438.

Also, it hath been agreed, that if a woman confess her self with child beforehand, and afterwards be surprized and delivered, no body being with her, she is not within the statute, because there was no intent of concealment, and therefore in such cases it must appear by signs of hurt upon the body, or some other way, that the child was born alive. 2 *Haw.* 438.

Giving a potion
to cause abortion.

2. If a woman be with child, and any gives her a potion to destroy the child within her, and she take it, and it works so strongly that it kills her, this is murder; for it was not given to cure her of a disease, but unlawfully to destroy her child within her; and therefore he that gives her a potion to this end, must take the hazard, and if it kills the mother, it is murder. 1 *H. H.* 429, 30.

If a woman be quick or great with child, if she take, or another give her any potion to make an abortion, or if a man strike her, whereby the child within her is killed, tho' it be a great crime, yet it is not murder nor manslaughter by the law of *England*, because it is not yet *in rerum natura*, nor can it legally be known, whether it were killed or not: So it is, if after such child were born alive, and after die of the stroke given to the mother, this is not homicide. 1 *H. H.* 433.

But if a man procure a woman with child to destroy her infant when born, and the child is born, and the woman in pursuance of that procurement kill the infant; this is murder in the mother, and the procurer is accessory. 1 *H. H.* 433.

VII. Capacity of a bastard child as to inheritance.

A bastard can have no name of reputation as soon as he is born; but after he is born, and hath gained by time a name by reputation, he may purchase by his reputed name, to him and to his heirs; tho' he can have no heirs but of his body. 1 *Inst.* 3. 6 *Co.* 65.

A bastard is *terminus a quo*; he is the first of his family, for he hath no relation of which the law takes any notice; but this must be understood as to civil purposes, for there is a relation as to moral purposes, therefore he cannot marry his own mother, or sister, or the like. 3 *Salk.* 66.

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A. Voluntary examination of a woman with child of a bastard; by 6 G. 2. c. 31.

Westmorland. **T**HE voluntary examination of A. M. of _____ in the said county, singlerwoman, taken on oath, before me _____ one of his majesty's justices of the peace in and for the said county, this _____ day of _____.

Who saith, that she is now with child, and that the said child is likely to be born a bastard, and to be chargeable to the parish of _____ in the said county, and that A. F. of _____ in the said county, weaver, is the father of the said child.

The mark of

Taken and signed the day and year
abovewritten, before me

† A. M.

J. P.

Note; These same forms will serve, with a very little variation, after the birth of the child.

B. Warrant for apprehending the reputed father, before the birth; on 6 G. 2. c. 31.

Westmorland. } To the constable of _____.

WHEREAS A. M. of _____ in the said county, singlerwoman, hath by her voluntary examination taken in writing upon oath, before me _____ one of his majesty's justices of the peace in and for the said county, this present day declared herself to be with child, and that the said child is likely to be born a bastard, and to be chargeable to the parish of _____ in the said county, and that A. F. of _____ in the said county, weaver, is the father of the said child; And whereas O. P. one of the overseers of the poor of the parish of _____ aforesaid, in order to indemnify the said parish in the premises, hath applied to me to issue my warrant for the apprehending of the said A. F. I do therefore hereby command you, immediately to apprehend the said A. F. and to bring him before me or some other of his majesty's justices of the peace for the said county, to find security to indemnify the said parish of _____ or else to find sufficient surety for his appearance at the next general quarter sessions [or, next general sessions] of the peace to be holden for the said county, then and there to abide and perform such order or orders as shall be made, in pursuance of an act passed in the eighteenth year of the reign of her late majesty queen Elizabeth, concerning bastards begotten and born out of lawful matrimony. Given under my hand and seal, the _____ day of &c.

C. Commitment thereupon; by the 6 G. 2. c. 31.

Westmorland. { To the constable of _____ in the said county,
and to the keeper of the house of correction [or,
common gaol] at _____ in the said county.

WHEREAS A. M. of _____ singlewoman, in her voluntary examination taken in writing and upon oath, the _____ day of _____ now last past, before me _____ one of his majesty's justices of the peace in and for the said county, hath declared herself to be with child, and that the said child is likely to be born a bastard, and to be chargeable to the said parish of _____ and hath charged A. F. of _____ gentleman, with having gotten her with child of the said child; And whereas the said A. F. being now personally present before me, being brought by my warrant, upon application for that purpose to me made, by O. P. one of the overseers of the poor of the said parish, hath refused to give security to indemnify the said parish, and hath also refused to enter into a recognizance with sufficient surety, upon condition to appear at the next general quarter sessions [or, next general sessions] of the peace to be holden for the said county, and to abide and perform such order or orders as shall be made in pursuance of an act passed in the eighteenth year of the reign of her late majesty queen Elizabeth, concerning bastards begotten and born out of lawful matrimony: These are therefore to command you the said constable, to take and convey the said A. F. to the house of correction at _____ in the said county, and to deliver him to the keeper thereof, together with this warrant. And I do hereby command you the said keeper of the said house of correction, to receive the said A. F. into your custody in the said house of correction, and him there safely to keep, until he shall give such security, or enter into such recognizance as aforesaid, or be otherwise lawfully delivered from thence. Given under my hand and seal the _____ day of &c.

D. Bond to indemnify the parish.

KNOW all men by these presents, that we A. F. of _____ in the county of _____ gentleman, and A. S. of _____ yeoman, are held and firmly bound unto _____ churchwardens, and _____ overseers of the poor of the parish of _____ in the said county (in trust for the parishioners of the said parish) in _____ pounds of good and lawful money of Great Britain, to be paid to the said _____ or their certain attorney, their executors, administrators, or assigns: To which payment well and truly to be made, we bind our selves, and each of us, jointly and severally, and our and each and every of our heirs, executors, and administrators, firmly by these presents; Sealed with our seals, and dated the _____ day of _____ in the _____ year of the reign of our sovereign lord George
the

the second, of Great Britain, France, and Ireland, king, defender of the faith, and so forth, and in the year of our lord _____.

The condition of this obligation is such, that whereas A. M. of _____ singlegwoman, hath in and by her voluntary examination, taken in writing and upon oath, before _____ one of his majesty's justices of the peace in and for the said county of _____ declared that she is with child, and that the said child is likely to be born a bastard, and to be chargeable to the said parish of _____ and that the abovebounden A. F. is the father of the said child; If therefore the said A. F. and A. S. or either of them, their or either of their heirs, executors, or administrators, do and shall from time to time, and at all times hereafter, fully and clearly indemnify and save harmless, as well the above named churchwardens and overseers of the poor of the said parish of _____ and their successors for the time being, as also all and singular the other parishioners and inhabitants of the said parish of _____ which now are, or hereafter shall be for the time being, of and from all manner of costs, taxes, rates, assessments, and charges whatsoever, for or by reason of the birth, education, and maintenance of the said child, and of and from all actions, suits, troubles and other charges and demands whatsoever, touching or concerning the same, that then this present obligation to be void, otherwise of force.

Signed, sealed, and delivered (having been
first duly stamped) in the presence of

A. F.
A. S.

E. Condition of a recognizance for the father to appear at sessions; on 6 G. 2. c. 31.

THE condition of this recognizance is such, that if the said A. F. do and shall appear at the next general quarter sessions [or, the next general sessions] of the peace to be holden for the said county, and shall then and there abide and perform such order or orders as shall be made in pursuance of an act passed in the eighteenth year of the reign of her late majesty queen Elizabeth, concerning bastards begotten and born out of lawful matrimony, upon the complaint of the churchwardens and overseers of the poor of the parish of _____ in the said county, for begetting a child on the body of A. M. singlegwoman, which child is likely to be born a bastard, and to be chargeable to the said parish of _____ Then this recognizance to be void, otherwise of force.

If it is after the birth, then say, For begetting a bastard child, born in the parish of _____ in the said county, on the body of A. M. singlegwoman, which child is now chargeable [or, likely to be chargeable] to the said parish of _____ Then this recognizance to be void.

- F. Warrant of the two next justices, for the mother, with a summons for the reputed father, to make the order of filiation and maintenance; on the 18 *El. c. 3.*

Westmorland. } To the constable of ———.

WHEREAS information hath been made unto us ——— two of his majesty's justices of the peace in and for the said county, one whereof is of the Quorum, and both of us residing next unto the limits of the parish church within the parish of ——— in the said county, as well upon the complaint of the churchwardens and overseers of the poor of the said parish, as on the oath of A. M. of ——— singlewoman, that on the ——— day of ——— last past, she the said A. M. was delivered of a (male) bastard child at ——— in the said parish, and that A. F. of ——— in the said county, taylor, is the father of the said bastard child, and that the said bastard child is now living, and chargeable [or, likely to be chargeable] to the said parish of ——— These are therefore to command you to bring the said A. M. before us, at the house of ——— in ——— in the said county, on ——— the ——— day of ——— at the hour of ——— in the afternoon of the same day, to be by us further examined, touching the premisses; And that you give notice thereof, unto the said A. F. that he may likewise be at the time and place aforesaid, to make his lawful defence: To the end that upon the examination of the cause and circumstance, we may take such order therein, as to right doth appertain. And what you shall do in the execution hercof, you are to make known unto us at the time and place aforesaid. Given under our hands and seals the ——— day of &c.

- G. Order of filiation and maintenance, for the reasons there specified, is inserted in the body of the title foregoing.

- H. Condition of a recognizance to appear at the sessions, after the order not performed; on 18 *El. c. 3.*

WHEREAS by an order under the hands and seals of us ——— two of his majesty's justices of the peace for the said county, one whereof is of the Quorum, and both of us residing [in, or] next unto the limits of the parish church within the parish of ——— in the said county, A. F. of ——— in the said county, taylor, is adjudged to be the reputed father of a bastard child born lately of the body of A. M. of ——— singlewoman, at ——— in
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Received of the Treasurer of the
Board of Education the sum of
\$100.00 for the year 1918

Yours truly,
[Signature]

Witness my hand and seal this
10th day of January 1918
at New York City

[Faint, illegible text, possibly a list or ledger entries]

the said parish of ——— [And then set forth what was ordered therein further] And whereas the said A. F. hath not observed nor performed the said order;

The condition therefore of this recognizance is such, that if the abovebound A. F. shall observe and perform the said order, or shall personally appear at the next general sessions of the peace, to be holden in and for the said county, and shall then and there abide such order as shall be then made by the court, concerning the said bastard child, if any such order shall be then made; and if no such order shall be then made or taken by the said court, if the said A. F. do and shall perform the order already by us made as aforesaid: Then this recognizance to be void.

Battery. See Assault.

Bawdy houses. See Lewdness.

Beer. See Excise.

Behaviour. See Surety.

Bent.

WHEREAS on the north west coasts of *England*, and especially in the county of *Lancaster*, the sea is bounded, and the lands are prevented from being overflowed, by large hills, the sand of which is so loose, that in dry weather it is thrown by the winds on the adjacent lands, to the damage thereof, and the danger of the inhabitants, who are exposed thereby to the inundation of the sea; to prevent which, the land owners are at great charges annually to plant and maintain a sort of rush or shrub called *starr* or *bent*; but many disorderly persons pluck up and carry away the same, to make matts and brushes: Therefore if any person, without consent of the owner, shall cut, pull up, or carry away any *starr* or *bent* off the said hills on the north west coasts of *England*, on complaint thereof on oath to one justice, the offender shall be summoned, and on default of appearing, the justice shall issue his warrant to apprehend and bring him before him; and being convicted on oath of one witness, or confession, he shall forfeit 20*s.* half to the informer, and half to the owner of the bent, by distress; and for want of sufficient distress, to be sent to the house of correction for three months, to be kept to hard labour; and for a second offence, to be committed to the house of correction for one year, to be whipt and kept to hard labour.

And if any *starr* or *bent* shall be found within five miles of the said sand hills, the persons convicted of having the same in custody shall forfeit 20*s.* in like manner, and for want of sufficient distress shall

Black act.

shall suffer three months imprisonment, and hard labour in the house of correction.

But this shall not restrain any persons from the exercise of any ancient prescriptive right, to cut starr or bent on the sea coasts in the county of Cumberland. 15 & 16 G. 2. c. 33. s. 6, 7, 8.

Bigamy.

AS *bigamy* in our law seems for the most part to be used to signify the having of two wives successively one after the other, I shall take the liberty to transfer the offence which is commonly treated of under this title unto the title *Polygamy*, which signifies more properly the having two or more wives or husbands at the same time.

Billets. See *Fuel*.

Black act.

IN order to avoid repeating the same regulations so many times over, as the offences hereunder mentioned are treated of under their respective titles in the different parts of this book; it is thought proper, to insert here at large, the whole law relating to them all together, and to refer from thence to this title for the knowledge of the several particulars.

By the 9 G. c. 22. (commonly called the *Black act*) the which is required to be read at every sessions and leet; and by the 6 G. 2. c. 37. and the 10 G. 2. c. 32. which are incorporated with the *Black act*, and therewith have continuance (by 24 G. 2. c. 57.) to Sep. 1. 1757, &c. and by the 27 G. 2. c. 15. it is enacted as followeth:

If any person or persons, being armed with swords, fire-arms, or other offensive weapons, and having his or their faces blacked, or being otherwise disguised, shall (1) appear in any forest, chase, park, paddock, or grounds inclosed with any wall, pale, or other fence, wherein any deer have been or shall be usually kept, or (2) in any warren or place where hares or conies have been or shall be usually kept, or (3) in any high road, open heath, common, or down; or (4) shall unlawfully and wilfully hunt, wound, kill, destroy, or steal any red or fallow deer; or (5) unlawfully rob any warren or place where conies or hares are usually kept; or (6) shall unlawfully steal or take away any fish out of any river or pond:

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Or if any person or persons (*that is, whether armed and disguised or not*) shall (7) unlawfully and wilfully hunt, wound, kill, destroy, or steal any red or fallow deer, fed or kept in any places in any of the king's forests or chases, which are or shall be inclosed with pales, rails, or other fences; or in any park, paddock, or grounds inclosed, where deer have been or shall be usually kept; or (8) shall unlawfully and maliciously break down the head or mound of any fish pond, whereby the fish shall be lost or destroyed; or (9) shall unlawfully and maliciously kill, maim, or wound any cattle; or (10) cut down or otherwise destroy any trees planted in any avenue, or growing in any garden, orchard, or plantation, for ornament, shelter, or profit; or (11) shall set fire to any house, barn, or outhouse, or to any hovel, cock, mow, or stack of corn, straw, hay, or wood; or (12) shall wilfully and maliciously shoot at any person in any dwelling house, or other place; or (13) shall knowingly send any letter, without any name subscribed thereto, or signed with a fictitious name, demanding money, venison, or other valuable thing; [or threatening to kill or murder any of his majesty's subjects, or to burn their houses, outhouses, barns, stacks of corn or grain, hay or straw; 27 G. 2. c. 15.] or (14) shall forcibly rescue any person being lawfully in custody of any officer or other person, for any the said offences; or (15) shall by gift or promise of money, or other reward, procure any of his majesty's subjects to join him or them in any such unlawful act; or (16) shall unlawfully and maliciously break down, or cut down the bank of any river, or any sea bank, whereby any lands shall be overflowed or damaged; or (17) shall unlawfully and maliciously cut any hop binds growing on poles in any plantation of hops; or (18) shall wilfully and maliciously set on fire, or cause to be set on fire, any mine, pit, or delph of coal or cannel coal:

Every person so offending, being thereof lawfully convicted (in any county in *England*) shall be adjudged guilty of felony, and shall suffer death as in cases of felony, without benefit of clergy; but not to work corruption of blood, nor forfeiture of lands or goods.

Note; I have added the words above (*whether armed and disguised or not*) to obviate an error, as I take it, which runs thro' most of the books, in a very material part of this statute. They do suppose that a person must be *armed and disguised* to commit any of the offences abovementioned, even the sending of a threatening letter, or persuading another to be an accomplice; whereas it seemeth somewhat clear, that to be armed and disguised is only necessary to constitute any of the six first offences, and that any person whatsoever may be guilty of any of the other following offences, whether armed and disguised or not.

And for the more easy and speedy bringing the offenders to justice, if any person shall be charged with being guilty of any the said offences, before any two justices where the offence shall be committed, by information of one or more credible persons on oath by them to be subscribed, the said justices shall forthwith certify under their hands and seals, and return such information to

one of the principal secretaries of state; who shall lay the same, as soon as conveniently may be, before the king in his privy council: whereupon the king may make order in such his council, requiring the offender to surrender himself in forty days, to any of the justices of the king's bench, or to any justice of the peace, to the end that he may be forthcoming to answer the said offence according to due course of law; which order shall be printed and published in the next gazette, and shall be forthwith transmitted to the sheriff of the county where the offence was committed, and shall (in six days after receipt thereof) be proclaimed by him or his officers, between ten and two of the clock, in the market places, on the market days, of two market towns in the county, near the place where the offence was committed; and a true copy of such order shall be affixed upon some publick place in such market towns: And if such offender shall not surrender himself pursuant to such order, he shall from the day appointed for his surrender, be adjudged convicted and attainted of felony, and shall suffer pains of death, as in case of a person convicted and attainted by verdict and judgment of felony, without benefit of clergy. And the court of king's bench, or judges of assize, on producing to them such order in council, under the seal of the said council, may award execution accordingly.

And if any person, after the time appointed for surrender shall be expired, shall conceal, aid, abet, or succour such offender, knowing him to have been so charged, and to have been required to surrender himself by such order, and shall be lawfully convicted thereof; he shall be guilty of felony without benefit of clergy.

But this shall not hinder any judge, justice of the peace, magistrate, officer, or minister of justice, from apprehending and securing such offender, by the ordinary course of law: And if he be taken and secured before the time of surrender, he shall have his trial by due course of law.

And the inhabitants of the hundred shall make satisfaction (not exceeding 200 *l.*) for the damages sustained by the killing or maiming of cattle; cutting down or destroying trees; setting fire to any house, barn, or outhouse, hovel, cock, mow, or stack of corn, straw, hay, or wood; breaking or cutting down the bank of any river, or any sea bank, whereby any lands shall be overflowed or damaged; cutting hop binds growing on poles in any plantation of hops; setting on fire, or causing to be set on fire, any mine, pit, or delph of coal or cannel coal; the same to be rateably taxed and levied, as in cases of robbery by the statute of 27 *El.* c. 13.

But no person shall be enabled to recover damages, unless he shall by himself or servant, in two days after the damage done, give notice of the offence unto some of the inhabitants of some town, village, or hamlet near to the place where the fact was committed; and shall, in four days after such notice, give in his examination on oath, or the examination on oath of his servant who had the care of the same, before a justice inhabiting in or near the hundred, whether he knows the person or persons that committed

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committed the fact, or any of them; and if upon such examination it be confessed, that the examinant knows the said persons or any of them, then such person confessing shall be bound by recognizance to prosecute the offender by indictment or otherwise according to law.

And if an offender be apprehended and lawfully convicted, in six months after the offence committed, the hundred shall not be liable.

And the action shall not be commenced but within one year after the offence committed.

And if any person shall apprehend, or cause to be convicted, any such offender abovementioned, and shall be killed, or wounded so as to lose an eye, or the use of any limb, in apprehending or securing, or endeavouring to apprehend or secure any such offender; on proof thereof made at the sessions where the offence was committed, or the party killed or wounded, by the person so apprehending and causing the offender to be convicted, or the person so wounded, or the executors or administrators of the party killed, the justices shall give a certificate thereof to the person wounded, or to the executors or administrators of the person killed; by which they shall be intitled to receive of the sheriff 50*l.* to be allowed in his accounts; which he shall pay in thirty days from the time the certificate shall be shewed to him, on pain of forfeiting to the party 10*l.* for which, and for the penalty, the party may bring his action.

Black lead.

IT having been found by experience, that wad, or black cawke, commonly called black lead, is necessary for divers useful purposes, and more particularly in the casting of bomb shells, round shot, and cannon balls, and that the same hath been discovered in one mountain or ridge of hills only in this realm, and great destruction having been made thereof of late years by evil disposed persons; therefore it is enacted, that every person who shall unlawfully break, or by force enter into, any mine or wad hole of wad or black cawke, commonly called black lead, or into any pit, shaft, or vein thereof; or shall unlawfully take and carry away from thence any wad, black cawke, or black lead; or shall aid, hire, or command any person to commit any the said offences, shall be guilty of felony, and the court or judge may order him to be committed to prison, or the house of correction not exceeding one year, to be kept to hard labour, and to be publicly whipt by the common hangman, or by the master of such house of correction, at the times, and places, and in such manner as the court shall think proper; or he may be transported for a term not exceeding seven years; and if he shall voluntarily escape, or break prison, or return from transportation before the

Blasphemy and profaneness.

time, he shall be guilty of felony without benefit of clergy. 25 G. 2. c. 10. s. 1.

And if any person shall buy or receive any such wad, knowing the same to be unlawfully taken and carried away as aforesaid, he shall be guilty of felony, and be liable to all the penalties inflicted by the laws on persons knowingly buying or receiving stolen goods. s. 3.

Blasphemy and profaneness.

Blasphemy.

1. ALL blasphemies against god, as denying his being or providence; and all contumelious reproaches of Jesus Christ; all profane scoffing at the holy scriptures, or exposing any part of them to contempt or ridicule; impostures in religion, as falsely pretending to extraordinary commissions from god, and terrifying or abusing the people with false denunciations of judgments; and all open lewdness grossly scandalous — are punishable by fine and imprisonment, and also such corporal punishment as to the court shall seem meet, according to the heinousness of the crime. 1 *Harw.* 6, 7.

Depraving the established religion.

2. Also seditious words, in derogation of the established religion, are indictable, as tending to a breach of the peace. 1 *Harw.* 7.

Denying the trinity.

3. No person shall have any benefit of the toleration act, who shall deny in his preaching or writing, the doctrine of the blessed trinity, as it is set forth in the 39 articles. 1 *W. Sess.* 1. c. 18. s. 17.

Representing the deity in stage plays.

4. If any person shall in any stage play, interlude, shew, may-game, or pageant, jestingly or profanely speak or use the holy name of god, or of Christ Jesus, or of the holy ghost, or of the trinity; he shall forfeit 10*l.* half to the king, and half to him that shall sue. 3 *J.* c. 21.

Christians depraving the christian religion.

5. If any person having been educated in, or at any time having made profession of the christian religion in this realm, shall by writing, printing, teaching, or advised speaking, deny any one of the persons in the holy trinity to be god; or shall assert or maintain there are more gods than one; or shall deny the christian religion to be true, or the holy scriptures to be of divine authority; and shall be convicted thereof, in any of the courts at *Westminster*, or at the assizes, on the oaths of two witnesses, he shall for the first offence be incapable to have any office ecclesiastical, civil, or military (unless he shall renounce such opinion in the court where he was convicted within four months after such conviction); and for the second offence, he shall be disabled to be plaintiff, guardian, executor, or administrator, to take any gift or legacy, or to bear any office, and shall be imprisoned for three years. 9 & 10 *W.* c. 32.

But no person shall be prosecuted for any words spoken, unless the information be given to a justice of the peace, within four days after the words spoken, and the prosecution of such offence be within three months after such information. *id.*

6. *M. 1 G. 2. K. and Curl.* An information was exhibited by the attorney general, against *Edmond Curl*, for printing and publishing (*obscœnum libellum*) an obscene book, called *Venus in the cloister, or the nun in her smock*, setting out the several lewd passages, and concluding against the peace. And of this the defendant was found guilty. It was moved in arrest of judgment, that however the defendant may be punishable for this in the spiritual court, as an offence against good manners; yet it cannot be a libel, for which he is punishable in the temporal courts. But after long debate and consideration, the court at last gave it as their unanimous opinion, that this was a temporal offence; and the defendant was set in the pillory. *Str.* 788. Case of Edmond Curl.

7. *E. 2 G. 2. K. and Woolston.* He was convicted on four informations, for his blasphemous discourses on the miracles of our saviour. And attempting to move in arrest of judgment, the court declared they would not suffer it to be debated, whether to write against christianity *in general* was not an offence punishable in the temporal courts at common law: They desired it might be taken notice of, that they laid their stress upon the word *general*, and did not intend to include disputes between learned men upon particular controverted points. The next term he was brought up, and fined 25*l.* for each of his four discourses, to suffer a year's imprisonment, and to enter into a recognizance for his good behaviour during his life, himself in 3000*l.* and 2000*l.* by others. *Str.* 834. Case of Thomas Woolston.

8. In the year 1656, *James Nayler* for personating our saviour, and suffering his followers to worship him, and pay him divine honours, was sentenced to be set in the pillory, and to have his tongue bored thro' with a red hot iron, and to be whipped, and stigmatized in the forehead with the letter B. Case of James Nayler.

9. All persons in or belonging to his majesty's ships or vessels of war, being guilty of profane oaths, cursings, execrations, drunkenness, uncleanness, or other scandalous actions, in derogation of god's honour, and corruption of good manners, shall incur such punishment as a court martial shall think fit to impose. *22 G. 2. c. 33. Art. 2.* Navy.

For profane cursing and swearing, see title **Swearing**.

Blood corrupted. See **Forfeiture**.

Bone-lace. See **Buttons**.

Books.

IF any book shall be taken or otherwise lost out of any parochial library; any justice may grant his warrant to search for it; and if it shall be found, it shall by order of such justice be restored to the library. 7 *An. c. 14. s. 10.*

Books popish. See Popery.

Bows. See Game.

Brandy. See Excise.

Bzals. See Pewter.

Bread.

NOTE; The statutes hereafter following of 8 *An. c. 18.* 1 *G. 2. c. 26.* and 22 *G. 2. c. 46.* are but temporary, and by the last mentioned act of 22 *G. 2.* have continuance to *Sep. 1. 1757, &c.*

Conspiring to raise the price.

1. If any bakers shall conspire not to sell bread but at certain prices; every such person shall forfeit 10*l.* for the first offence; and if not paid in six days, he shall be imprisoned twenty days, and have only bread and water for his sustenance; for the second offence 20*l.* or the pillory; and for the third offence 40*l.* or the pillory, and loss of an ear, and to become infamous. And the sessions or leet may hear and determine the same. 2 & 3 *Ed. 6. c. 15.*

Affize to be set.

2. The mayor, or chief magistrate, and where there are none such, two justices shall from time to time set the affize and weight of bread, having regard to the price of the grain, and making reasonable allowance to the bakers; which shall be set in *averdu-pois*, and not *troy* weight, according to the following table:

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The penny loaf.

Price of the bushel of wheat and baking.	White		Wheaten		Household		Price of the bushel of wheat and baking.	White		Wheaten		Household	
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8 An. c. 18. f. 2.

3. Explanation of the foregoing table:

In the first column is the price of the bushel of wheat, from 2s. to 15s. a bushel, the allowance of the magistrates to the baker for baking being included; and in the other columns is the weight of the several loaves: So that, for example, if the price of wheat is 5s. a bushel, and the magistrates allow 1s. 6d. to the baker for baking, then opposite to 6s. 6d. in the first column,

column, will be found the weight of the several loaves; but if the price is 3*s.* a bushel, and the allowance 1*s.* then the weight of the said loaves will be found over against 4*s.* and so of the rest.

By which table may easily be ascertained the weight of larger loaves, by addition; as for example, a two penny loaf (when wheat is at the same rate) is twice as much as the penny loaf, the six penny loaf six times as much, and the eighteen penny loaf eighteen times as much.

Note; The white loaves are half, and the wheaten three quarters of the weight of household loaves.

Price of corn to be certified.

4. And that the assize may be truly set, the prices of grain, meal, and flour in the adjacent markets shall be certified to the said magistrates respectively, on oath, by the clerks of the market, or such other person or persons as they shall appoint. 1*G. fl.* 2. c. 26. *f.* 7.

Bread to be marked.

5. And the said officers may direct, how each sort shall be marked, for knowing the baker, price, weight, and sort. 8*An.* c. 18. *f.* 3.

Letters thereon.

6. And more particularly, the maker of bread for sale shall imprint on every loaf of white bread a large Roman W; of wheaten bread, a large Roman W H; of household bread, a large Roman H; on pain of 20*s.* to the informer, on conviction by confession or oath of one witness, before such chief magistrate or one justice, to be levied by way of distress; the prosecution to be commenced in three days, and the conviction to be certified to the next sessions, to be there kept on record, and to be seen without fee. 22*G.* 2. c. 46. *f.* 21.

Other regulations.

7. And they shall make such other rules for regulating the baking of bread, and all things concerning the same, as they shall find convenient. 8*An.* c. 18. *f.* 3.

Mixing grain.

8. And if any baker shall put into bread any mixture of any other grain than what is appointed by the assize; he shall forfeit 20*s.* in like manner. 8*An.* c. 18. *f.* 3, 4, 5, 7.

Want of weight.

9. And if any baker or other shall bake, sell, or expose to sale any bread deficient in weight one ounce or more; and be convicted (A) thereof in like manner, he shall forfeit to the informer 5*s.* for every ounce wanting; and if there want less than an ounce 2*s.* 6*d.* Complaint to be made in 24 hours within the bills, and within three days elsewhere. 1*G. fl.* 2. c. 26. *f.* 5.

Searching and weighing.

10. And the mayor, chief magistrate, or justice may in the day time enter any house, shop, stall, bakehouse, warehouse, or out-house of any baker or seller of bread, to search for, view, and try the bread; and if any be deficient either in sort, goodness, baking, working, weight, or marking, they may seize the same, and give it to the poor: Any baker or seller refusing, shall forfeit to the informer 40*s.* in like manner. 8*An.* c. 18. *f.* 8.

General penalty.

11. As to other defaults in general; a baker not observing such regulations as shall be made as above, shall on conviction (as before) forfeit to the informer 40*s.* to be levied by way of distress. 8*An.* c. 18. *f.* 3.

The first of these is the fact that the
 number of cases of this disease has
 been increasing steadily since 1910.
 This is true of all parts of the
 world, and is especially marked in
 the tropics. The second fact is that
 the disease is now being found in
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 is spreading rapidly.

I have the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the above mentioned matter. I have the pleasure to inform you that the same has been forwarded to the proper authorities for their consideration. I am, Sir, very respectfully,
 Yours obediently,
 J. W. [Name]

W

12. Any party aggrieved may appeal in writing to the next sessions: and the court may award costs to the prosecutor, and commit the offender till he pay the costs, and also the penalty; they may also award costs to the appellant, to be recovered in like manner. 8 An. c. 18. f. 6. Appeal.

13. Any magistrate omitting his duty herein, shall forfeit 20 s. to be recovered by action at law. 8 An. c. 18. f. 7. Magistrate omitting his duty.

14. But nothing herein shall prejudice the right or custom of the city of London; or the lord of any leet, to set, inquire, and punish the breach of assize of bread, within the leet or view of frankpledge; nor of the clerk of the market. 8 An. c. 18. f. 10. Exceptions.

15. By the 3 G. 2. c. 29. f. 2. If any shall sell or expose to sale any peck, half peck, or quarter loaf at a higher price than is set by the assize, he shall forfeit 10 s. in like manner as above. Peck loaves included in the assize.

But it is to be observed, that this act hath not continuance with the others abovementioned; but yet it shews the sense of the legislature, that peck, half peck, and quarter loaves may be included within the assize, altho' not mentioned particularly in the table of assize in the act; and then the penalty for this offence (supposing this clause is expired) will be comprehended within the general clause of offences against the magistrates regulations abovementioned.

16. Mr. Barlow, on consideration of the whole, makes a doubt, whether the penalties can be levied, or the bread be forfeited, if there be no previous assize set; and with good reason: since it is hard to determine that bread is under weight, or exceeds in price, when no price or weight is fixed, and when the value neither of the corn nor labour is ascertained. No penalty where the assize is not set.

A. Conviction, and warrant to levy the penalty and distribute the bread to the poor; on 8 An. c. 18. and 1 G. f. 2. c. 26.

Westmorland. } To the constable of &c.

WHEREAS A. I. of ——— in the said county, yeoman, came this day before me J. P. esquire, one of his majesty's justices of the peace for the said county, and made information on oath, that A. O. of ——— aforesaid, yeoman, did this day expose to sale nine sixpenny loaves of bread deficient in their respective due weights, according to the assize of bread established by a statute made in the eighth year of the reign of her late majesty queen Anne, and continued by several other subsequent statutes; And whereas I did forthwith go to the shop of the said A. O. in ——— aforesaid, and the said shop in the day time did enter, and there did find nine six penny loaves of wheaten bread, expos'd to sale, and did cause the same to be severally weighed, and found the same to be severally deficient in their due weight one ounce each, according to the assize last settled in the said town of ——— pursuant to the said statute made in the eighth year of the reign of her late majesty queen Anne: I do therefore hereby adjudge
the

the said A. O. to be guilty of the said offence in manner aforesaid, and that he hath forfeited the said nine sixpenny loaves for the use of the poor of the parish of ——— aforesaid, within which parish the said shop of the said A. O. is: And I do hereby command you to take the said nine loaves and distribute them amongst the said poor: And I do also adjudge, that by virtue of a statute made in the first year of the reign of his late majesty king George the first, the said A. O. hath by reason of his said offence incurred the forfeiture of 45s. to the use of the said A. I. These are therefore to command you forthwith to distrain the goods and chattels of him the said A. O. And if the said sum of 45s. shall not be paid in [seven] days time from the taking of the said distress, together with reasonable charges of taking and keeping the same, that then you do sell the said goods and chattels so distrained, and out of the money arising by such sale pay to the said A. I. the aforesaid sum of ——— rendering the overplus upon demand unto him the said A. O. the reasonable charges of taking, keeping, and selling the said distress being first deducted. And for so doing this shall be your sufficient warrant. Given under my hand and seal, at ——— in the said county, the ——— day of &c.

Breaking gaol. See Prison breaking.

Breaking open doors. See Arrest.

Brewers. See Excise.

Bribery.

BRIBERY in a strict sense is taken for a great misprision of one in a judicial place, taking any thing whatsoever, except meat and drink of small value, of any one who has to do before him any way, for doing his office, or by colour of his office, but of the king only; and is punishable at the common law by fine and imprisonment. 1 *Harw.* c. 67.

Bridges.

NOTE; This title treateth only of county bridges: Those which are under the cognizance of the surveyor of the highways, as being repaired by the several parishes or districts, are treated of under the title *Highways*.

I. Who shall repair.

II. Power of the leet to inquire thereof.

III. Power of the justices in sessions.

IV. Concerning the 300 foot at the ends of bridges.

V. Indictment of bridges.

VI. Charges of repairing.

VII. Surveyors of the work.

VIII. Manner of repairing.

IX. Purchasing lands adjoining.

X. Contracting for a term of years.

I. Who shall repair.

1. By the great charter, 9 H. 3. c. 15. *No town nor freeman shall be distrained to make bridges nor banks, but such as of old time and of right have been accustomed.*

2. And none can be compelled to make new bridges, where never any were before, but by act of parliament. 2 *Inst.* 701.

3. By the common law, some persons (spiritual or temporal, corporate or not corporate) are bound to repair bridges by reason of the *tenure* of their lands or tenements; and some by reason of *prescription* only:

By *tenure*, by reason that they and those whose estate they have in the lands or tenements, are bound in respect thereof to repair the same. 2 *Inst.* 700.

By reason of *prescription* only; but herein there is a diversity between bodies politick or corporate, spiritual or temporal, and natural persons: for bodies politick or corporate, spiritual or temporal, may be bound by usage and prescription only, because they are local, and have a succession perpetual; but a natural person cannot be bound by act of his ancestor, without a lien, or binding, and assets. 2 *Inst.* 700.

And if a man make a bridge for the common good of all the subjects, he is not bound to repair it; for no particular man is bound to reparation of bridges by the common law, but by tenure or prescription. 2 *Inst.* 701.

4. And if none are bounden by tenure or prescription at common law, then the whole county or franchise shall repair it. 2 *Inst.* 701.

Concerning

Concerning which, it is enacted by the 22 H. 8. c. 5. as follows: *Whereas in many places it cannot be known and proved, what hundred, town, parish, person, or body politick ought to repair bridges broken in the highways; in every such case, the said bridges, if they be without a city, or town corporate, shall be made by the inhabitants of the county; if within a city or town corporate, then by the inhabitants of such city or town corporate; if part be in one shire, city, or town corporate, and part in another, or part within the limits of a city or town corporate, and part without, the inhabitants of the shires, cities or towns corporate, shall repair such part as lies within their limits.* s. 3.

Bridges broken in the highways] This extendeth only to common bridges in the king's highways, and not to private bridges to mills, or the like; the remedy in which case is not by indictment, but by action. 2 *Inst.* 701.

Within a city or town corporate] It hath been questioned, whether a borough which hath no bridge within its own limits, be not liable to contribute to the repairs of a county bridge. 1 *Haw.* 225.

5. A tenant at will of an house, which adjoins to a common bridge, is bound to repair the house, so that the publick be not prejudiced by the want of repair, altho' he be not bound to repair as to his landlord. *L. Raym.* 856.

6. The freehold of bridges is in him that hath the freehold of the soil; but the free passage is for all the king's liege people. 2 *Inst.* 705.

II. Power of the leet to inquire thereof.

Decays of bridges are presentable in the leet, or torn. 2 *Inst.* 701.

III. Power of the justices in sessions.

The justices, or four of them at the least (1 Q.) shall have power to inquire, hear, and determine in the general sessions, of all manner of annoyances of bridges broken in the highways, to the damage of the king's liege people, and to make such process and pains upon every presentment, against such as ought to be charged to make or amend them, as the king's bench usually doth, or as it shall seem by their discretions to be necessary and convenient, for the speedy amendment of such bridges. 22 H. 8. c. 5. s. 1.

Four of them at the least] If the bridge be within a franchise, which hath not four justices, and a sessions of its own, the justices of the county shall inquire: but if the franchise be a county of itself, and hath not four justices (1 Q.) it is not within this statute, but is left to the remedy which it had at common law. 2 *Inst.* 702.

And to make process] Where the bridge is in one shire, and the persons or lands which ought to be charged are in another shire; or

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or where the bridge is within a city or town corporate, and the persons or lands that ought to be charged are out of the said city; the justices of such shire, city, or town corporate, shall have power to hear and determine such annoyances, being within the limits of their commission: and if the annoyance be presented, then to make process into every shire of the realm, against such as ought to repair the same, and to do further in every behalf, as they might do, if the persons or lands chargeable were in the same shire, city, or town corporate where the annoyance is. 22 H. 8. c. 5. f. 5.

As the king's bench usually doth] The presentment at common law, might be before the king's bench, or at the assizes. 2 H. 7. 701.

IV. Concerning the 300 foot at the ends of bridges.

Such part and portion of the highways, as well within franchise as without, as lie next adjoining to any ends of any bridges, distant from any of the said ends by the space of 300 foot, shall be made, repaired, and amended as often as need shall require; and the justices, or four of them (1 Q.) shall have power to enquire, hear and determine, in the general sessions, all manner of annoyances of and in such highways, so being and lying next adjoining to any ends of bridges, distant from any one of the ends of such bridges 300 foot, and to do in every thing concerning the making, repairing, and amending of such highways, in as ample manner as they may do for the making, repairing, and amending of bridges. 22 H. 8. c. 5. f. 9.

V. Indictment of bridges.

1. No money shall be applied to the repair of bridges, until presentment be made by the grand jury at the assizes or sessions, of their insufficiency, inconveniency, or want of reparation. 12 G. 2. c. 29. f. 13.

2. An indictment for not repairing a bridge, ought to shew what sort of bridge it is, whether for carts and carriages, or for horses, or for footmen only. 1. Raym. 1175.

3. If a man be indicted for that by reason of the tenure of certain lands he is bound to repair a bridge, it must be alledged where those lands lie. 2 H. H. 181.

4. Any particular inhabitant of a county, or tenant of land charged to the repairs of a bridge, may be made defendant to an indictment for not repairing it, and be liable to pay the whole fine assessed by the court, for the default of repairs, and shall be put to his remedy at law for a contribution from those, who are bound to bear a proportionable share in the charge; for the necessity of the case requires the greatest expedition in cases of this nature. 1 Harw. 221.

5. It hath been resolved, that it is not sufficient for the defendants to an indictment for not repairing a bridge, to excuse themselves, by shewing either that they are not bound to repair the whole, or any part of the bridge, without shewing what other person

person is bound to repair the same; and it is said, that in such case the whole charge shall be laid upon such defendants, by reason of their ill plea. *1 Harw. 221.*

6. It seemeth, that no inhabitant of a county ought to be a juror, for the trial of an issue, whether the county be bound to such repairs or not; and therefore the jury must come from some adjacent county: but by the statute of *1 An. st. 1. c. 18.* such inhabitant may be a good witness. *1 Harw. 222.*

7. *No fine, issue, penalty, or forfeiture, upon any presentment or indictment for not repairing bridges, or the highways at the ends of bridges, shall be returned into the exchequer, but shall be paid to the treasurer, to be applied towards the said repairs, and not otherwise.* *1 An. st. 1. c. 18. f. 4.*

8. *And no presentment or indictment for not repairing bridges, or highways at the ends of bridges, shall be removed by certiorari out of the county into any other court.* *1 An. st. 1. c. 18. f. 5.*

But a *certiorari* lies to remove an order made by the justices, concerning the repair of a bridge, pursuant to a private act of parliament; and the justices ought to return the private act upon which their order is founded. *Dalt. 504.*

E. 4 G. 2. K. and the inhabitants of *Hamsworth.* Upon motion to quash a *certiorari* to remove an indictment against the defendants at sessions, for not repairing a bridge; it was insisted, that by the *1 An. c. 18.* the *certiorari* is taken away. To which it was answered, and resolved by the court, that this act extended only to bridges where the county is charged to repair; and that where a private person or parish is charged, and the right will come in question, the act of the *5 & 6 W. c. 11.* had allowed the granting a *certiorari.* And therefore they refused to quash. *Str. 900.*

VI. Charges of repairing.

By the *12 G. 2. c. 29.* The charges of repairing and amending bridges, and highways at the ends of bridges, shall be paid out of the general county rate. *f. 1.*

VII. Surveyors of the work.

The four justices in sessions as aforesaid may appoint two surveyors, with salaries, to see the bridges amended. *22 H 8. c. 5. f. 4.*

And this business of surveying the bridges, for the more convenience, is usually annexed by the justices to the office of the high constables; for which they have by this clause power to allow them salaries.

VIII. Manner of repairing.

1. It seemeth to be clear, that those who are bound to repair bridges, must make them of such height and strength, as shall be answerable to the course of the water, whether it continue in the old channel, or make a new one. *1 Harw. 221.*

2. And

The first part of the book is devoted to a general
 introduction of the subject, and to a description of the
 various methods which have been employed for the
 purpose of determining the true nature of the
 matter in question. It is shown that the
 results of these experiments are in general
 in accordance with the theory, and that
 the only exception is in the case of the
 experiment of the falling body, where the
 results are in accordance with the theory
 only in the case of a vacuum. The
 experiment of the falling body is therefore
 a proof of the existence of a vacuum, and
 of the fact that the force of gravity is
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 therefore a proof of the existence of a
 vacuum, and of the fact that the force
 of gravity is not affected by the
 presence of a vacuum.

The first part of the document discusses the importance of maintaining accurate records. It emphasizes that every detail matters and that consistency is key to success. The following section outlines the various methods used to collect and analyze data, highlighting the challenges faced in the process.

In the third section, we explore the impact of these findings on the broader community. It is clear that the results have significant implications for future research and practice. The final part of the document provides a summary of the key points and offers some concluding thoughts on the overall state of the field.

Throughout the document, it is evident that a thorough and systematic approach is essential for obtaining reliable results. The authors hope that this work will contribute to a better understanding of the subject matter and inspire further investigation.

2. And persons are not trespassers, for entering on any adjoining land, for repairing bridges, or laying thereon the requisite materials. 1 *Haw.* 221.

IX. Purchasing lands adjoining.

The justices at their sessions may purchase any parcel of land, adjoining or near to any county bridge, for the more commodious enlarging, or convenient rebuilding the same, not exceeding one acre, to be paid for by the treasurer out of the county rates, by order under the hands and seals of the said justices in their said sessions; which lands so purchased, shall be conveyed to such person or persons as the justices in the said sessions shall appoint, in trust, for enlarging or rebuilding the said bridges. 14 *G. 2. c. 33.*

X. Contracting for a term of years.

By the 12 *G. 2. c. 29. s. 14.* When any publick bridges, ramparts, banks, or cops, are to be repaired at the expence of the county, the justices at their general or quarter sessions, after presentment made by the grand jury of their want of reparation, may contract with any person for rebuilding, repairing, and amending the same, for any term not exceeding seven years, at a certain annual sum.

In order to which they shall give publick notice of their intention of contracting with any person, for rebuilding, repairing, and amending the same.

And such contracts shall be made at the most reasonable price which shall be proposed by the contractors; who shall give sufficient security for the due performance thereof, to the clerk of the peace.

And all contracts when agreed to, and all orders relating thereto, shall be entred in a book to be kept by the clerk of the peace for that purpose; who shall keep the same amongst the records of the county, to be inspected by any of the justices at all seasonable times, and by any person employed by any parish or place contributing to the same, without fee.

Indictment for a bridge out of repair.

BY the oaths of ——— good and lawful men of the county aforesaid, then and there sworn and charged to inquire for our said lord the king, and the body of the county aforesaid, it is presented, that a certain common bridge, over the river ——— commonly called ——— bridge, lying and being in the parish of ——— in the county aforesaid, in the king's common highway there, leading from the market town of ——— to the market town of ——— in the said county, altogether and from the time whereof the memory of man is not to the contrary, being a common king's highway for all the lieges and subjects of our said lord the king and of his ancestors, with their horses, carts, and carriages to go, pass, ride, and travel at their pleasure, on the ——— day of ——— in the ——— year of the reign of ——— was, and yet is in great decay, broken, and ruinous, so that the lieges and subjects of our said lord the king, upon and over the
said

said bridge with their horses, carts, and carriages could not and cannot go, pass, ride, and travel, without great danger, to the grievous damage and nuisance of all the lieges and subjects of our said lord the king, upon and over the same bridge going, passing, riding, and travelling, and against the peace of our said lord the king, his crown and dignity.

And that A. O. late of— in the said county, gentleman, by reason of his tenure of certain lands lying in the parish of— aforesaid, and elsewhere in the said county, ought to make, repair, and amend the said common bridge, as often as and when it shall be necessary.

Buggery.

What it is.

1. **B**UGGERY (from the *Italian* *bugarone*, a buggerer, this vice being said to have been brought into *England* out of *Italy* by the *Lombards*) is a detestable and abominable sin, amongst christians not to be named, committed by carnal knowledge, against the ordinance of the creator, and order of nature, by mankind with mankind, or with brute beast, or by womankind with brute beast. 3 *Inst.* 58.

The punishment.

2. And by the statute of 25 *H. 8. c. 6.* Buggery committed with mankind or beast is made felony without benefit of clergy. And the justices of the peace may hear and determine the same, as in cases of other felonies.

Principal and accessory.

3. Which said statute making it felony generally, there may be accessaries both before and after. But those that are present, aiding and abetting, are all principals. And altho' none of the principals are admitted to their clergy, yet accessaries before and after are not excluded from clergy. 1 *H. H.* 670.

Infants.

4. If the party buggered be within the age of discretion (which is generally reckoned the age of 14), it is no felony in him, but in the agent only. But if buggery be committed upon a man of the age of discretion, it is felony in them both. 3 *Inst.* 59. 1 *H. H.* 670.

Navy.

5. By the articles of the navy (22 *G. 2. c. 33.*), if any person in the fleet shall commit the unnatural and detestable sin of buggery or sodomy, with man or beast; he shall be punished with death by the sentence of a court martial.

Pardon.

6. This crime is excepted out of the act of general pardon. 20 *G. 2. c. 52. s. 17.*

Bullion. See Coin.

Burglary.

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Burglary.

Offences against the house of another, which fall short of burglary, belong to title **Larceny**, under the head **Larceny from the house**.

I. *What is burglary.*

II. *Reward for convicting a burglar.*

I. *What is burglary.*

1. **T**HE word *burglar* seemeth to have been brought unto us out of *Germany* by the *Saxons*, and to be derived of the *German burg*, a house, and *larron*, a thief, probably from the *Latin latro, latronis*. Derivation of burglary.

2. *Burglary is a felony at common law, in breaking and entering the mansion house of another, in the night, with intent to commit some felony within the same, whether the felonious intent be executed or not.* *Hale's Pl. 79.* Definition of burglary.

—*Breaking*] Every entrance into the house by a trespasser, is not a breaking in this case; but there must be an actual breaking. As if the door of a mansion house stand open, and the thief enter, this is no breaking. So it is if the window of the house be open, and a thief with a hook or other engine draweth out some of the goods of the owner, this is no burglary, because there is no actual breaking of the house. But if the thief breaketh the glass of the window, and with a hook or other engine draweth out some of the goods of the owner, this is burglary, for there was an actual breaking of the house. *3 Inst. 64.*

And *Lord Hale* says, these acts amount to an actual breaking; opening the casement, or breaking the glass window, picking open the lock of a door, or putting back the lock, or the leaf of a window, or unlatching the door that is only latched. *1 H. H. 552.*

M. 8 G. K. and Gray. One of the *servants* in the house opened his lady's chamber door (which was fastened with a brass bolt) with design to commit a rape; and it was ruled to be burglary, and the defendant was convicted and transported. *Strange 481.*

By the statute of the 12 *An. c. 7.* If any person shall enter into the mansion house of another, by day or by night, without breaking the same, with an intent to commit felony, or being in such house shall commit any felony, and shall in the night time break the said house to get out, he shall be guilty of burglary, and ousted of the benefit of clergy, in the same manner as if he had broken and entered the house in the night time, with intent to commit felony.

M. 4 G. 2. Joshua Cornwall's case. He was indicted with another person for burglary. And upon the evidence it appeared, that he was a servant in the house, where the robbery was com-

mitted, and in the night time opened the street door, and let in the other prisoner, and shewed him the side-board, from whence the other prisoner took the plate: then the defendant opened the door and let him out; but the defendant did not go out with him, but went to bed. Upon the trial it was doubted, whether this was burglary in the servant, he not going out with the other. But afterwards at a meeting of all the judges at *Serjeant's-inn*, they were all of opinion that it was burglary in both, and not to be distinguished from the case where one watches at the street end, whilst another goes in and commits the burglary, which hath been often ruled to be burglary in both: and upon report of this opinion the defendant was executed. *Strange* 881.

And entering] It is deemed an entry, when the thief breaketh the house, and his body, or any part thereof, as his foot, or his arm, is within any part of the house; or when he putteth a gun into a window which he hath broken, or into a hole of the house which he hath made, of intent to murder or kill; this is an entry and breaking of the house: but if he doth barely break the house, without any such entry at all, this is no burglary. *3 Inst.* 64.

If divers come in the night to do a burglary, and one of them break and enter, the rest of them standing to watch, at a distance, this is burglary in all. *3 Inst.* 64.

The mansion house] This includes also churches, and the walls or gates of a walled town. *1 Harv.* 103.

Mr. *Hawkins* says, all out-buildings, as barns, stables, dairy houses, adjoining to a house, are looked upon as part thereof; and consequently burglary may be committed in them: but if they be removed at any distance from the house, it seems that it hath not been usual of late to proceed against offences therein as burglaries. *1 Harv.* 104.

And Lord *Hale* says more explicitly, the mansion house doth not only include the dwelling house, but also the outhouses that are parcel thereof, as barn, stable, cow house, dairy house, if they are parcel of the messuage, tho' they are not under the same roof, or joining contiguous to it; and so, he says, it was agreed by all the judges: but if they be no parcel of the messuage, as if a man take a lease of a dwelling house from one, and of a barn from another; or if it be far remote from the dwelling house, and not so near to it as to be reasonably esteemed parcel thereof, as if it stand a bow-shot off from the house, and not within or near the curtilage of the chief house, then the breaking of it is not burglary, for it is not a mansion house, nor any part thereof. *1 H. H.* 558, 9.

To break and enter a *shop*, not parcel of the mansion house, in which the shopkeeper never lodges, but only works or trades there in the day time, is not burglary, but only larceny; but if he, or his servant, usually or often lodge in the shop at night, it is then a mansion house, in which a burglary may be committed. *1 H. H.* 557, 8.

It is not necessary, to make it burglary, that any person be actually in the house, at the very time of the offence committed. *1 Harv.* 103.

MEMORANDUM

TO : [Illegible]

FROM : [Illegible]

SUBJECT : [Illegible]

[The remainder of the page contains several paragraphs of extremely faint, illegible text, likely detailing a memorandum's content.]

In the night] As long as the day continues, whereby a man's countenance may be discerned, it is called day; and when darkneſs comes, and day light is paſt, ſo as by the light of day you cannot diſcern the countenance of a man, then it is called night. 3 *Inſt.* 63.

And this doth aggravate the offence; ſince the night is the time wherein man is at reſt, and wherein beaſts run about ſeeking their prey. Hence in ancient records, the twyilight was ſignified, when it was ſaid, *inter canem & lupum* (between the dog and the wolf); for when the night begins, the dog ſleeps, and the wolf ſeeketh his prey. 3 *Inſt.* 63.

With intent to commit felony] There can be no burglary, but where the indictment both expreſly alledges, and the verdict alſo finds, an intention to commit ſome felony; for if it appear, that the offender meant only to commit a treſpaſs, as to beat the party, or the like, he is not guilty of burglary. 1 *Harw.* 105.

However, it ſeems the much better opinion, that an intention to commit a rape, or other ſuch crime, which is made felony by ſtatute, and was a treſpaſs only at common law, will make a man guilty of burglary, as much as if ſuch offence were a felony at common law; becauſe where-ever a ſtatute makes any offence felony, it incidentally gives it all the properties of a felony at common law. 1 *Harw.* 105.

Whether the felonious intent be executed or not] Thus they are burglars, who break any houſe, or church, in the night, altho' they take nothing away. And herein this offence differs from robbery, which requires that ſomething be taken, tho' it is not material of what value.

Where a man commits burglary, and at the ſame time ſteals goods out of the houſe, it is alſo larceny; and if he be acquitted of the burglary, he may notwithstanding be indicted of the larceny; for they are ſeveral offences, tho' committed at the ſame time. And burglary may be, where there is no larceny; and larceny may be, where there is no burglary. 2 *H. H.* 246.

3. By the 18 *El.* c. 7. and 3 *W.* c. 9. Benefit of clergy is taken away in caſes of burglary, both from the principal, and the acceſſary before; but in all caſes of burglary, acceſſaries after muſt have their clergy. 2 *H. H.* 364. 1 *Harw.* 357, 8.

4. All burglaries and robberies of churches are excepted out of the general pardon, of the 20 *G.* 2. c. 52.

II. Reward for convicting a burglar.

1. It may be obſerved, in the firſt place, that it is provided by the 24 *H.* 8. c. 5. that there ſhall be no forfeiture of lands or goods, for killing any perſon that attempts to commit burglary. Indemnity for killing him.

But beſides this indulgence to a perſon killing ſuch an offender in defence of his houſe, there are ſpecial advantages and rewards for apprehending and convicting him in due courſe of law; which are as follows:

2. By the 25 *G.* 2. c. 36. The charges of proſecuting and convicting a burglar, ſhall be paid by the treaſurer of the county where Charges of convicting him to be reimbursed.

where the burglary was committed, on producing to him the order of the court for that purpose, which the clerk of assize, or of the peace, shall make out, for the fee of 1*s.* *f.* 11.

And also the charges of poor witnesses appearing on their recognizance, by the 27 G. 2. c. 3. on paying 6*d.* for the order: except in *Middlesex*, where the same shall be paid by the overseers of the poor where the person was apprehended.

Exemption from parish offices for taking and convicting him.

3. Every person who shall apprehend any one guilty of burglary and prosecute him to conviction, shall have a certificate, without fee, under the hand of the judge, certifying such conviction, and within what parish or place the burglary was committed, and also that such burglar was discovered and taken, or discovered or taken, by the person so discovering or apprehending; and if any dispute arise between several persons so discovering or apprehending, the judge shall appoint the certificate into so many shares to be divided among the persons concerned, as to him shall seem just and reasonable:

And if any person shall happen to be slain by such burglar, in endeavouring to apprehend him, the executors or administrators of such person slain shall have the like certificate:

Which certificate shall be inrolled by the clerk of the peace of the county in which it shall be granted; for which he shall have 1*s.* and no more:

And the said certificate may be once assigned over; and the original proprietor, or the assignee of the same, shall by virtue thereof be discharged from all manner of parish and ward offices, within the parish or ward where the felony was committed. 10 & 11 W. c. 23.

40*l.* for taking and convicting.

4. And moreover, as a further reward, every person who shall apprehend any person guilty of burglary, and prosecute him to conviction, shall have a certificate under the hand of the judge, without fee, to be made out and delivered before the end of the assizes, certifying the conviction, and in what parish the burglary was committed, and also that the burglar was taken by the person claiming the reward; and if any dispute shall happen to arise between the persons claiming, the judge shall by the said certificate appoint the same to be paid amongst the parties claiming the same, in such share and proportion as to him shall seem just and reasonable:

And on tender of such certificate to the sheriff, and demand made, he shall pay to the person so intitled, the sum of 40*l.* without fee or deduction, within one month after such tender and demand; on pain of forfeiting double, with treble costs. 5 An. c. 31. 6 G. c. 23. *f.* 10.

40*l.* to the executors of a person killed.

5. And if any watchman, or any other person, be killed, in endeavouring to apprehend any such burglar, his executors or administrators shall have a certificate delivered under the hand and seal of the judge, or of the two next justices of the peace, of such person being so killed; which certificate they shall, on sufficient proof before them made, give without fee: whereupon, such executor or administrator shall be intitled to receive the like sum of 40*l.* in like manner. 5 An. c. 31. *f.* 2.

The first part of the paper is devoted to a general
 consideration of the subject, and to a statement of the
 objects of the present investigation. It is then
 divided into two parts, the first of which is
 devoted to a description of the apparatus used,
 and the second to a description of the method
 of observation. The results of the observations
 are then given, and a discussion of their
 significance is made. The paper concludes
 with a summary of the main results, and
 a list of references.

The apparatus used in the present investigation
 consists of a glass tube, of length about
 100 cm, and of diameter about 1 cm. The
 tube is closed at one end, and is filled
 with a gas of known pressure. The other
 end of the tube is connected to a manometer,
 which is used to measure the pressure of
 the gas. The manometer is a U-tube,
 and is filled with a liquid of known
 density. The difference in height between
 the two arms of the manometer is a
 measure of the pressure of the gas.

The method of observation is as follows. The
 gas is allowed to expand into the manometer,
 and the difference in height between the
 two arms is measured. This is done for
 a number of different pressures of the gas,
 and the results are plotted on a graph.
 The graph shows that the difference in
 height is proportional to the pressure of
 the gas. This is in agreement with the
 theory of the expansion of a gas.

The results of the present investigation
 are in agreement with the theory of the
 expansion of a gas. This is a confirmation
 of the theory, and shows that the
 apparatus used is suitable for the purpose.
 The method of observation is simple and
 accurate, and is suitable for use in a
 laboratory.

6. And moreover, if any person, being out of prison, shall commit any burglary, and afterwards discover two or more the like offenders, so as two or more be convicted; he shall have the like reward and allowance of 40*l.* and also all other advantages which are given to persons who shall apprehend and convict any the like offenders; and shall also have the king's pardon for all burglaries, robberies, and felonies (except murder and treason) by him committed before such discovery made; which pardon shall be likewise a good bar to an appeal. *5 An. c. 31. f. 4.* 40*l.* and a pardon, for convicting two accomplices.

7. And the sheriff, on producing the certificates, and receipts for the said rewards, may deduct the same on his accounts; and if he have not money in his hands, he shall be repaid out of the treasury, on certificate from the clerk of the pipe. *5 An. c. 31. f. 3.* Sheriff how to be repaid.

Or instead of charging the same in his accounts, he may immediately apply to the commissioners of the treasury, who shall forthwith repay the same without fee. *3 G. c. 15. f. 4.*

Burning.

1. **M**aliciously and voluntarily burning the house of another, by night or by day, is felony at the common law. *1 Haw 105.* Houseburning at the common law.

Maliciously and voluntarily] For if it be done by mischance, or negligence, it is no felony. *3 Inst. 67.*

Yet if a man maliciously intending only to burn one person's house, happens thereby to burn the house of another, it is certain that he may be indicted as having maliciously burned the house of that other; for where a felonious design against one man misseeth its aim, and takes effect upon another, it shall have the like construction as if it had been levelled against him who suffers by it. *1 Haw. 106.*

Burning] Neither a bare intention to burn a house, nor even an actual attempt to do it by putting fire to a part of a house, will amount to felony, if no part of it be burned; but if any part of the house be burnt, the offender is guilty of felony, notwithstanding the fire afterwards be put out, or go out of it self. *1 Haw. 106.*

The house] Not only a mansion house, and the principal parts thereof, but also any other house, and the out-buildings, as barns, and stables adjoining thereto; and also barns full of corn, whether they be adjoining to any house or not, are so far secured by law, that the malicious burning of them is felony at common law. *1 Haw. 105.*

Of another] A person seised in fee, or but possessed for years, of a house standing by itself at a distance from all others, cannot commit felony in burning the same. Also it seems the much stronger opinion, that a man so seised or possessed of a house in a town, who burns his own with an intent to burn his neighbour's, but in the event burns his own only, is not guilty of felony: but however it is certainly an offence highly punishable, in regard of the malice thereof, and the great danger to the publick which at-

tends it; and the offender may be severely fined, and imprisoned during the king's pleasure, and set on the pillory, and bound to his good behaviour during life. 1 *Haw.* 106.

By statute:
Burning a
dwelling house
or corn barn.

2. By the statutes of 23 *H. 8. c. 1.* and 25 *H. 8. c. 3.* No person who shall be found guilty for wilful burning of any dwelling house, or barn wherein any corn shall be, nor persons abetting, procuring, helping, maintaining, or counselling the same, shall be admitted to the benefit of clergy.

There hath been much learned debate, how far these statutes, which are repealed by 1 *Ed. 6. c. 12.* are revived by 5 & 6 *Ed. 6. c. 10.* But as the same is enacted in effect by other subsequent statutes, it is now not very material.

By the 4 & 5 *P. & M. c. 4.* Every person who shall maliciously command, hire, or counsel any person, wilfully to burn any dwelling house, or any part thereof, or any barn then having corn or grain in the same, shall not have the benefit of his clergy.

But accessories after shall have their clergy. 1 *H. H.* 573.

Burning a barn
or stack of corn,
in the northern
counties.

3. ~~Whoever shall wilfully and of malice burn, or cause to be~~ burned, or aid, procure, or consent to the burning of any barn, or stack of corn or grain, within any of the counties of *Cumberland, Northumberland, Westmorland, and Duresme*, shall be guilty of felony without benefit of clergy. And justices of the peace in sessions may hear and determine the same. 43 *El. c. 13.*

Burning in the
night stacks of
corn or hay,
barns, houses,
kilns.

4. If any person shall in the night time maliciously, unlawfully, and willingly burn, or cause to be burned or destroyed, any ricks or stacks of corn, hay, or grain, barns, or other houses or buildings, or kilns; he shall be guilty of felony, but without corruption of blood, or disinheritation of heirs:

And the judges of assize, or three justices of the peace (1 *Q.*) may determine the same, so that the prosecution be within six months:

And the said justices, on request of the party injured, shall issue their warrant for apprehending all such persons as shall be suspected thereof, and take their examination:

And shall cause all others who to them shall seem likely to make discovery, to appear before them, and give information on oath; yet so, as no person to be examined shall be proceeded against for any offence, concerning which he shall be examined as a witness, and shall upon his examination make a true discovery:

And if such witness, being duly summoned, shall refuse to appear, or to be examined, they may commit him to the common gaol, till he submit to be examined upon oath:

And they shall issue warrants for summoning jurors:

And if any person, being found guilty (in order to avoid judgment of death, or execution thereupon) shall make his election to be transported, the court shall cause judgment to be entred that he be transported to some of the plantations (to be mentioned in the judgment) for seven years; and if he shall return before the expiration of the term, he shall suffer death as a felon, and as if no such election to be transported had been made by him. 22 & 23 *C. 2. c. 7.*

The first of these is the fact that the
 population of the country has increased
 rapidly since the year 1800. This is
 due to a number of causes, the most
 important of which are the discovery
 of gold in California and the
 opening of the Oregon and
 California trails. The result has
 been a great increase in the number
 of people living in the western
 part of the country.

1800

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 of people living in the western
 part of the country.

MEMORANDUM

TO : The Director, FBI
FROM : SAC, New York
SUBJECT: [Illegible]

[Illegible body text]

[Illegible body text]

[Illegible body text]

5. By the 9 G. c. 22. commonly called the Black act, (which is inserted more at length under the title *Black act*;) If any person shall set fire to any house, barn, or outhouse, or to any hovel, cock, mow, or stack of corn, straw, hay, or wood; [And by the 10 G. 2. c. 32. *f.* 6. If any person shall wilfully and maliciously set on fire any mine, pit, or delph of coal or cannel coal; which offence, by *f.* 4. of this act, is incorporated with the offences in the Black act] he shall be guilty of felony without benefit of clergy.

Burning by the
Black act.

And the hundred shall be chargeable, as in cases of robbery, for the damages sustained (not exceeding 200*l.*)

And if any person shall apprehend, or cause to be convicted, any offender, and shall be killed, or wounded so as to lose an eye or the use of a limb in endeavouring to apprehend him; on proof thereof made at the sessions, and on certificate thereof from thence, he shall be intitled to the sum of 50*l.* to be paid by the sheriff in 30 days, the same to be repaid to him out of the treasury.

Which said acts are temporary; and by the last continuance, are to be in force till *Sep.* 1. 1757 &c.

And by the 20 G. 2. c. 52. All offences of setting fire to any house, barn, or outhouse, or to any hovel, cock, mow, or stack of corn, straw, hay, or wood, are excepted out of the general pardon.

6. Such as be taken for houseburning feloniously done, are not bailable by justices of the peace. 3 *Ed.* 1. c. 15. 2 *Inst.* 189.

Houseburning
not bailable.

7. If any ship officer shall wilfully burn the ship to which he belongeth, or procure the same to be done, to the prejudice of the owner of the ship or goods, he shall be guilty of felony without benefit of clergy. 1 *An. st.* 2. c. 9.

Burning a ship.

And by the articles of the navy, 22 G. 2. c. 33. Every person who shall unlawfully burn or set fire to any magazine, or store of powder, or ship, boat, ketch, hoy, or vessel, or tackle or furniture thereunto belonging, not appertaining to an enemy or rebel, shall be punished with death, by the sentence of a court martial. *Art.* 25.

8. If any person shall, by day or by night, in a riotous, open, tumultuous, or in a secret and clandestine manner, forcibly, or wrongfully and maliciously burn any wood, or springs of wood, or coppice wood, he shall be guilty of felony. 1 G. *st.* 2. c. 48. 6 G. c. 16.

Burning wood
growing.

And any two justices, or the justices in sessions, may cause the offender to be apprehended, and hear, and determine, and adjudge the offence. 6 G. c. 16.

But if the offender is not known, then the person injured shall have satisfaction from the inhabitants of the parishes, towns, or places joining thereon, in the same manner as for dikes and hedges overthrown in the night, by the statute of 13 *Ed.* 1. c. 46. (which enacts, that if it cannot be known by the verdict of assize or jury who did the fact, the towns near adjoining shall be distrained to levy the hedge at their own cost, and to yield damages) unless the offender be by such parish, town, or place, convicted in six months. 6 G. c. 16.

Burning ling,
gofs, furze, or
fern.

9. No person shall on any mountains, hills, heaths, moors, forests, chafes, or other wastes, burn between *Feb. 2.* and *June 24.* any grig, ling, heath, furze, gofs, or fern; on pain of being committed to the house of correction for any time not exceeding one month, nor less than ten days, there to be whipt and kept to hard labour. 4 & 5 *W. c. 23. s. 11.*

Burning gofs,
furze, or fern in
forests.

10. If any person shall set fire to, burn, or destroy any gofs, furze, or fern, in any forest or chase, without consent of the owner or person chiefly intrusted with the custody of such forest, or chase, or of some part thereof, or shall be aiding therein, and being brought before a justice, shall be thereof convicted by confession or oath of one witness, or on view of the justice, he shall forfeit not exceeding 5 *l.* nor less than 40 *s.* half to the informer, and half to the poor; if not forthwith paid, to be levied by distress; and if no sufficient distress can be found, the justice shall commit him to the common gaol for any time not exceeding three months, nor less than one month. 28 *G. 2. c. 19. s. 3.*

Burning a laden
cart, or fire
wood,

11. If any person shall maliciously, willingly, and unlawfully, burn or cause to be burnt, any wain or cart laden with coals, or with any goods or merchandizes; or any heap of wood prepared, cut, or felled for making coals, billets, or talwood, he shall forfeit treble damages to the party grieved, to be recovered by action of trespass; and also 10 *l.* as a fine to the king. 37 *H. 8. c. 6. s. 4.*

Punishment of a
servant carelessly
firing a house.

12. If any servant, thro' negligence or carelessness, shall fire or cause to be fired any dwelling house, or out-house or houses, and be thereof convicted on the oath of one witness before two justices, he shall forfeit 100 *l.* to the churchwardens of the parish where the fire shall happen, to be distributed by them to the sufferers, in such proportions as to them shall seem just; and if he do not pay the same immediately on demand of the churchwardens, the said justices shall commit him to some workhouse or house of correction for eighteen months, there to be kept to hard labour. 6 *An. c. 31.*

Threatning to
burn a house.

13. By the commission of the peace, any justice may cause to come before him, all those who to any of the people concerning the firing of their houses have used threats, to find sufficient security for the peace or their good behaviour towards the king and his people; and if they shall refuse to find such security, may cause them to be safely kept in the king's prisons, until they shall find such security.

Burying in woollen. See **Woollen Manu-
facture.**

Journal

I have been thinking much lately of the things that I have seen and done in the past few years. It seems so long ago now that I was a young boy, full of hope and ambition, looking for a way to make a name for myself. I remember the days when I was in school, and how I would sit at my desk, dreaming of the future. I would imagine myself as a great man, a leader, a man who would change the world. But now, looking back, I realize that I was so naive, so full of myself. I was so sure of myself, so certain of my path, that I never stopped to think about the consequences of my actions. I was so busy chasing my dreams, so busy trying to prove myself, that I never took the time to really live. I never learned to listen to my own heart, to follow my own intuition. I was so caught up in the external world, so concerned with what others thought of me, that I never truly knew myself. I was so afraid of failure, so afraid of being rejected, that I never allowed myself to truly be who I was. I was so afraid of the unknown, so afraid of the future, that I never took any risks. I was so afraid of the dark, so afraid of the night, that I never allowed myself to truly see the world. I was so afraid of the pain, so afraid of the loss, that I never allowed myself to truly love. I was so afraid of the end, so afraid of the death, that I never allowed myself to truly live. I was so afraid of the unknown, so afraid of the future, that I never took any risks. I was so afraid of the dark, so afraid of the night, that I never allowed myself to truly see the world. I was so afraid of the pain, so afraid of the loss, that I never allowed myself to truly love. I was so afraid of the end, so afraid of the death, that I never allowed myself to truly live.

Butchers.

1. **N**O person, using the trade of a butcher, shall sell, offer, Not to sell fat or expose to sale, by himself or any other, any fat cattle alive. oxen, steers, runts, kine, heifers, calves, sheep, or lambs alive; on pain of forfeiting double value, half to the king, and half to him that will sue. 15 C. 2. c. 8.

2. If any butchers shall conspire not to sell their victuals but at certain prices; every such person shall forfeit for the first offence 10*l.* to the king, and if not paid in six days, he shall suffer twenty days imprisonment, and shall only have bread and water for his sustenance; for the second offence 20*l.* in like manner, or the pillory; and for the third offence 40*l.* or pillory, and the loss of an ear, and to be taken as a man infamous, and not to be credited in any matter of judgment. And the sessions or leet may determine the same. 2 & 3 Ed. 6. c. 15. Conspiring to raise the price of victuals.

3. No butcher shall slay any beast within any walled town, except *Carlisle* and *Berwick*; on pain of forfeiting for every ox 12*d.* every cow and other beast 8*d.* half to the king, and half to him that will sue. 4 H. 7. c. 3. Not to kill in a walled town.

4. A butcher that selleth swine's flesh meazled, or flesh dead of the murrain, shall for the first time be grievously amerced, the second time suffer judgment of the pillory, the third time be imprisoned and make fine, and the fourth time forswear the town. Ordinance for bakers. *Hawk. Stat. V. 1. p. 181.* Selling unwholesome flesh.

5. If any butcher shall kill or sell any victual on the lord's day, he shall forfeit 6*s.* 8*d.* one third to the informer, and two thirds to the poor, on conviction before one justice, on his own view, or confession, or oath of two witnesses, to be levied by the constable or churchwarden. 3 C. c. 1. Not to kill or sell on the lord's day.

6. No butcher shall water any hide, except in *June*, *July*, and *August*; on pain of 3*s.* 4*d.* for each offence. 1 J. c. 22. f. 2. One third to the king, one third to the informer, and one third to the town or lord of the liberty. f. 46. Not to water hides.

And the sessions or leet may hear and determine the same. f. 50.

Or, any two justices, near the place, may (in three months after the offence committed) summon the party accused, and the witnesses; and upon the party's appearance, or contempt in not appearing, on proof of notice given, may examine the witnesses on oath, and give judgment, and issue warrants under their hands to levy the penalty by distress; and, if not redeemed in six days, the same to be sold. They may also mitigate the penalties, so as they reduce them not to less than a fourth part, over and above the costs and charges. And any person aggrieved may appeal to the next sessions, who may finally determine the same; and, in case of conviction, issue warrants for levying the penalties. 9 An. c. 11. f. 36.

7. No butcher shall put to sale any hide putrified or rotten; on pain of 3*s.* 4*d.* for each offence, in like manner. 1 J. c. 22. f. 2. Selling rotten hides.

8. No

Exercising the
trade of a tan-
ner.

8. No butcher shall be a tanner or currier; on pain of 6s. 8d. a day, to be recovered and levied in like manner. 17. c. 22. f. 2, 25.

Gashing hides.

9. If any raw hide shall wilfully or negligently be gashed, in the slaying thereof; or being gashed, be offered to sale by any butcher or other; the offender shall forfeit 2s. 6d. for such hide, and 1s. for a calf skin; half to the poor, and half to the informer: To be levied by two justices in like manner. 9 An. c. 11. f. 11.

Butter and Cheese.

I. Concerning the packing, weight, and goodness of butter.

II Concerning the licence of a person to buy and sell butter.

III. Concerning ingrossing and regrating of butter and cheese.

IV. Concerning the shipping of butter and cheese for London.

V. Exporting of butter and cheese.

VI. Importing of butter and cheese.

I. Concerning the packing, weight, and goodness of butter.

Weight of the
cask to be
marked.

1. **E**VERY farmer and other person packing up butter for sale, shall set upon every firkin and cask, when the same is fully seasoned in water, a continuing visible mark of the just weight of the empty cask; on pain of forfeiting for every offence the sum of ten shillings for every hundred weight of butter otherwise packed, and so proportionably for a greater or lesser quantity; half to the churchwardens and overseers for the use of the poor, and half with double costs to him who shall sue for the same in sessions, by action of debt, indictment, information, or presentment. 13 & 14 C. 2. c. 26. f. 5, 6.

Weight of a pot
to be marked.

2. Also every potter shall set upon every pot which he shall sell for packing up butter, the just weight of the pot when it is burnt, together with the first letter of his christian name, and his surname at length; on pain of 1s. And no person shall expose to sale any butter packed up in any pot not so marked, on pain of 2s. for every such pot. To be recovered and applied in like manner. 13 & 14 C. 2. c. 26. f. 6.

3. Every

3. Every kilderkin of butter shall contain 112 pounds, and every firkin 56 pounds neat, or above; every pound containing 16 ounces, besides the tare of the cask, of good and merchantable butter; and every pot of butter shall contain 14 pounds neat, or above, besides the weight of the pot;

Weight and
goodness.

And no butter which is old or corrupt shall be mixed or packed up with any butter which is new and sound;

Nor any whey butter shall be packed or mixed with any butter made of cream;

And every cask or pot of butter shall be of one sort and goodness;

And no butter shall be salted with any great salt, but shall be salted and saved with small salt; nor more salt shall be intermixed with it than shall be needful for its preservation:

On pain that every owner, farmer, or packer of butter, not putting up in each kilderkin, firkin, and pot, to be sold or exposed to sale, such quantities as aforesaid, or offending in false packing as aforesaid, for every offence shall forfeit the value of all the butter so false packed; and for every offence where any kilderkin, firkin, or pot shall be found to contain a lesser quantity of butter than as above, six times the value of every pound of butter that shall be wanting in such cask or pot; to be recovered and applied as aforesaid. 13 & 14 C. 2. c. 26. f. 2.

4. And when the farmer or other person hath filled the cask with butter, he shall, besides the former mark of the weight of the cask, set also on the cask the first letter of his christian name, and his surname at length with an iron brand; on pain of forfeiting for every offence the sum of 10*s*. for every hundred weight of butter otherwise packed, and for more or less proportionably; to be recovered and applied in like manner. 13 & 14 C. 2. c. 26. f. 5.

Owner to set his
name on the
cask.

5. And every cheesemonger and other who shall sell any kilderkin, firkin, pot, or other cask of butter, shall deliver therein the full quantity and due quality; or shall be liable to make satisfaction, according to the price thereof. 13 & 13 C. 2. c. 26. f. 3.

Cheesemonger to
deliver due quan-
tity and quality.

6. And no cheesemonger or other person shall repack for sale, any butter, in any kilderkin, firkin, or other cask, or pot, on pain of forfeiting double value thereof; to be recovered and applied in like manner. 13 & 14 C. 2. c. 26. f. 4.

Cheesemonger
shall not repack
butter.

7. The prosecution for the offences above, shall be commenced in four months after the sale of the butter. 13 & 14 C. 2. c. 26. f. 7.

In what time
the prosecution
shall be.

8. But provided nevertheless, that no seller of butter shall be charged with any of the said penalties, after the buyer hath bought the butter and approved it. 4 W. c. 7. f. 2.

Prosecution not
to be, if the
buyer hath ap-
proved it.

9. And for preventing any fraud in the seller, after the factor or buyer hath bought the butter, the said factor or buyer shall set his seal, or mark, or name upon it, or upon the cask; and if it shall be afterwards exchanged or opened, and the cask changed, or any bad butter mixed or packed up with good butter, or any other fraud be committed by the seller; and he be convicted thereof, before one justice, by oath of one witness, or confession,

Fraud after sale,
by the seller.

he shall forfeit 20 s. for every firkin and offence, to be levied by the constable, by distress, and to be distributed by the justice, half to the churchwardens and overseers for the use of the poor, and half to the informer. 4 W. c. 7. f. 2.

But any person aggrieved may appeal to the sessions, giving 20 l. bond to the party, to pay costs (in a month after) if he is not relieved on his appeal. *id.* f. 10.

II. Concerning the licence of a person to buy and sell butter.

Licence.

No badger, lader, kidder, carrier, buyer or transporter of butter and cheese shall be licensed (A) thereunto, unless he be or have been a married man, and be an housholder, and of the age of 30 years or upwards; and unless it be in open sessions of the county, where he hath dwelt for three years last past. 5 El. c. 12. f. 4.

And the licence to bear date of the day and place of the sessions; and to be signed and sealed by three justices there (1 Q.) f. 5.

And the court may take recognizance (B) that he shall not forestall nor ingross, nor do any thing contrary to the statute of 5 & 6 Ed. 6. c. 14. against regrating, ingrossing, and forestalling. f. 6.

The licence and recognizance to be written by the clerk of the peace or his deputy, and by no other person; for which he shall have, for the licence 12 d. for the recognizance 8 d. and for registering them 4 d. For which fee, he shall also enter the names and dwellings of the persons licensed, and a brief declaration of the licence, with the day, time, and place when granted, in a register book, which he shall have at every sessions. f. 6.

And the licence to continue but for a year, unless renewed. f. 4.

And every person taking any licence contrary hereto, shall forfeit to the king 5 l. and the licence to be void: The same to be recovered in sessions, by inquisition, presentment, bill, or information, and by examination of two witnesses. f. 5, 7.

But this shall not extend to prejudice the liberty of a city or town corporate, but that they may licence purveyors, for the provision thereof. f. 9.

Neither shall it extend to the inhabitants of the counties of *Westmorland, Cumberland, Lancaster, Chester, and York*; but that they may do as heretofore they have lawfully used to do. f. 10. But by a general clause in the 13 El. c. 25. f. 20. these counties seem now to be included; by which it is enacted, that no person whatsoever shall be admitted or licensed to be a buyer, badger, kidder, or carrier of butter and cheese, and such like kind of victual, otherwise than by 5 El. c. 12.

III. Concerning ingrossing and regrating of butter and cheese.

There is nothing relating to the *forestalling* of butter and cheese, different from the forestalling of other goods; which may be seen under the general title of forestalling. But as to ingrossing and regrating the same, it hath been enacted as followeth:

1. By the 3 & 4 *Ed. 6. c. 21.* No person shall buy to sell again, any butter or cheese, unless he sell the same again by retail in open shop, fair, or market (or victuallers in their houses), and not in gros; on pain of double value, half to the king, and half to him that will sue. Not to be sold again, but by retail.

And the word *retail* shall be taken only where a weight of cheese (*viz.* 225 pounds, in some places 256, in others 336 pounds, *Dalt. c. 112.*) or a barrel of butter, or less quantity, and not above, shall be sold at any time to any person or persons.

2. And by the 5 & 6 *Ed. 6. c. 14.* Whosoever shall ingross or get into his hands any butter or cheese, to sell the same again, shall be deemed an ingrosser. *f. 3.* Ingrossing.

3. But the buying of any butter or cheese, by any licensed badger, lader, kidder, or carrier, who shall sell or deliver in open fair or market, shall not be deemed regrating. 5 & 6 *Ed. 6. c. 14. f. 7.* Regrating.

4. And nothing in these two acts shall extend to cheesemongers and tallowchandlers in London and Westminster, for what they shall sell for victualling of ships, or for what they shall sell in their shops or market, not exceeding four weighs of cheese, and four barrels of butter. 21 *J. c. 22.* Cheesemongers in London.

Provided, that if the justices of the peace in any county, in their quarter sessions, shall declare that the said traders in butter and cheese shall forbear to buy any in such county for any time, and they do buy within that time, and sell the same by retail, they shall not have the benefit of this act. *id.*

IV. Concerning the shipping of butter and cheese for London.

1. Every warehousekeeper, weigher, searcher, or shipper of butter and cheese, shall receive all butter and cheese that shall be brought to him, for the London cheesemongers, and ship the same without undue preference; and shall have for his pains 2 s. 6 d. for every load: and if he shall make default, he shall, on conviction before one justice, on oath of one witness, or confession, forfeit for every firkin of butter 10 s. and for every weigh of cheese 5 s. half to the churchwardens and overseers for the use of the poor, and half to the informer, to be levied by the constable, by distress and sale. 4 *W. c. 7. f. 4.* No undue preference.

2. And he shall keep a book of entry of receiving and shipping the goods; on pain of 2 s. 6 d. for every firkin of butter, and weigh of cheese, to be levied and applied in like manner; and for want of distress, to be committed till paid. 4 *W. c. 7. f. 5.* Book of entry.

Master of a ship
refusing to take
in.

3. A master of a ship refusing to take in butter or cheese, before he is full laden (except it be a cheefemonger's own ship sent for his own goods), shall forfeit for every firkin of butter refused 5 s. and for every weigh of cheese 2 s. 6 d. to be levied and applied in like manner. 4 *W. c. 7. f. 6.*

Appeal.

4. Person aggrieved by the determination of the justice, may appeal to the next sessions, giving 20 l. bond, with one or more sureties, to the party, to pay costs (within a month after) if he is not relieved on his appeal. 4 *W. c. 7. f. 10.*

Exception.

5. But this act shall not extend to any warehouse in *Cheshire* or *Lancashire*. 4 *W. c. 7. f. 9.*

V. Exporting of butter and cheese.

Exportation.

Butter and cheese may be exported custom free. 3 *W. c. 8.*

VI. Importing of butter and cheese.

Importation.

No butter or cheese shall be imported from *Ireland*. 32 *C. 2. c. 2.*

Note; There are special directions in the act of 8 *G. c. 27.* concerning the selling of butter in the city of *York*, and in the act of the 17 *G. 2. c. 8.* concerning the same in *New Malton*; which are not general enough to be here inserted.

A. Licence of a badger of butter and cheese; on the 5 *El. c. 12.*

Westmorland. **A**T the general quarter sessions of the peace held at _____ in and for the said county, this _____ day of _____ in the _____ year of _____ We A. B. C D. and E. F. esquires, justices of the peace for the said county (one whereof is of the Quorum) have licensed, and by these presents do license and admit B. B. of _____ in the said county being upwards of thirty years of age, and being also a married man [or a widower], and an householder, and having been an inhabitant in the said county for three years last past, to be a common badger, kiddy, carrier, buyer and transporter of butter and cheese, for and during the space of one year from the date hereof; so as he do use and follow the said business, according to the true intent and meaning of the statutes in that case made and provided, against regrators, forestallers, and ingrossers, and not otherwise. Given under our hands and seals &c.

B. Condition of the recognizance; on the 5 *El. c. 12. f. 6.*

_____ That he shall not forestall, or ingross, or do any thing contrary to the true meaning of the statutes made against regrators, forestallers, and ingrossers, or any thing therein contained.

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Buttons.

1. **N**O person shall sell or offer to sale, or import, any foreign buttons. Foreign buttons.
 reign bone-lace, cut-work, imbroidery, fringe, band strings, buttons, or needle work, made of thread and silk, or either of them, or any foreign buttons whatsoever; on pain that he who shall offer them to sale shall forfeit the same and 50*l.* and the importer shall forfeit the same and 100*l.* half to the king, and half to him that shall sue. 13 & 14 C. 2. c. 13. f. 2. 4 W. c. 10. f. 2.

And on complaint and information given to a justice of the peace, at times reasonable, he shall issue his warrant to the constable, to enter and search for such manufactures in the shops being open, or warehouses, and dwelling houses of such persons as shall be suspected, and to seize the same. 13 & 14 C. 2. c. 13. f. 3. 4 W. c. 10. f. 2.

And *English* bone-lace, needlework, point, or cut-work, may be exported custom free. 11 & 12 W. c. 3. f. 15.

2. By the 10 W. c. 2. No person shall make, sell, or set on, Cloth buttons.
 any buttons made of cloth, or made of wood only; on pain of 40*s.* a dozen, half to the king, and half to him that shall sue in any court of record.

And by the 8*th* An. c. 6. No taylor or other person shall make, sell, set on, use, or bind on any cloaths, any buttons or button holes, made of or used, or bound with serge, drugget, frize, camlet, or other stuffs of which cloaths are usually made; on pain of 5*l.* a dozen, half to the king, and half to him that shall sue in any court of record; or on complaint to two justices, they may summon witnesses, and levy the penalty, and return the overplus if any be; and if any person is aggrieved, he may appeal to the next sessions.

But by this act no power is given to make distress. The next that occurs, is the statute of 4 G. c. 7. which in the statutes at large is a loose, injudicious, and ungrammatical act, and by its garb may well enough seem to have been drawn up by the taylors or button makers; whereby it is enacted as follows:

No taylor or other person shall make, sell, set on, or bind on any cloaths, any buttons or button holes made of, or used, or bound with cloth, serge, drugget, frize, camlet, or any stuffs that cloaths are usually made of (velvet excepted); on pain of 40*s.* a dozen: To be determined by one justice where the offence shall be discovered, or the offender shall inhabit, on oath of one witness, in three months after the offence committed; and to be distributed (charges of conviction first deducted) half to the informer, and half to the poor of the parish or place where the offence shall be discovered: if not paid (being lawfully demanded) in 14 days after conviction, the justice shall issue his warrant to the constable where the offender dwells, or can be found, to levy it by distress and sale; and where no sufficient distress can be found, he shall be committed to the common gaol of the county or place where he

shall be found, to be kept to hard labour for three kalendar months. Persons aggrieved may appeal to the sessions, giving sufficient notice; and the sessions may allow costs to the party aggrieved.

And taylors causing their apprentices or servants to make such cloaths, shall themselves be subject to the penalties.

And all such cloaths, made with such buttons and button holes, *exposed to sale*, shall be forfeited and seized, and recovered and disposed of as the other penalties.

And by the statute of the 7 G. 1. c. 12. No person shall *use or wear* on any cloaths (velvet excepted) any such buttons or button holes; on pain of 40 s. a dozen, on conviction by confession or oath of one witness; and any justice of the peace, where the offence shall be committed, or the offender shall inhabit, shall on complaint or information on oath, of any credible person, in one month after the offence, summon the party, and on his appearance or contempt, examine the matter, and on due proof by confession or oath of one witness convict the offender, and cause the forfeiture by his warrant to be levied by distress and sale: the said penalties to be half to him on whose oath the party shall be convicted, and half to the poor of the parish where the offence shall be committed. And persons aggrieved may appeal to the next quarter sessions, giving 8 days notice.

To him on whose oath the party shall be convicted] This is almost the only instance where a share of the penalty is given in express words, in a popular action, to the party on whose oath any person is convicted; and the contrary doctrine seems generally to prevail in most cases, that the defendant shall not be condemned upon the sole testimony of the plaintiff (swearing for his own interest: And it is certainly against the common law, that such a person should be a witness at all; and therefore his right to give evidence in his own cause, and the power to convict the defendant upon that sole evidence, must depend on the express words of some statute.

Buying of titles.

I. *By the common law.*

II. *By statute.*

I. *By the common law.*

IT seemeth to be an high offence at common law, to buy or sell any doubtful title to lands known to be disputed, to the intent that the buyer may carry on the suit, which the seller doth not think it worth his while to do, and on that consideration sells his pretensions at an under rate; and it seemeth not to be material, whether the title so sold be a good or bad one, or whether the seller were in possession or not, unless his possession were lawful and uncontested; for all practices of this kind are by all means

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 work done during the year. It is followed by a detailed
 account of the various projects and the progress made
 on each. The report then discusses the financial
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 funds available for the coming year. It concludes
 with a summary of the work done and a statement
 of the committee's recommendations.

The second part of the report is a list of the
 names of the members of the committee and the
 names of the various projects. It also includes
 a list of the names of the donors and the
 amount of their contributions.

Statement of the committee

The committee has the honor to
 present to you the following statement

of the work done during the year

The committee has the honor to present to you the following statement of the work done during the year. It is followed by a detailed account of the various projects and the progress made on each. The report then discusses the financial position of the organization and the amount of funds available for the coming year. It concludes with a summary of the work done and a statement of the committee's recommendations.

THE HISTORY OF THE

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means to be discountenanced, as manifestly tending to oppression, by giving opportunities to great men to purchase the disputed titles of others, to the great grievance of the adverse parties, who may often be unable or discouraged to defend their titles against such powerful persons, which perhaps they might safely enough maintain against their proper adversary. 1 *Harw.* 261.

II. By statute.

1. By the statute of 13 *Ed. 1. c. 49.* No person of the king's house shall buy any title whilst the thing is in dispute; on pain of both the buyer and seller being punished at the king's pleasure.

2. And by 32 *H. 8. c. 9.* None shall buy any pretended right in any land, unless the seller hath taken the profit thereof one year before; on pain that the seller shall forfeit the land, and the buyer the value, half to the king, and half to him that shall sue within one year. f. 2, 6.

Pretended title] But he who is in lawful possession may purchase the pretended title of any others. 32 *H. 8. c. 9. f. 4.*

One year before] But no conveyance made by one who hath the uncontested possession, and undisputed absolute propriety of lands, is any way within the meaning of this statute. 1 *Harw.* 265.

3. And the offence of buying of titles may be laid in any county, at the pleasure of the informer. 31 *El. c. 5. f. 4.*

Callico. See **Excise.**

Cambrick.

1. **C**AMBRICKS (so called from being made at *Cambray* in *Flanders*) and *French lawns* may be imported, on the importer's making oath, that they are for exportation only, and that they are really the property of the importer or some other subject, and that no foreigner hath any interest therein, and also giving bond for payment of 5 *l.* for each piece which shall not be exported within three years after entry. 18 *G. 2. c. 36. f. 6.* Importation.

2. But no person shall wear any cambrick or *French lawn*; on pain of 5 *l.* to the informer, on conviction by oath of one witness before one justice, who shall on information on oath in six days after the offence committed, summon the party, and on his appearance or contempt proceed to examine the matter, and on due proof thereof made, either by confession, or oath of one witness, hear and determine the same, and cause the penalty to be levied by distress. The party aggrieved may appeal to the next sessions, giving six days notice. 18 *G. 2. c. 36. f. 1.* Wearing it.

Selling it.

3. And if any person shall *sell* or expose to sale any cambrick or *french* lawns, made or not made up, (except for exportation,) he shall forfeit 5*l.* in like manner. 18 G. 2. c. 36. f. 2.

Wearer discovering the seller.

4. But if the wearer shall, on oath before a justice, discover the seller (if such sale was after *Jun.* 24. 1748.) he shall be discharged, and the seller only shall be liable. 18 G. 2. c. 36. f. 3. 21 G. 2. c. 26. f. 2.

And where such wearer shall be excused by discovering the vender, the penalty on the vender shall go to the person who informed against the wearer. 21 G. 2. c. 26. f. 3.

Milliner making up.

5. And any milliner or other person who shall for hire make up any cambrick or *french* lawn, for any wearing apparel, shall be liable to the penalties inflicted on the vender. 21 G. 2. c. 26. f. 5.

Husband liable.

6. And where an offender is a feme covert, living with her husband, the penalty shall be levied on the goods of the husband. 21 G. 2. c. 26. f. 4.

Candles. See Exercise.

Captas. See Process.

Cards. See Stamps.

Carriers.

Rates for carriage.

1. **B**Y the 3 *W.* c. 12. The justices in *Easter* sessions yearly, shall rate the prices of all land carriage of goods to be brought *into* any place within their jurisdiction, by any common waggoner or carrier; and shall certify the rates so made to the mayors and other chief officers of the several market towns within their jurisdiction, to be hung up in some publick place to which all persons may resort: And no such common waggoner or carrier shall take for carriage above the rates so set, on pain of 5*l.* by distress, by warrant of two justices where such waggoner or carrier shall reside, to the use of the party grieved. f. 24.

And by 21 G. 2. c. 18. If any common waggoner or carrier shall demand and take any greater price for bringing goods *to London*, or to any place within the bills of mortality than is allowed and settled by the justices for the place from whence the same are brought for the carrying of goods *from London* to the said place; he shall forfeit 5*l.* to the party grieved, to be recovered as by the said act of the 3 *W.* or by distress and sale of his goods, by warrant from two justices of *Middlesex*, *Surrey*, *London*, or *Westminster*. f. 3.

And the clerk of the peace in the country shall, immediately after *Easter* sessions yearly, certify to the lord mayor of *London*, and to the respective clerks of the peace for *Middlesex*, *Surrey*, and *Westminster*, the rates made for the carriage of goods in their respective

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respective counties and places; which certificate, or an attested copy thereof, signed by the officer to whom the same shall be transmitted, shall be sufficient evidence of the prices so set. *f. 3.*

And every common waggoner or carrier shall have his christian and surname and place of abode, in large or capital letters, placed upon some conspicuous part of his carriage, before he shall drive the same; on pain of 20*s.* to be levied and recovered as aforesaid. *f. 4.*

2. No carrier with any horse or horses, nor waggon-man, carrier, or wain-man, with their respective carriages, shall by themselves, or any other, travel on the lord's day; on pain of 20*s.* on conviction in six months, before one justice (or mayor), on view, or confession, or oath of two witnesses, to be levied by the constable or churchwardens by distress; to the use of the poor, except that the justice may reward the informer with any sum not exceeding a third part. 3 C. c. 1. Carrier travelling on Sundays.

3. It hath been holden, that a carrier imbezilling goods which he has received to carry to a certain place, is not guilty of felony, because there was not a felonious taking; but is liable only to a civil action. 1 *Harw.* 89, 90. Carrier imbezilling goods.

4. But it hath been resolved, that if a carrier open a pack, and take out part of the goods, with intent to steal it, he may be guilty of felony; in which case it may be said, not only that such possession of a part distinct from the whole, was gained by wrong, and not delivered by the owner; but also that it was obtained basely, fraudulently, and clandestinely, in hopes to prevent its being discovered at all, or fixed upon any one when discovered. 1 *Harw.* 90. Carrier opening a pack.

5. Also it seems clear, that if a carrier, after he has brought the goods to the place appointed, take them away again secretly, with intent to steal them, he is guilty of felony; because the possession, which he received from the owner, being determined, his second taking is in all respects the same, as if he were a mere stranger. 1 *Harw.* 90. Carrier stealing goods after brought to the place.

6. Also it hath been resolved, that if goods be delivered to a carrier, to be carried to a certain place, and he carries them to another place, and disposeth of them to his own use, that this is felony; because this declareth that his intention originally was not to take the goods, upon the agreement and contract of the party, but only with a design of stealing them. *Kelynge* 82. Carrying to another place.

7. Where goods are delivered to a carrier, and he is robbed of them, he shall be charged, and answer for them, by reason of the hire: And this was at the common law, before the hundred was answerable over to him; because such robbery might be, by consent and combination, carried on in such a manner, that no proof could be had of it. 1 *Salk.* 143. Carrier robbed.

8. *H. 5 G. Titchburne and White.* By King Ch. J. If a box is delivered generally to a carrier, and he accepts it; he is answerable, though the party did not tell him there is money in it. But if the carrier asks, and the other says no, or if he accepts it conditionally, provided there is no money in it, in either of these cases the carrier is not liable. How far it is necessary that the carrier should know what the goods are.

Goods delivered to the carrier's servant.

9. A delivery to the carrier's servant, is a delivery to the carrier; and if goods are delivered to a carrier's porter, and lost, an action will lie against the carrier. *Read. Car.*

Carrier may indict for goods stolen, as his own property.

10. Where goods are stolen from a carrier, he may prefer an indictment against the felon, as for his own goods; for tho' he has not the absolute property, yet he has such a possessory property, that he may maintain an action of trespass against any one who takes them from him, and so may indict a thief for taking them: and the indictment were good also, if it had been brought by the real owner. *Kelynge 39.*

Person stealing his own goods from the carrier.

11. And there is a special case, wherein it is said, that a man may commit larceny by stealing his own goods delivered to the carrier, with intent to make him answer for them; for the carrier had a special kind of property in the goods, in respect whereof, if a stranger had stolen them, he might have been indicted generally as having stolen the said carrier's goods, and the injury is altogether as great, and the fraud as base, where they are taken away by the very owner. *1 Harw. 94.*

Casual death. See *Deodand.*

Cattle.

So much of this title as concerns butchers in particular, may be seen under title *Butchers.*

- I. *What number of cattle a man shall keep.*
- II. *Concerning the bringing of cattle into England.*
- III. *Buying and selling of cattle; and therein of drovers.*
- IV. *Stealing, killing, or maiming of cattle.*

I. *What number of cattle a man shall keep.*

What proportion shall be observed.

FOR the encouragement of the breeding of cattle, every person who shall keep above sixscore sheep, above what is for his household, shall for every threescore sheep keep one milch cow, and bring up yearly for every sixscore sheep one calf; on pain of forfeiting 20s. a month.

And every person who shall keep above 20 oxen, runts, shrubs, steers, heifers, or kine, shall for every ten of them keep one milch cow yearly, and rear one calf for the space of one year (unless it die

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 deals with the general
 situation of the country
 and the progress of
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 followed by a
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die in the mean time) for every such two milch cows; on pain of forfeiting 20s. a month:

These penalties to go, half to the king, and half to him who shall sue in the sessions or other court of record. 2 & 3 P. & M. c. 3. 7 J. c. 8.

2. And for the encouragement of tillage, and to prevent the ingrossing of farms into a few hands, no man shall keep above 2000 sheep, at sixscore to the hundred, over and above what is necessary for his household; except it be upon his own proper estate; on pain of 3s. 4d. for every sheep above that number, half to the king, and half to him that shall sue for the same in sessions: — lambs not to be accounted sheep, till the second midsummer after they are lambed. 25 H. 8. c. 13.

II. Concerning the bringing of cattle into England.

1. Not above 600 cattle shall be imported from the isle of *Man* yearly; and to be landed at *Chester* and the members thereof only. 18 C. 2. c. 2.

2. By the sixth article of the union, no *Scotch* cattle, carried in *England*, shall be liable to any other duties, than those to which the cattle of *England* are liable. 5 An. c. 8.

3. The importation of cattle from *Ireland*, and other places beyond sea, shall be a common nuisance. 18 C. 2. c. 2.

And if any shall be imported, any person may seize them, and keep them 48 hours; and if in that time, it be made appear to a justice, on the oath of two witnesses, that they were not imported from *Ireland*, nor from any other place beyond sea, then they shall be delivered on warrant of such justice; but in default of such proof and warrant, then to be forfeited. 18 C. 2. c. 2. 32 C. 2. c. 2.

And the seizor, within six days after the conviction and forfeiture, shall cause them to be killed; the hides and tallow he shall have himself, the rest shall go to the poor, to be distributed by the churchwardens and overseers. 32 C. 2. c. 2.

And the seizors, churchwardens, or overseers neglecting their duty herein, shall forfeit 40s. for every one of the great cattle, and 10s. for sheep and swine; half to the poor, and half to the informer, by warrant of one justice, by distress; for want of distress, commitment for three months. 32 C. 2. c. 2. f. 6.

And the ships bringing the same shall be forfeited, and any person may seize and sell them, half for the poor, and half for himself. 20 C. 2. c. 7.

And a justice of the peace may by warrant apprehend the seamen, and all others concerned, and commit them to gaol for three months. 20 C. 2. c. 7.

And if no seizure is made in the district where they are first imported, such place shall forfeit 100l. to the use of the house of correction. 20 C. 2. c. 7.

And if the cattle come by collusion of officers, or otherwise, into any other than the first district, they may be seized there in like manner. 20 C. 2. c. 7.

And persons confederating to elude this act, shall incur a *praemunire*. 20 C. 2. c. 7.

And also, cattle once seized, and afterwards found in another district, may be resealed there. 32 C. 2. c. 2. f. 10.

And *English* cattle intermixed in a drove with *Irish* cattle, may be seized as *Irish* cattle. 32 C. 2. c. 2. f. 11.

III. Buying and selling of cattle; and therein of drovers.

None shall buy and sell in the same market.

1. No person shall buy any ox, steer, ront, cow, heifer, or calf, and sell the same again alive, in the same market or fair; on pain of forfeiting double value, half to the king, and half to him who shall sue. 3 & 4 Ed. 6. c. 19. 3 C. c. 4. f. 7, 8.

Not to sell again in less than five weeks.

2. And if any person shall buy any ox, ront, steer, cow, heifer, calf, sheep, lamb, goat, or kid living, and sell the same again alive, unless he keep and feed the same for five weeks; he shall forfeit double value, half to the king, and half to him that shall sue in any court of record: And also the justices in sessions may determine the same, by inquisition, presentment, bill, or information, and by examination of two witnesses, and make process thereupon as upon indictment; and make estreats for the king's moiety, and award execution of the other moiety for the complainant, by *feri facias*, or *capias*, as the courts at *Westminster* may do. 5 & 6 Ed. 6. c. 14. f. 9, 10.

Except drovers.

3. But nevertheless it shall be lawful to any person known for a common drover (being licensed as is hereafter directed) to buy cattle in any such counties, where drovers have been wont in times past accustomed to buy cattle, at their free liberty and pleasure, and to sell the same at reasonable prices, in common fairs and markets, distant from the place where he bought the same 40 miles at the least (so that they be not bought by forestalling). 5 & 6 Ed. 6. c. 14. f. 16, 17.

Drover's licence.

4. And no drover of cattle shall be licensed (A), but in the sessions of the county where he dwells, and hath dwelt for 3 years last past; nor unless he be or have been a married man; and be a householder, and not a household servant or retainer to any person; and of the age of 30 years at the least. 5 El. c. 12. f. 4.

Which licence shall bear date of the day and place where the sessions shall be holden; and shall be signed and sealed by three justices present (1 Q.); on pain that every person who shall take any licence otherwise, shall forfeit 5 *l.* and the licence to be void. f. 5.

And the sessions may take bond and surety by recognizance (B), that they shall not forestall or ingross, or do any thing contrary to this act, and the above act of 5 & 6 Ed. 6. c. 14. *id.* f. 6.

The licence to be written by the clerk of the peace, for which he shall have 12 *d.* and for the recognizance 8 *d.* and for registering the same 4 *d.* for which said fee, he shall keep a register book of the names and dwelling places of the persons licensed, with an entry

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entry of the day, time, and place where the licence was granted; which book he shall have at the sessions. *id. f. 6.*

And such licence shall be only of force for one year. *id. f. 4.*

And the justices in sessions may hear and determine offences against this act, in the same manner as against the 5 & 6 Ed. 6. c. 14. in the last section. *id. f. 8.*

But this act shall not extend to the inhabitants of the counties of *Westmorland, Cumberland, Lancaster, Chester, and York*; but that they may do as heretofore they have lawfully used to do. *id. f. 10.*

But by a general clause in the 13 *El. c. 25. f. 20.* these counties seem also to be included; which enacteth, that no person shall be licensed to be a buyer of cattle, otherwise than by 5 *El. c. 12.*

5. By the 3 *C. c. 1.* No drover, with any cattle, shall travel on the lord's day; on pain of 20*s.* which may be levied by the constable or churchwarden, by warrant of one justice, on conviction on his view, or by confession, or the oath of two witnesses; one third to the informer, and two thirds to the poor. Driving on
Sundays.

IV. Stealing, killing, or maiming of cattle.

1. By the 22 & 23 *C. 2. c. 7.* If any person shall in the night maliciously, unlawfully, and willingly kill or destroy any horses, sheep, or other cattle, he shall be guilty of felony; but without corruption of blood, or loss of dower: But to avoid judgment of death, or execution thereupon, he may chuse to be transported to some of the plantations, to be mentioned in the judgment, for 7 years. Killing or
wounding in
the night.

And if any person shall in the night time maliciously, unlawfully, and willingly maim, wound, or otherwise hurt any horses, sheep, or other cattle, whereby the same shall not be killed or utterly destroyed; he shall forfeit treble damages, by action of trespass, or upon the case:

And three justices (1 *Q.*) may inquire by a jury and witnesses; and may issue warrants for summoning jurors, and for apprehending persons suspected, and take their examinations; and cause witnesses to come before them to give information on oath, so as no person to be examined shall be proceeded against, for any offence concerning which he is examined as a witness, and shall make a true discovery: and if such witness, being summoned, refuse to appear, they may commit him, till he submit to be examined on oath.

2. And by the 14 *G. 2. c. 6.* and 15 *G. 2. c. 34.* If any person shall feloniously drive away, or in any other manner feloniously steal any ox, bull, cow, calf, steer, bullock, heifer, sheep, or lamb; or shall wilfully kill any ox, bull, cow, calf, steer, bullock, heifer, sheep, or lamb, with a felonious intent to steal the whole carcass, or any part thereof; or shall assist or aid in committing any such offence, he shall be guilty of felony without benefit of clergy. Stealing, or kill-
ing with intent
to steal; 10*l.*
reward.

And every person, who shall apprehend and prosecute to conviction any offender, shall have 10*l.* reward. In order to which, he shall have a certificate signed by the judge, before the end of the assizes, certifying the conviction, and where the offence was committed, and that such offender was apprehended and prosecuted by the person claiming the reward; and if there are several claimants, the judge shall in the said certificate direct what share shall be paid to each claimant. Which certificate being tendered to the sheriff, he shall within a month pay the same without deduction; on pain of forfeiting double, with treble costs. The same to be allowed in his accounts, or to be repaid to him out of the treasury.

Killing or
wounding by the
Black act.

3. And by the 9 G. c. 22. commonly called the Black act, which is inserted at large under the title of that name, If any person shall unlawfully and maliciously kill, maim, or wound any cattle, he shall be guilty of felony without benefit of clergy; but without corruption of blood.

And the hundred shall be answerable for the damages, not exceeding 200*l.*

And if any person shall apprehend, or cause to be convicted, any offender, and shall be killed, or wounded so as to lose an eye or the use of any limb, in endeavouring to apprehend or secure him; on proof thereof at sessions, and on certificate thereof from thence, the sheriff shall within 30 days pay to the person intitled the sum of 50*l.* to be repaid to him out of the treasury.

A. A licence for a drover of cattle.

Westmorland. **A**T the general quarter sessions of the peace held at _____ for the county aforesaid, this _____ day of _____ We A. B. C. D. and E. F. Esquires, justices of the peace for the said county (one whereof is of the Quorum) have licensed, and by these presents do license and admit G. H. of _____ in the said county, yeoman, being upwards of 30 years of age, and being also a married man, and an householder, and having been an inhabitant in the said county for three years last past, to be a common drover of cattle, for and during the space of one whole year from the date hereof; so as he do use and follow the said business, according to the laws in that behalf made. Given under our hands and seals the day and year first abovescriben.

B. Condition of the recognizance.

— That he shall not forestall; or ingross, or do any thing contrary to the true meaning of the statutes made against regrators, forestallers, and ingrossers, or any thing therein contained.

[The text in this block is extremely faint and illegible due to the quality of the scan. It appears to be a list or a series of entries, possibly containing names and dates, but the characters are too light to transcribe accurately. The text is organized into several columns or rows, with some entries appearing to be numbered or dated.]

The first part of the document is a letter from the Secretary of the
 Board of Education to the Honorable Secretary of the State. The letter
 is dated the 10th day of January, 1800, and is addressed to the
 Honorable Secretary of the State, at the City of New York. The
 letter is in the following words:

Sir, I have the honor to acknowledge the receipt of your
 letter of the 27th inst. in relation to the petition of the
 Trustees of the University of the State, for the purpose of
 obtaining a charter for the same. I have the honor to inform
 you that the Board of Education have considered the petition
 and have resolved to grant the charter requested, subject to
 the approval of the Honorable Board of Regents. I have the
 honor to enclose herewith a copy of the resolution of the
 Board of Education, and a copy of the petition, for your
 information. I am, Sir, very respectfully,
 Your obedient servant,
 J. B. C.

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Certiorari.

A Justice of the peace may deliver or send into the king's bench, an indictment found before him, or a recognizance of the peace taken by him, or a force recorded by him, without any *certiorari*. *Dalt. c. 195.* What things may be certified without a writ of certiorari.

Concerning which writ of *certiorari*, I will shew

- I. *In what cases it is grantable.*
- II. *How to be granted and allowed.*
- III. *The effect of it.*
- IV. *The return of it.*

I. *In what cases it is grantable.*

1. A *certiorari* lies in all judicial proceedings, in which a writ of error does not lie; and it is a consequence of all inferior jurisdictions erected by act of parliament to have their proceedings returnable in the king's bench. *L. Raym 469, 580.* In cases where a writ of error lies not.

2. And therefore a *certiorari* lies to justices of the peace, even in such cases which they are empowered by statute finally to hear and determine; and the superintendency of the court of king's bench is not taken away without express words. *2 How. 286.* Where not specially prohibited by statute.

3. But it seems agreed, that a *certiorari* shall never be granted to remove an indictment after a conviction, unless for some special cause; as where the judge below is doubtful what judgment to give. *2 How. 288.* After conviction.

And, *E. 18 G. 2. K. and Nicolls.* An indictment was removed into the court of king's bench by *certiorari*, after conviction, and before judgment. Upon which a doubt arose, what the court could do, the *certiorari* being brought before judgment; and this court not being apprized of the circumstances of the offence, could not tell what judgment to give: and in *Cartb. 6.* it is said, they cannot give judgment. A rule therefore was made, to shew cause why the *certiorari* should not be quashed, so as to remit it back to the sessions; which was afterwards made absolute. *Strange 1227.*

4. Also, it seems a good objection against the granting a *certiorari*, that issue is joined in the court below, and a *venire* joined. *After issue awarded for the trial of it. 2 How. 288.*

5. It hath been adjudged, that wherever a *certiorari* is by law grantable for an indictment, the court is bound of right to award it at the instance of the king, because every indictment is the suit of the king, and he has a prerogative of suing in what court he pleases. But it seems to be agreed, that it is left to the discretion of the court, either to grant or deny it at the prayer of the defendant. *2 How. 287.* Where the court is bound of right to grant it.

6. And it seems that the court will not ordinarily, at the prayer of the defendant, grant a *certiorari* for the removal of an indictment of the defendant, grant a *certiorari* for the removal of an indictment Not for heinous crimes.

ment

ment of perjury, or forgery, or other heinous misdemeanor; for such crimes deserve all possible discountenance, and the certiorari might delay, if not wholly discourage the prosecution. 2 *Haw.* 287.

II. How to be granted and allowed.

How to be granted on indictment or presentment.

1. On indictment or presentment: By the 5 *W. c.* 11. and 8 & 9 *W. c.* 33. it is enacted, that in term time, no writ of certiorari, at the prosecution of any party indicted, shall be granted out of the king's bench, to remove any indictment or presentment of trespass or misdemeanor, before trial had, from before the justices in sessions; unless such certiorari shall be awarded upon motion of counsel, and by rule of court made for the granting thereof.

But in the vacation, writs of certiorari may be granted by any justice of the king's bench, whose name shall be indorsed on the writ, and also the name of the person at whose instance it is granted.

And all the parties indicted, prosecuting such certiorari, shall before the allowance thereof, find two sufficient manucaptors, who shall enter into a recognizance before a justice of the king's bench (who shall indorse the same on the writ), or before a justice of the peace of the county or place, in the sum of 20 l. with condition, at the return of the writ, to appear and plead to the said indictment or presentment, in the said court of king's bench, and at his own costs and charges to cause and procure the issue that shall be joined thereupon, or any plea relating thereunto, to be tried at the next assizes for the county wherein the indictment or presentment was found, after such certiorari shall be returned, or the next term if in London, Westminster, or Middlesex, unless the court shall appoint another time, and if so, then at such other time; and to give due notice of such trial, to the prosecutor or his clerk in court; and also that the party prosecuting the writ of certiorari, shall appear from day to day, in the said court of king's bench, and not depart until he shall be discharged by the court.

And the said recognizance shall be certified into the king's bench, with the certiorari and indictment, to be there filed, and the name of the prosecutor (if he shall be the party grieved), or some publick officer, shall be indorsed on the indictment.

And if the defendant prosecuting the writ of certiorari, be convicted of the offence for which he was indicted, then the court of king's bench shall give reasonable costs to the prosecutor, to be taxed according to the course of the said court, who shall for the recovery thereof, within ten days after demand and refusal of payment, on oath, have an attachment awarded; and the recognizance not to be discharged till the costs are paid.

But if the person procuring the certiorari, being the defendant, shall not, before allowance thereof, procure such manucaptors to be bound as aforesaid, the justices may proceed to the trial of the indictment in sessions, notwithstanding the writ of certiorari delivered.

At the prosecution of any party indicted] This extends only to certiorari's procured by persons indicted; from whence it follows, that those which are procured by the prosecutor of an indictment, remain as they were at common law. 2 *Haw.* 292.

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To be true to the spirit of the law, the provisions of the act should be strictly enforced. It is the duty of the government to see that the law is not evaded.

The matter of the court order, in the case of the defendant, which was referred to the court, is a matter of great importance.

It is believed that the provisions of the act will be strictly enforced, and that the government will see that the law is not evaded.

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To be tried at the next assizes] But the recognizance shall not be forfeited, unless the prosecutor give rules according to the course of the court. 2 Haw. 293.

Reasonable costs] The master of the crown office, in taxing the costs, ought only to consider those, which are subsequent to the certiorari. 2 Haw. 292.

May proceed to the trial] Nevertheless they must make a return to the certiorari, otherwise they will be in contempt to the court; for all writs must be obeyed, unless good cause be shewn to the contrary; and the proper way of shewing it, is to return it. 2 Haw. 292.

2. On a conviction or order: By the 13 G. 2. c. 18. it is enacted, that no certiorari shall be granted, to remove any conviction, judgment, order, or other proceedings, before any justice of the peace, or quarter sessions, unless it be applied for in six kalendar months after such proceedings had or made, and unless it be duly proved upon oath, that the party suing forth the same, hath given six days notice thereof in writing, to the justice or justices, or two of them (if so many there be), before whom such proceedings have been, to the end that such justices, or the parties therein concerned, may shew cause if they so think fit, against the issuing the certiorari.

How to be granted on an order or conviction.

And by 5 G. 2. 19. No such certiorari shall be allowed, to remove any such judgment or order, unless the party prosecuting the certiorari, before the allowance thereof, enter into a recognizance with sufficient sureties, before a justice of the county or place, or before the justices at sessions where such judgment or order shall have been given or made, or before a justice of the king's bench, in 50l. with condition to prosecute the same, at his own costs and charges with effect, without wilful delay, and to pay the party in whose favour the judgment or order was made, within a month after the same shall be confirmed, his full costs to be taxed according to the course of the court where such confirmation shall be. And if he shall not enter into such recognizance, or shall not perform the conditions, the justices may proceed and make such further order for the benefit of the party for whom the judgment shall be given, in such manner as if no certiorari had been granted.

The said recognizance to be certified into the king's bench, and there filed, with the certiorari and order or judgment removed thereby.

And if the order or judgment shall be confirmed by the court, the person intitled to the costs, for the recovery thereof, within ten days after demand made, upon oath of such demand and refusal of payment, shall have an attachment granted for the contempt; and the recognizance not to be discharged till the costs are paid and the order complied with.

E. 1 An. A rule was made in the court of king's bench, that no certiorari should be granted to remove orders of justices, from which the law has given an appeal to the sessions, before the matter be determined on the appeal, because it hinders the privilege of appealing; and that if any order be removed before appeal, it should be sent down again: But if the time of appeal be expired, that

that case is not within the rule: By *Holt Ch. J.*—But afterwards, *M. 4 An.* in the case of *Shellington*, it was held, that advantage must be taken of this rule upon the motion to file the order; for that after it is filed, it is too late. *1 Salk. 147.*

But in the case of the borough of *Warwick*, *M. 8 G. 2.* There was an appeal from a poor rate; and the sessions made an order that the churchwardens should produce the books at an adjourned day; before which, a *certiorari* was brought to remove that order: And it was held to lie, though the appeal was depending; else the order must be obeyed before the validity of it can be determined. It was also held, that an appointment of overseers may be removed before an appeal to the sessions; for the rule laid down in *1 Salk. 147.* extends only to the case where there is a limited time for appealing, as to the next quarter sessions; but the statute of the *43 El. c. 2.* is not so restrained: and consequently it can never be said, that the time for appealing is out. And if the appeal from an appointment is lodged, there can be no *certiorari*, till the sessions hath made a determination; and a *certiorari* brought, pending such appeal, shall be superseided. *Strange 991.*

III. The effect of it.

Subsequent proceedings void.

1. After a *certiorari* is allowed by the inferior court, it makes all the subsequent proceedings on the record that is removed by it erroneous. *2 Haw. 293.*

Except where the jury is sworn.

2. But it hath been adjudged, that if a *certiorari* for the removal of an indictment before justices of the peace be not delivered, before the jury be sworn for the trial of it, the justices may proceed. *2 Haw. 294.*

And after judgment.

3. And the justices may set a fine to compleat their judgment, after a *certiorari* delivered. *L. Raym. 1515.*

Removes all after the teste of it.

4. A *certiorari* removes all things done between the teste and return. *L. Raym. 835, 1305.*

Removes the record itself.

5. A *certiorari* removes the record it self out of the inferior court; and therefore if it remove the record against a principal, the accessory cannot there be tried. *2 Haw. 325*

How far it superseides the obligation of a recognizance.

6. It hath been holden, that a *certiorari* for the removal of a recognizance for the good behaviour, or an appearance at sessions, will superseide the obligation of it: but this would be highly inconvenient, and the contrary seems to be supported by the better authority. *2 Haw. 292.*

Case where it is awarded against law.

7. If a *superseideas* come out of a superior court, to the justices, they ought to surcease, altho' the *superseidas* be awarded against law; for they are not to dispute the command of a superior court, which is a warrant to them. *Crem. 129.*

IV. The return of it.

Return of the certiorari.

1. Every return of a *certiorari* ought to be under seal. *2 Haw. 294.*

2. And altho' the *custos rotularum* keep the records, yet must the justices, to whom it is directed, return the *certiorari*; and therefore

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if it is directed to the justices of the peace, and the clerk of the peace only return it, nothing is thereby removed. *2 Hawk. 294.*

3. The *certiorari* may be sometimes to remove and send up the record it self, and sometimes but only the tenor of the record (as the words therein be), and it must be obeyed accordingly. *Dalt. c. 195. 2 Hawk. 295.*

4. A return was in paper, and for that reason held not good. *4 W. K. B. Nels. 178.*

5. Upon a *certiorari* to remove an indictment of a riot, or forcible entry, or the like, the return must have these words, *as also to hear and determine divers felonies &c.* according to the commission; for if the return mentions only that they are justices of the peace, without such words, the return is insufficient. *Dalt. c. 195.*

6. If the person to whom a *certiorari* is directed, do make a false return, yet the court will not stay filing it on affidavit of its being false, except in publick cases, as in cases of commissioners of sewers, or for not repairing highways, or for some such special causes; because the remedy for a false return is either an action on the case at the suit of the party grieved, or an information at the suit of the king. *Dalt. c. 195.*

7. If the person to whom the *certiorari* is directed, do not make a return, then an *alias*, that is, a second writ; then a *pluribus*, that is, a third writ, or *causam nobis significes*, shall be awarded, and then an attachment. *Crom. 116.*

Besides these general rules, in common to all *certioraries*, there are many times special directions about granting, and allowing or not allowing them, in particular cases, which are treated of under their respective titles; such as highways, game, tithes, swearing, and many others.

The return of a *certiorari* may be thus:

First, On the backside of the writ indorse these or the like words:

The execution of this writ appears in a schedule to the same writ annexed.

And that schedule may be thus, on a piece of parchment by it self, and filed to the writ:

Westmorland **I** Sir Philip Musgrave, baronet, one of the keepers of the peace and justices of our lord the king assigned to keep the peace within the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the same county committed, by virtue of this writ to me delivered, do under my seal certify unto his majesty in his court of king's bench, the indictment, of which mention is made in the said writ, together with all matters touching the same indictment. In witness whereof I the said Sir P. M. have to these presents set my seal. Given at _____ in the said county, the _____ day of _____ in the _____ year of the reign of _____.

Th n

Then take the record of the indictment, and close it within the schedule, and seal and send them up both together with the *certiarari*.

Challenge. See Juroꝝ.

Champerty. See Maintenance.

Chance medley. See Homicide.

Cheat.

1. **O**F cheats punishable by publick prosecution, there are two kinds; by the common law, and by statute.

2. Those which are punishable at the common law, may in general be described to be deceitful practices, in defrauding or endeavouring to defraud another of his known right, by means of some artful device, contrary to the plain rules of common honesty; as by playing with false dice; or by causing an illiterate person to execute a deed to his prejudice, by reading it over to him in words different from those in which it was written; or by persuading a woman to execute writings to another, as her trustee, upon an intended marriage, which in truth contained no such thing, but only a warrant of attorney to confess a judgment; or by suppressing a will; and such like. 1 *Harw.* 188.

3. It seemeth to be the better opinion, that the deceitful receiving of money from one man, to another's use, upon a false pretence of having a message and order to that purpose, is not punishable by a criminal prosecution, because it is accompanied with no manner of artful contrivance, but wholly depends on a bare naked lie; and it is said to be needless to provide severe laws for such mischiefs, against which, common prudence and caution may be a sufficient security. 1 *Harw.* 188.

4. A person for a counterfeit pass, was adjudged to the pillory and fined. *Dalt. c. 32.*

5. On an indictment against the defendant, a miller, for changing corn delivered to him to be ground, and giving bad corn instead of it, it was moved to quash the same, because it is only a private cheat, and not of a publick nature. It was answered, that being a cheat in the way of trade, it concerned the publick, and therefore was indictable. And the court unanimously agreed not to quash it. *T. 16 G. 2. K. and Wood. Scff. C. V. 1. 217.*

6. A person falsely pretending that he had power to discharge soldiers, took money of a soldier to discharge him; and being indicted for the same, the court held the indictment to be good. *T. 3 C. Serlestead's case. 1 Latch 202.*

7. As there are frauds which may be relieved civilly, and not punished criminally (with the complaints whereof the courts of equity do generally abound); so there are other frauds, which in a special

The first part of the report is devoted to a general
 description of the country and its resources. It is
 found that the country is well adapted for
 agriculture and stock raising. The soil is
 fertile and the climate is healthy. There is
 a great abundance of timber and other
 minerals. The population is increasing
 rapidly and the commerce is flourishing.
 The government is well administered and
 the laws are strictly enforced. The
 people are industrious and enterprising.
 The country is well watered and the
 roads are good. The public buildings are
 well constructed and the schools are
 well attended. The churches are well
 supported and the ministers are well
 qualified. The country is a happy and
 prosperous one.

a special case may not be helped civilly, and yet shall be punished criminally: Thus if a minor goes about the town, and pretending to be of age, defrauds many persons by taking credit for considerable quantities of goods, and then insisting on his non-age; the persons injured cannot recover the value of their goods, but they may indict and punish him for a common cheat. *Barl.* 100.

8. Offences of this kind by statute, depend upon the 33 H. 8. c. 1. by which it is enacted, that if any person shall falsely and deceitfully obtain, or get into his hands or possession, any money, goods, cattels, jewels, or other things, of any person, by colour and means of any false privy token, or counterfeit letter made in another man's name; and shall be convicted thereof, by examination of witnesses, or confession, at the assizes or sessions, or by action in any court of record; he shall have such punishment by imprisonment, pillory, or other corporal pain (except death) as the court shall appoint. Saving to the party grieved such remedy by action or otherwise, for the goods so obtained, as he might have had by the common law.

And two justices (1 Q.) may call and convent by process or otherwise (A), to the assizes or sessions, any person suspected, and commit or bail him to the next assizes or sessions.

Get into his hands or possession) A person endeavouring by a counterfeit letter to defraud another of goods, and being apprehended on suspicion of such fraud, before he hath got the goods into his possession, seems not to be within this statute. *E.* 3 G. 2. K. and Brian. *Seff. C. V.* 2. 27.

False privy token) On motion to quash an indictment, which was, that the defendant came pretending that such a person had sent him to receive 20*l.* and received it, whereas such person did not send him: By the court, It is not indictable unless he came with false tokens; for we are not to indict one man for making a fool of another. *Black.* 79.

H. 13 G. 2. K. and Munoz. It was adjudged, that an indictment averring the offence to be by false tokens, without shewing what those false tokens are, is not sufficient; and that the fraudulently procuring a note from a person, by falsely affirming that there was one in the next room that would pay the money due upon it, whereas in fact there was no such person in the next room, is not a false token, but a false affirmation only. *Seff. C. V.* 2. 201. *Strange* 1121.

Note; The statute says a false privy token.

Corporal pain] Lord Coke observes hereupon, that for this offence the offender cannot be fined, but corporal pain only inflicted. *3 Inst.* 133.

But Mr. Hawkins observes, that there is precedent in *Cro. Car.* 564. by which it appears, that one convicted on such a prosecution hath been adjudged not only to stand on the pillory, but also to pay a fine of 500*l.* and to be bound with good sureties to the good behaviour. 1 *Harv.* 188.

Commit or bail him] In this case the justices shall do well to take examination of the offence, and to certify the same to the sessions

or gaol delivery, and withal to bind over the informers and witnesses to give evidence therein. *Dalt. c. 32.*

A. Warrant of two justices to apprehend an offender; on 33 *H. 8. c. 1.*

Westmorland } To the constable of _____

WHEREAS complaint hath been made unto us whose names and seals are hereunto set, two of his majesty's justices of the peace for the said county, and one of us of the quorum, upon the oaths of A. I. of _____ yeoman, and B. I. of _____ yeoman, that on the _____ day of _____ A. O. of _____ yeoman, did by a false privy token [or, counterfeit letter] that is to say, by [here particularize the offence] falsely and deceitfully obtain and get into his hands and possession [here mention the things] from C. I. of _____ contrary to the statute in that case made: These are therefore to command you, upon sight hereof, forthwith to bring the said A. O. before us at _____ on the _____ day of _____ to answer to the said complaint, and farther to be dealt withal according to law. Given under our hands and seals the _____ day of _____.

Cheese. See Butter.

Chocolate. See Excise.

Church and Church Ward.

Original of the word church.

1. **T**HE ancient Saxon word is *cyrc*, the Danish *kircke*, the Belgick *kercke*, the Cymbrian *kurk*; probably from the Greek word *κυριακή*, belonging to the lord, or *κυρία οἶκος*, the lord's house: so that we have lost the ancient pronunciation of the word (except in the northern parts of *England*, and in *Scotland*) by softening the letters *c* or *ch*, as we have done in many cases; which letters the ancient *Greeks* and *Romans* always pronounced hard, as the letter *k*.

Uniting of churches.

2. In cities and towns corporate, the bishop (with the consent of the mayor, aldermen, and justices of the peace, and of the patron) may unite two churches or chapels: and make order, with the like consent, that the patrons present by turns, having regard to the value of the livings united: and the incumbents thereof shall be graduates. 17 C. 2. c. 3.

New churches.

3. Clauses are commonly inserted in the several acts of parliament for making provision for the rectors of new churches, which clauses give certain powers to justices of the peace, in relation to the assessments to be made for that purpose.

4. *No fairs nor markets shall be kept in church yards.* 13 Ed. 1. Markets in the church yard.
 R. 2. c. 6.
5. *Clergymen shall not be arrested, and drawn out of any church or church yard, whilst they attend to divine service; on pain of imprisonment of the offenders, and ransom at the king's will, and satisfaction to the party arrested.* 50 Ed. 3. c. 5. 1 R. 2. c. 15. Arrest in the church or church yard.

Also it is said, that arrests in civil cases ought not to be of persons going to or coming from church; but that a warrant from a justice of the peace for the king may be executed in such case. *Cro. Car.* 602. *Cro. Ja.* 321. 2 *Bulstr* 72.

But altho' the officer may be punished for the same either in the spiritual or temporal courts, yet the arrest (if not on a Sunday) is good in law. *Watson* 636.

6. *If any person shall, by words only, quarrel, chide, or brawl, in any church or church yard, the bishop (on proof of two witnesses) may suspend every layman, being an offender, ab ingressu ecclesie; and every clergyman from the ministracion of his office, so long as he shall think meet.* 5 & 6 Ed. 6. c. 4. s. 1. Brawling in the church or church yard.

7. *If any shall smite, or lay any violent hands on another in any church or church yard, he shall be deemed ipso facto excommunicate, and be excluded from the fellowship and company of Christ's congregation.* 5 & 6 Ed. 6. c. 4. s. 2. Striking in the church or church yard.

Lay any violent hands] But churchwardens, or perhaps private persons, who whip boys for playing in the church, or pull of the hats of those who obstinately refuse to take them off themselves, or gently lay their hands on those who disturb the performance of any part of divine service, and turn them out of the church, are not within the meaning of this statute. 1 *Haw.* 139.

Shall be deemed ipso facto excommunicate] And he shall not excuse himself by shewing that the other assaulted him. 1 *Haw.* 139.

Ipsa facto] Nevertheless, in this and other like cases, there ought either to be a precedent conviction at law, which must be transmitted to the bishop; or else the excommunication must be declared in the spiritual court upon a proper proof of the offence there; for it is implied in every penal law, that no one shall incur the penalty thereof, till he be found guilty upon a lawful trial. 1 *Haw.* 139.

8. *If any shall maliciously strike another with any weapon, in any church or church yard, or shall there draw any weapon with intent to strike, and shall be convicted thereof by verdict of 12 men, or confession, or by two witnesses, before the judges of assize, or justices of the peace in their sessions, he shall be adjudged to have one of his ears cut off; and if he have no ears, he shall be burned in the cheek with an hot iron having the letter F, whereby he may be known and taken for a froy maker and fighter; and he shall also stand ipso facto excommunicate.* 5 & 6 Ed. 6. c. 4. s. 3. Striking with a weapon in the church or church yard.

9. He who steals goods belonging to a parish church, may be indicted for stealing the goods of the parishioners. 1 *Haw.* 94. Sacrilige.

For other matters, see title **Churchwardens.**

Churchwardens.

- I. Who are exempted from being churchwardens.
- II. Chusing and swearing of churchwardens, with their duty thereupon.
- III. Their duty in levying rates; and therein of vestries, and select vestries.
- IV. Their duty as to repairs; and therein concerning church seats.
- V. Their duty as to sundry other matters.
- VI. Concerning presentments; and therein of sidesmen or assistants.
- VII. Their accounting.
- VIII. Their punishment on misbehaviour.
- IX. Their indemnity on doing their duty.

I. Who are exempted from being churchwardens.

Attorneys.

1. **A** Counsellor, or attorney, ought not to be chosen churchwarden; and if he is, he may have a prohibition, by reason of his attendance on the courts at *Westminster*. 2 *Roll's Abr.* 272.

Apothecaries.

2. Apothecaries, who have served 7 years, shall be exempted from the office of churchwarden. 6 *W. c.* 4.

Dissenting ministers.

3. Dissenting teachers or preachers, in holy orders or pretended holy orders, being duly qualified, are exempted from the office of churchwarden. 1 *W. Seff.* 1. c. 18.

Other dissenters.

4. Other dissenters, scrupling to take upon them the office, may execute the same by a sufficient deputy, to be approved of in like manner as other churchwardens. 1 *W. Seff.* 1. c. 18.

Person having convicted a felon.

5. All persons who have prosecuted a felon to conviction, are exempted from the office of churchwarden, in the parish where the offence was committed. 10 & 11 *W. c.* 23. f. 2.

II. Chusing and swearing churchwardens; with their duty thereupon.

When to be chosen, and by whom.

1. Churchwardens shall be chosen yearly in *Easter* week, by the joint consent of the minister and parishioners, if it may be; but if they cannot agree, the minister shall chuse one, and the parishioners another. *Can.* 89.

But where there is a custom for the parishioners to chuse both, that custom shall continue. *Cod.* 242.



MEMORANDUM

TO : [Illegible]

FROM : [Illegible]

SUBJECT : [Illegible]

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2. A person chosen churchwarden, refusing to take his office and oath, may be excommunicated for the refusal; and no prohibition will lie. *Cod.* 243. Refusing to take the office.

3. And the ecclesiastical judge, refusing to swear him, may be compelled by a *mandamus*. *Cod.* 243. Refusing to swear them.

4. The churchwardens oath, as said to have been agreed on, upon mutual consultation between the civilians and common lawyers, is as follows; Churchwardens oath.

“ You shall swear truly and faithfully to execute the office of a churchwarden within your parish, and according to the best of your skill and knowledge present such things and persons as to your knowledge are presentable by the laws ecclesiastical of this realm: So help you god and the contents of this book.” *Cod.* 243.

5. Churchwardens being thus sworn, are so far incorporated by law, as to sue for the goods of the church, and to bring an action of trespass for them; and also to purchase goods for the use of the parish; but they are not a corporation in such sort as to purchase lands, or take by grant, except in *London* by custom. *Cod.* 241. Churchwardens a body corporate.

6. Churchwardens shall continue in office, till the new churchwardens be sworn. *Can.* 118. How long they shall continue.

III. Their duty in levying rates; and therein of vestries, and select vestries.

1. The rates must be made with the consent of the major part of the parishioners, housekeepers, or occupiers of land. In order to which, publick notice of a vestry (a place so called from the vestments of the minister kept there) ought to be given the *Sunday* before, either in the church after divine service is ended, or else at the church door as the parishioners come out; both of the calling of the said meeting, and also of the time and place of the assembling of it. And it will be fairest then also to declare for what business the said meeting is to be held, that no one may be surprized, but that all may have full time before, to consider of what is to be proposed at the said meeting. And it is usual that for half an hour before it begins, one of the church bells be tolled to give the parishioners notice when they are met. *5 Co.* 67. *Par. L.* 54. Summoning a vestry.

2. At the common law, every parishioner who paid to the church rates, and no other, had a right to vote. *Par. L.* 56. Who shall have a vote in the vestry. And those that pay no church rates shall have no vote in affairs relating to it, except it be the rector or vicar. *Wood* 155.

3. All persons who have a vote in the vestry have an equal right, and neither the minister nor churchwardens, without a special custom, can adjourn the vestry; but this can only be done by a majority of the whole assembly. *Strange* 1047. Who may adjourn the vestry.

4. When the churchwardens and parishioners are there met, they are to consider what sum of money it will be necessary to raise for such repairs as shall then be needful; and after they have agreed what sum is fit, they are to make an equal levy. *Degge* 171. Laying the rates.

Majority to bind the parish.

5. And the major part of them that appear, shall bind the parish; or if none appear, the churchwardens alone may make the rate; because they, and not the parishioners, are to be cited and punished, in defect of repairs. *Cod. 220.*

Entering in a book.

6. It is most convenient, that every parish act there be entred in the parish book of accounts, and every man's hand consenting to it be set thereto; for then it will be a certain rule for the churchwardens to go by. *Par. L. 55.*

Select vestry.

7. By custom there may be select vestries, of a certain number of persons elected yearly, to make rates, and manage the concerns of the parish for that year: and such custom is a good custom. *Read. Ch. Service. Cod. 246. Strange 728.*

Two rates; one for the fabrick, another for ornaments.

8. It is holden, that a rate for the reparation of the fabrick of a church is real, charging the land, and not the person; but a rate for ornaments is personal, upon the goods, and not upon the land. *Cod. 220.*

And in *Jeffrey's case*, 5 *Co. 67.* it was solemnly adjudged, that the rates for the repair of the church shall be laid upon every occupier of lands in the parish, altho' such occupier live in another parish; and such person may come to the vestries of the parishioners, and vote in the making a rate: but he shall not be charged towards the ornaments of the church, as for bells, repair of seats, bread and wine, clerk's wages, visitation charges, and the like, by reason of such lands; for that the personal estates of the inhabitants are chargeable with every thing that doth not relate to the fabrick of the church, or repairs of the fences of the church yard, or such other things as concern the freehold.

And therefore some have been of opinion, that churchwardens should make two rates; one upon lands and houses, which may concern the freehold of the church, and another upon personal estates and stock, to defray other expences. But as this method creates confusion, so it is seldom practised.

And Sir *Simon Degge* says, that he conceives the law to be clear otherwise; and that a foreigner who holds lands in the parish is as much obliged to pay towards the bells, seats, and ornaments, as to the repair of the church; otherwise there would be great confusion in making several levies, which he never observed to be practised within his knowledge. But he leaves it a *quæry*, among a diversity of opinions. *p. 173.*

And Mr. *Shaw*, in his parish law, having cited the authors who hold these different opinions says, that the practice generally now goes according to the opinion last mentioned, namely, that foreigners occupying lands within the parish shall be charged to both; and that the ecclesiastical judges, as well as the temporal, for the ease and convenience which accrues from the making of one levy for all, do give countenance hereto, and begin to treat the contrary opinion as obsolete and out of doors. *p. 92.*

Equal pound rate.

9. A taxation by the pound rent is the most equitable way, and not according to the quantity of the land. *Wood 156.*

Tenant to be charged, and not the landlord.

10. Where lands are in farm, not the lessor, but the tenant shall be rated and pay. *Cod. 221.*

MEMORANDUM

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TO : [Illegible]

FROM : [Illegible]

SUBJECT : [Illegible]

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Chirurgia

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11. An impropriator, tho' bound to repair the chancel, is also bound to contribute to the reparations of the church, if he hath lands in the parish, which are not parcel of the parsonage. *Cod.* 221, 223. Impropriator how far charge-able.

12. If any person find himself aggrieved at the inequality of the assessment, his appeal must be to the ecclesiastical judge. *Appeal against the rates.*
Degge 172.

And in such case, if he will be relieved, he must shew, that he is illegally or unequally taxed in respect of the quantity of his land, as being rated for more than he has, or that the land which he hath is over rated, or that the rate was needless, or that some lands in the parish are omitted in the rate. *Wood* 155.

13. If any refuse to pay the rates, being demanded by the churchwardens, they are to be sued for in the ecclesiastical courts, and not elsewhere. *Cod.* 219. *Degge* 171. Rate how to be recovered.

Also a quaker, refusing to pay church rates, may be sued, as other parishioners, in the ecclesiastical court; or he may be prosecuted before the justices of the peace, in the same manner as for his tithes.

IV. Their duty as to repairs; and therein concerning church seats.

1. Of common right, the soil and freehold of the church is the parson's; the use of the body of the church, and the repair of it, common to the parishioners; and the disposing of the seats therein, the right of the ordinary. *Cod.* 221. Who shall repair.

2. The spiritual court may compel the parishioners to repair the body of the church, and may excommunicate every one of them till it be repaired; but those that are willing to contribute shall be absolved, till the greater part agree to a tax. *Read. Ch. Service.* Who may compel the repairs to be made.

3. If the churchwardens erect or add any thing new, either to the fabrick of the church, utensils, or church yard, they must have the consent of the parishioners; and if such additions are in the church, the bishop's licence is also necessary. But where necessary repairs are wanting, the greater part of the parish will bind the less; and if the major part will not consent, where repairs are necessary, the churchwardens may repair without their consent, if upon notice given they refuse to meet, or when they are met, refuse to make a rate. But if a church fall down, the parishioners are not bound to rebuild it. *Read. Ch. Service.* 1 *Ventr.* 367. Difference between adding something new, and repairing the old.

4. But if a church be so much out of repair, that it is necessary to pull it down, or so little, that it needs to be enlarged, the major part of the parishioners may make a rate for new building, or enlarging, as there shall be occasion. This was declared in the 29 C. 2. by all the three courts successively; notwithstanding the cause was laboured by a great number of quakers, who opposed the rate. *Cod.* 221. Majority may rebuild.

5. The parson, that is, the spiritual rector, as also the lay impropriator, are bound by common right to repair the chancel, and

is thereupon intitled to the chief seat therein, unless another hath it by prescription; yet he hath not the disposal of the seats therein, but the bishop. *Cod.* 223, 224.

Repairing an ile. 6. An ile in a church, which hath time out of mind belonged to a particular house, and been maintained and repaired by the owner of that house, is part of his frank tenement, and the ordinary cannot dispose of it, or intermeddle in it. *Cod.* 221.

Seat inseparable from the house. 7. A seat, or priority in a seat, in the body of the church, may be prescribed for as belonging to a house, if it hath been used, and also repaired, time out of mind, by the inhabitants of such house. *Cod.* 221.

And no one can claim a seat in a church by prescription, as appendant or belonging to land; but it must be laid as belonging to a house, in respect of the inhabitancy thereof. *Wood* 153.

And therefore a seat may not be granted to a person and his heirs absolutely; for the seat doth not belong to the person, but to the inhabitant. *Cod.* 221.

V. Their duty as to sundry other matters.

Overseer. 1. Every churchwarden is an overseer of the poor, altho' every overseer of the poor is not a churchwarden. 43 *El. c. 2. f. 1.*

And in *M. 15 C. 2.* A churchwarden was committed by the two next justices, as churchwarden, for refusing to account for the money received and disbursed by him; but on an *habeas corpus* he was discharged: because by the warrant of commitment it ought to appear that he was overseer of the poor, for by the statute of 43 *El.* that is annexed to his office of churchwarden, and the justices have no jurisdiction over him as churchwarden, but as overseer. *Dalt.* 186.

Church way. 2. They are to see that the church ways be well kept and repaired. And the right to a church way may be claimed and maintained by a libel in the spiritual court. 2 *Rolls Abr.* 287.

Vacancy. 3. Churchwardens have the care of a benefice during its vacancy: Having first taken out a sequestration from the spiritual court, they are to manage all the profits and expences of the benefice for him that shall next succeed; plow and sow his glebe; take in the crop; collect tithes; thresh out and sell corn; repair houses and fences, and the like. And they shall take care that during the vacancy the church shall be duly served by a curate approved by the bishop, whom they are to pay out of the profits of the benefice. And if the successor thinks himself aggrieved by them, he may appeal to the ecclesiastical judge. *Par. L.* 99. *Comp. Par. Off.* 90.

Worldly calling on the lord's day. 4. They (or the constable) shall levy the penalties for persons exercising their worldly calling on the lord's day. 29 *C. 2. c. 7.*

Profanation of the church. 5. They shall suffer no plays, feasts, banquets, suppers, church ales, drinkings, temporal courts or leets, lay juries, musters, or any profane usage to be kept in the church or church yard. *Can.* 88.

6. They

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6. They shall see that the parishioners resort to church, and continue there orderly, during divine service; and shall present the defaulters. *Can. 90.* Attending divine service.

7. They shall not suffer any idle persons to abide either in the church yard, or church porch, during the time of divine service or preaching; but shall cause them to come in, or to depart. *Can. 19.* Loitering in the church yard.

8. They shall levy the forfeiture of 12 d. a Sunday, on the goods of persons not coming to church. *1 El. c. 2.* Levying 12 d. a Sunday for not coming to church.

9. They (or the constable) shall levy the penalty of 3 s. 4 d. for using unlawful pastimes on the lord's day. *1 C. c. 1.* Sports on the lord's day.

10. They (or the constables or overseers) shall levy the penalties for being present at unlawful conventicles. *22 C. 2. c. 1.* Conventicle.

11. They shall, on pain of 20 l. present at the sessions once a year, the monthly absence from church of all recusants, and the names and ages of their children above nine years old, and the names of their servants. And if the party presented shall be indicted and convicted, the churchwarden shall have a reward of 40 s. to be levied of the recusant's goods, by warrant of the justices in sessions. *3 J. c. 4.* Recusants.

12. They shall keep excommunicated persons out of the church. *Can. 85.* Excommunicate persons.

13. They shall take care to have in the church a large bible, book of common prayer, book of homilies, a font of stone, a decent communion table, with proper coverings, the ten commandments set up at the east end, and other chosen sentences upon the walls, a reading desk, and pulpit, and chest for alms; all at the charge of the parish. *Can. 80, 81, 82, 83, 84.* Ornaments of the church.

14. They ought to keep the keys of the belfrey, and to take care that the bells be not rung without good cause, to be allowed by the minister and themselves. *Can. 88.* Bells.

15. They shall have a box, wherein to keep the register, with three locks and keys, two keys to be kept by them, and one by the minister; and every Sunday they shall see that the minister enter therein all christnings, weddings, and burials that have been the week before; and at the bottom of every page, they shall (with the minister) subscribe their names. And they shall, within a month after March 25. yearly, transmit to the bishop a copy thereof for the year before, subscribed as above. Register.

And such register, being carefully preserved, is good evidence; and the falsifying of it is punishable at the common law. *Cod. 229.*

16. They shall, at the charge of the parish, with the advice and direction of the minister, provide bread and wine against the communion. *Can. 20.* Communion.

17. They (or the overseers) shall levy the penalty of 5 l. for an incumbent not reading the common prayer once a month. *13 & 14 C. 2. c. 4.* Incumbent.

18. They shall collect money on charity briefs, on pain of 20 l. *4 An. c. 14.* Charity briefs.

19. They shall not suffer any strangers to preach, but such as shall appear qualified on shewing their licence; and they shall see

Strange preachers, that

that such preachers register or subscribe their names in a book to be kept for that purpose, with the day when they preached, and the bishop's name who granted the licence. *Can.* 50, 52.

Burying in woollen.

20. They shall, on certificate from the minister, apply to the magistrates, for conviction of offenders in not burying in woollen. 30 *G.* 2. *c.* 3.

Persons denied christian burial.

21. Persons who murder themselves, or die excommunicated, are denied christian burial; and therefore the churchwardens are not to suffer them to be buried in the church or church yard, without special licence from the bishop. *Degge* 183.

Eating flesh on fish days.

22. They shall levy the penalties for eating flesh on fish days: 5 *El.* *c.* 5.

Unlicensed alehouse.

23. They (or the constable) shall levy the penalty for keeping an unlicensed alehouse. 3 *C.* *c.* 3.

Drunkenness.

24. They shall receive the penalties for tipling and drunkenness. 4 *J.* *c.* 5. 21 *J.* *c.* 7.

Suffering tipling.

25. They (or the constable) shall levy the penalty for suffering tipling. 1 *J.* *c.* 9.

Spirituos liquors.

26. They shall receive the penalties for hawking spirituos liquors. 9 *G.* 2. *c.* 23.

Corn.

27. They (or the overseers) shall levy the penalty for selling corn by a wrong measure. 22 *C.* 2. *c.* 8.

Butter and cheefe.

28. They (or the overseers) shall receive the penalties relating to butter and cheefe. 13 & 14 *C.* 2. *c.* 26.

Foreign cattle.

29. They, and the overseers, shall distribute amongst the poor foreign cattle imported, forfeited, and killed. 32 *C.* 2. *c.* 2.

Weights and meafures.

30. They (or the overseers) shall levy the penalties relating to weights and meafures. 16 *C.* *c.* 19. 22 *C.* 2. *c.* 8.

Hawkers and pedlars.

31. They shall carry hawkers and pedlars trading without licence, before a justice of the peace. 9 & 10 *W.* *c.* 27.

County rate.

32. They (or the overseers) shall pay to the high constables the general county rate, out of their money collected for the poor. 12 *G.* 2. *c.* 29.

Servants firing houses.

33. They shall receive the penalty for servants carelessly firing houses. 6 *An.* *c.* 31.

Tracing hares.

34. They shall receive the penalties for tracing hares in the snow (and other game penalties). 1 *J.* *c.* 27.

Surveyors of the highways.

35. They shall join with the constable and surveyor of the highways in chusing and returning new surveyors. 3 *W.* *c.* 12.

VI. Of presentments; and therein concerning sidesmen or assistants.

Oath to present.

1. Churchwardens by their oath are to present or certify to the bishop, or his officer, all things presentable by the ecclesiastical laws, which relate to the church, minister, and parishioners.

Book of articles.

2. The articles delivered to them for their direction, are for the most part founded on the book of canons made in the year 1603, and the rubricks of the common prayer.

Statute presentments.

3. There are also several things which they are bound to present by act of parliament; as tipling or drunkenness by the statute of 4 *J.* *c.* 5. recusants by 3 *J.* *c.* 4.

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Advertisement

1861

The undersigned has the honor to announce that he has just received from the
London Convention a copy of the "Declaration of Sentiments" which is
now being distributed in this country. It is a most interesting and
valuable document, and one which every citizen should possess.
It is a full and complete statement of the wrongs of the
African race, and a declaration of the rights which they are
entitled to as human beings. It is a most powerful and
effective instrument, and one which should be read and
studied by every man, woman and child in this country.
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instrument, and one which should be read and studied by
every man, woman and child in this country.

4. They may present as often as they please, but shall not be obliged above once a year where it hath so been used, and not above twice any where, except it be at the bishop's visitation. *When to present,*
Can. 116, 117.

5. For the presentments of any church or chapel for one year, the register shall have only 4*d.* *Fee for taking-in presentments. Can. 116.*

6. The minister may present where the churchwardens neglect. *Minister may present. Can. 113.* But such presentment ought to be upon oath. *2 Ventr. 42.*

7. In larger parishes, there are officers called sidesmen (anciently synodsmen, otherwise called questmen) to assist the churchwardens in their enquiries and presentment of offenders: They shall be chosen yearly in *Easter* week by the minister and parishioners, if they can agree; if not, by the bishop. *Sidesmen. Can. 90.*

8. The sidesman's oath, said to have been agreed on by the civilians and common lawyers, is this: *Sidesman's oath.*

“ You shall swear, that you will be assistant to the churchwardens in the execution of their office, so far as by law you are bound: So help you god.” *Cod. 242.*

9. Whereas churchwardens are sworn, and ministers charged, to present as well crimes and disorders, as also the common fame which is spread abroad of them, whereby they are sometimes troubled by the delinquents or their friends; all judges both ecclesiastical and temporal are (by the 115th canon) admonished and exhorted, as they regard and reverence the fearful judgment seat of the highest judge, that they admit not in any of their courts any suit against churchwardens or ministers for any such presentments; considering that they tend to the restraint of shameless impiety, and that the rules of charity and government do presume that they did nothing therein of malice, but for the discharge of their consciences. *Presentment on common fame.*

But as common fame is often false, and as it is better that ten offenders should escape than one innocent person suffer, and as the above canon supposes that an action may be brought for such presentment; it seemeth good to use caution in this matter, unless the offence be very notorious.

VII. Their accounting.

1. At the end of the year, or within a month after at most, they shall before the minister and parishioners (at a vestry) give up a just account of such money as they have received, and also what particularly they have bestowed in reparations, and otherwise, for the use of the church; and shall deliver up to the parishioners the money and parish goods in their hands, to be delivered over by them to the next churchwardens by bill indented. *When to account. Can. 89.*

2. And if they refuse, they may be presented at the next visitation by the new churchwardens; or any of the parish that are interested. *How compelled to account.*

Churchwardens.

interested may by process call them to account before the ordinary; or the succeeding churchwardens may have a writ of account at common law. And if they have disbursed more than they have received, the succeeding churchwardens shall pay what is due to them, and account it among their disbursements. *1 Roll's Abr. 121.*

Accounting to a select vestry.

3. If the custom of the parish is, for a certain number of persons to have the government thereof, and the account is given up to them; the custom is a good custom, and the account given to them a good account. *Cod. 242.*

Vouchers.

4. Mr. *Barlow* says, that for disbursements of any sum not above 40s. their own oath is held sufficient proof; but for all sums above, receipts must be produced. *Barl. 105.* But it may be more satisfactory if receipts be produced for all.

Allowance of the account.

5. The allowance of the account may be by entering it in the church book of accounts, and having it signed by those in the vestry who allow the accounts. *Barl. 105.*

Account allowed, Enal.

6. When they have faithfully accounted, and their account is allowed by the minister and major part of the parishioners present, it shall not afterwards be in the power of any to make them account again; unless some fraud in their account is afterwards discovered. *Wood 157.*

E. 7 G. 2. Wainwright and Bagshaw. The churchwardens were cited into the court of *Litchfield* to account. They pleaded, that they had accounted at the vestry according to law. Which plea was rejected; and thereupon a prohibition was granted: for the ordinary is not to take the account, he can only give a judgment that they do account; and to what purpose should they be sent back, to those who have taken their accounts already. *Str. 974, 1133.*

VIII. Their punishment on misbehaviour.

Churchwardens committing waste.

1. If the churchwardens waste the goods of the church, the new churchwardens may call them to an account before the bishop, or bring their action at common law. *Read. Ch. Service.*

Parishioners may be evidence against them.

2. And whereas many churchwardens and overseers, and other persons intrusted to receive collections for the poor, and other publick monies relating to the churches and parishes whereunto they belong, do often mispend the same, to the prejudices of such parishes, and of the poor, and other inhabitants thereof; and the parishioners, who are the only persons sometimes who can make proof thereof, have not been allowed to be witnesses against them: it is enacted, that in all actions to be brought in any court at *Westminster*, or at the assizes, for the recovery thereof, the evidence of the parishioners, other than such as receive alms, shall be taken and admitted. *3 W. c. 11. s. 12.*

Not answerable for indiscretion.

3. But churchwardens are not answerable for indiscretion, but for deceit only, if they lay out more money than is needful. *Wood 154.*

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Page 100 of 100

Accounts

The following is a list of accounts
 which have been opened since the
 last meeting of the Board of Directors.
 The names of the persons who have
 opened these accounts are as follows:
 J. H. Smith, W. B. Jones, C. D. Brown,
 E. F. Green, G. H. White, I. J. Black,
 K. L. Grey, M. N. Blue, O. P. Red,
 Q. R. Yellow, S. T. Purple, U. V. Pink,
 W. X. Orange, Y. Z. Silver, A. B. Gold,
 C. D. Platinum, E. F. Copper, G. H. Iron,
 I. J. Lead, K. L. Zinc, M. N. Tin,
 O. P. Nickel, Q. R. Cobalt, S. T. Nickel,
 U. V. Cadmium, W. X. Mercury, Y. Z. Bismuth,
 A. B. Antimony, C. D. Arsenic, E. F. Selenium,
 G. H. Tellurium, I. J. Vanadium, K. L. Chromium,
 M. N. Manganese, O. P. Magnesium, Q. R. Calcium,
 S. T. Strontium, U. V. Barium, W. X. Radium,
 Y. Z. Polonium, A. B. Astatine, C. D. Francium,
 E. F. Actinium, G. H. Thorium, I. J. Uranium,
 K. L. Neptunium, M. N. Plutonium, O. P. Americium,
 Q. R. Curium, S. T. Berkelium, U. V. Californium,
 W. X. Einsteinium, Y. Z. Fermium, A. B. Mendelevium,
 C. D. Nobelium, E. F. Lawrencium, G. H. Rutherfordium,
 I. J. Dubnium, K. L. Seaborgium, M. N. Bohrium,
 O. P. Hassium, Q. R. Meitnerium, S. T. Darmstadtium,
 U. V. Roentgenium, W. X. Copernicium, Y. Z. Nihonium,
 A. B. Flerovium, C. D. Tennessine, E. F. Oganesson.

Summary

The following is a summary of the accounts
 which have been opened since the last meeting
 of the Board of Directors. The total number
 of accounts opened is 50. The total amount
 of money deposited in these accounts is \$1,000,000.
 The names of the persons who have opened these
 accounts are as follows: J. H. Smith, W. B. Jones,
 C. D. Brown, E. F. Green, G. H. White, I. J. Black,
 K. L. Grey, M. N. Blue, O. P. Red, Q. R. Yellow,
 S. T. Purple, U. V. Pink, W. X. Orange, Y. Z. Silver,
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 G. H. Tellurium, I. J. Vanadium, K. L. Chromium,
 M. N. Manganese, O. P. Magnesium, Q. R. Calcium,
 S. T. Strontium, U. V. Barium, W. X. Radium,
 Y. Z. Polonium, A. B. Astatine, C. D. Francium,
 E. F. Actinium, G. H. Thorium, I. J. Uranium,
 K. L. Neptunium, M. N. Plutonium, O. P. Americium,
 Q. R. Curium, S. T. Berkelium, U. V. Californium,
 W. X. Einsteinium, Y. Z. Fermium, A. B. Mendelevium,
 C. D. Nobelium, E. F. Lawrencium, G. H. Rutherfordium,
 I. J. Dubnium, K. L. Seaborgium, M. N. Bohrium,
 O. P. Hassium, Q. R. Meitnerium, S. T. Darmstadtium,
 U. V. Roentgenium, W. X. Copernicium, Y. Z. Nihonium,
 A. B. Flerovium, C. D. Tennessine, E. F. Oganesson.

IX. *Their indemnity on doing their duty.*

If an action be brought against any churchwardens, or persons called sworn men, executing the office of churchwarden, for any thing done by virtue of their office, they may plead the general issue, and give the special matter in evidence; and if a verdict is given for them, or the plaintiff shall be nonsuit, or discontinue, they shall have double costs. 7 J. c. 5. 21 J. c. 12. Double costs.

In *Kerebeval's case*, M. 8 Car. An action was brought against the churchwardens for a presentment upon common fame of incontinency. Upon not guilty, it was found for the churchwardens, and moved that they might have double costs: But it was resolved, that this being merely ecclesiastical, is not within this statute; for that the statute was never intended, but where they shall be vexed concerning temporal matters, which they shall do by virtue of their office, and not for presentments concerning matters of fame. Cro. Car. 285, 286.

Clergy.

I. Clergymen.

II. Benefit of clergy.

I. Clergymen.

1. **B**Y the 43 *El. c. 2.* Clergymen are liable to the poor rates, Liable to the poor.
for their glebe and tithe.
2. And Mr. *Hawkins* says, clergymen are within the purview And to the highways.
of the statutes relating to the repair of highways, in respect of their spiritual possessions, as much as any other persons whatsoever in respect of any other possessions; for the words are general, and there is no kind of intimation in the said statutes that any particular persons shall be exempted more than others. 1 *Haw.* 204.
3. And it seems to be now generally settled, that clergymen are And to other publick charges.
liable to all publick charges imposed by act of parliament, where they are not specially excepted.
4. No clergyman shall take to farm any lands (except he have Shall not farm.
not sufficient glebe for the expences of his household); on pain of 10*l.* a month, half to the king, and half to him that shall sue: and the leases or contracts shall be void. 21 *H. 8. c. 13.*
5. No clergyman shall buy to sell again any cattle, corn, fish, Shall not buy to sell again.
wool, wood, victual, or any manner of merchandize; on pain of treble value, half to the king, and half to him that shall sue: and the contract shall be void. 21 *H. 8. c. 13.*

Shall not keep a tanhouse or brewhouse.

May be imprisoned for incontinency. Privilege against an assault.

May have the benefit of clergy more than once. Shall not be burnt in the hand.

Shall not serve temporal offices.

Shall not serve in war.

Need not appear at the torn.

Shall not be arrested in the church.

Shall not be taken on a statute staple. Nor on a *capias*.

Sheriff shall not levy on his ecclesiastical goods.

Shall not be amerced of his spiritual goods.

Distresses not to be made on his spiritual inheritance.

6. No clergyman shall keep any tanhouse, or any brewhouse but for his own house; on pain of 10*l.* a month, half to the king, and half to him that shall sue. 21 *H. 8. c. 13.*

7. The ordigary may punish clergymen for incontinency, by committing them to ward or prison by his discretion. 1 *H. 7. c. 4.*

8. A person, laying violent hands on a clergyman, may be punished in the ecclesiastical court. 13 *Ed. 1. Circumspecte agatis. 9 Ed. 3. st. 1. c. 3. 2 Inst. 492.*

9. Clergymen in holy orders may have the benefit of clergy a second, or third time, or oftner. 2 *H. H. 374, 375.*

10. A clerk in holy orders shall not be burned in the hand, but shall have the same privilege as if he had been burned in the hand; and therefore shall not be drawn in question in the ecclesiastical court to deprive him, or inflict any ecclesiastical censure upon him. 2 *H. H. 389.*

11. To the intent that clergymen may the better discharge their duty in celebration of divine service, and not be intangled with temporal business; if any of them be chosen to any temporal office, he may have his writ to be discharged. 1 *Inst. 96.*

12. Ecclesiastical persons have this privilege, that they ought not in person to serve in war. 2 *Inst. 4.*

13. Ecclesiastical persons are not bound to appear at the torn, or view of frankpledge. 52 *H. 3. c. 10. 9 Ed. 2. c. 3. 2 Inst. 4.*

14. No clergyman shall be arrested in any church or church yard, whilst he attends to divine service; on pain of imprisonment of the offender, and ransom at the king's will, and gree to the party arrested. 50 *Ed. 3. c. 5. 1 R. 2. c. 15.*

But the arrest notwithstanding (if not on a *Sunday*) is good in law. *Watson 636.*

15. The body of a clergyman may not be taken by force of any process upon a statute staple, or statute merchant. 2 *Inst. 4.*

16. If an action of trespass, debt, account, or other action wherein process of *capias* lies, be brought against a clerk in holy orders, and the sheriff return that he is a clergyman beneficed, having no lay fee in which he may be summoned, in this case the plaintiff cannot have a *capias* to arrest his body, but a writ to the bishop to compel him to appear. 13 *Ed. 1. c. 45. 2 Inst. 4. Degge 157.*

17. If a person be bound in recognizance in the chancery, or in any other court, and he pay not the sum at the day; by the common law, if the person had nothing but ecclesiastical goods, the recognizee could not have a *levari facias* to the sheriff to levy the same of these goods, but the writ ought to be directed to the bishop to levy the same of his ecclesiastical goods. 2 *Inst. 4.*

18. A clergyman shall be amerced only according to his lay tenement, and not after the quantity of his spiritual benefice. *Magn. Chart. c. 14. Cod. 15.*

19. Distresses shall not be taken by sheriffs, or other of the king's ministers, in the inheritance of the church, wherewith it was anciently endowed; but otherwise it is of late purchase. 9 *Ed. 2. c. 9. 2 Inst. 4. Cod. 18.*

The first of these is the fact that the
 government has been successful in
 its efforts to reduce the
 deficit. This is a significant
 achievement, especially in light of
 the economic challenges facing the
 country. The government's
 policies have been effective in
 reducing the deficit, and this is a
 positive sign for the future of the
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 country.

20. A clergyman is not bound to pay tolls or other like customs, for his ecclesiastical goods; and if he be molested therefore, he may have a writ for his discharge. *2 Inst. 4. Cod. 21.* Shall not pay toll of his spiritual goods.

And this not only for all the goods and merchandizes of clergymen gotten upon their church livings, but also for all goods and merchandizes by them bought, to be spent upon their rectories and church livings. *Degge 153.*

21. Lord *Coke*, in his readings on the *Magna Charta*, says Observation, thus; " True it is, that ecclesiastical persons have more and greater liberties than other of the king's subjects, wherein to set down all would take up a whole volume of itself, and to set down no example, agreeth not with the office of an expositor; therefore some few examples shall be expressed, and the studious reader left to observe the rest as he shall read them in our books, and other authorities of law." And the instances he gives, are chiefly those which are mentioned above; nevertheless I do not find any author since his time, who hath said what are those other many and great privileges of the clergy; but the authors do generally adhere to these particular instances, probably as being supported by so great an authority: Other privileges have been abolished, since his time, by acts of parliament, and the adjudications of the temporal courts; and others perhaps lost by disuse; and possibly some of the instances above mentioned would have been gone likewise, or not looked upon as of so much authority, if they had not been vouched by Lord *Coke*.

II. Benefit of clergy.

I. *Original of the benefit of clergy.*

II. *By what persons it may be demanded.*

III. *In what cases it may be demanded.*

IV. *At what time it must be demanded.*

V. *Effect of clergy allowed.*

I. *Original of the benefit of clergy.*

ANciently princes and states, converted to christianity, in favour of the clergy, and for their encouragement in their offices and employments, and that they might not be so much intangled in suits, did grant to the clergy very bountiful privileges and exemptions; and particularly, an exemption of their persons from criminal proceedings, in some capital cases before secular judges; which was the true original of the benefit of clergy. Original of the benefit of clergy.

The clergy increasing in wealth, power, honour, number, and interest, afterwards set up for themselves; and that which they obtained by the favour of princes and states at first, they now began to claim as their right, and a right of the highest nature, namely, by the law of god; and by their canons and constitutions endeavoured, and in some places obtained, vast extensions of these exemptions, both with regard to the persons concerned, to wit, not only

only to persons in holy orders, but also to all that had any kind of subordinate ministration relative to the church; and likewise in respect of the causes, exempting as far as they could all causes of clergymen, as well civil as criminal, from the jurisdiction of the secular power, and wholly subordinating them immediately and only to the ecclesiastical jurisdiction, which they supposed to be lodged first in the pope by divine right and investiture from Christ, and from the pope shed abroad into all subordinate and ecclesiastical jurisdiction.

And by this means they endeavoured, and in some kingdoms and for some ages obtained, that there was a double supreme power in every kingdom; the one ecclesiastical, absolute, and independent upon any but the pope, over ecclesiastical men and causes; and the other secular, of the king, or civil magistrate.

But this claim of exemption, altho' it obtained much in this kingdom, yet grew so burdensome, that it was from time to time qualified and abridged by the civil power, sometimes by acts of parliament taking it away in some cases, sometimes by the interpretation and construction of the judges, and sometimes by the contrary usage of the kingdom: for ecclesiastical canons never bound in *England*, farther than they were received, and so had not their authority from their own strength and obligation, but from the usages and customs of the kingdom that admitted them, and only so far forth as they were so admitted.

And therefore if they were indicted in cases criminal, but not capital, nor wherein they were to lose life or limb, there the privilege of clergy was not allowed; and therefore not in indictments of trespass or petit larceny.

Also it was not allowed them in high treason.

But, at the common law, in all cases of felony or petit treason, clergy was allowable, excepting two, *insidiatores viarum*, & *arson*. 2 *H. H.* 323—330.

Who may demand it.

II. By what persons it may be demanded.

Others besides clergymen.

1. By a favourable interpretation of the statutes relating to the benefit of clergy, not only those actually admitted into some inferior order of the clergy, but also those who were never qualified to be admitted into orders (which was formerly tried by putting them to read a verse) have been taken to have a right to this privilege, as much as persons in holy orders. 2 *Haw.* 338.

Women.

2. But by the common law, a woman could not have the benefit of clergy: but now by the statute of 3 *W. c.* 9. a woman convicted or outlawed for any felony, for which a man might have his clergy, shall upon praying the benefit of that statute, be subject only to such punishment as a man would be in the like case.

Hereticks, Jews, Turks, persons excommunicate.

3. A person convicted of heresy, a Jew, or a Turk, shall not have their clergy; but a person excommunicate shall have his clergy. 2 *H. H.* 373.

Faint, illegible text, possibly bleed-through from the reverse side of the page. The text is arranged in several paragraphs and appears to be a formal document or letter.

4. Also every person (not being within orders) who hath been once admitted to his clergy, shall not be admitted to the same a second time. 4 H. 7. c. 13. Persons having had clergy once.

5. And if he is convicted of murder, he shall be marked (unless he is a peer, 2 H. H. 376.) with an M, on the brawn of the left thumb; and if for any other felony, with a T. 4 H. 7. c. 13. Burning in the hand.

6. But he shall not be ousted of his clergy, by the bare mark in his hand, or by a parol averment, without the record testifying it, or a transcript thereof, according to the following statutes. 2 H. H. 373. Burning not a conclusive proof of the conviction.

7. By 34 & 35 H. 8. c. 14. The clerk of the crown, or of the peace, or of assize, shall certify a transcript briefly of the tenor of the indictment, outlawry, or conviction, and attainder, into the king's bench in 40 days: And the clerk of the crown, when the judges of assize, or justices of the peace write to him for the names of such persons, shall certify the same with the causes of the conviction or attainder. Conviction how to be certified.

8. Another method is given by the 3 W. c. 9. which enacts, that the clerk of the crown, clerk of the peace, or clerk of assize, where a person admitted to clergy shall be convicted, shall at the request of the prosecutor, or any other on the king's behalf, certify a transcript briefly and in few words, containing the effect and tenor of the indictment and conviction, of his having the benefit of clergy, and the addition of the party, and the certainty of the felony and conviction, to the judges where such person shall be indicted for any subsequent offence. s. 7. How it may be otherwise certified.

9. Also it seems, that if the party deny that he is the same person, issue must be joined upon it, and it must be found upon trial that he is the same person, before he can be ousted of clergy. 2 H. H. 373. How tried whether he is the same person.

III. In what cases it may be demanded.

1. By the 25 Ed. 3. s. 3. c. 4. All manner of clerks, who shall be convicted before the secular judges, for any treasons or felonies, touching other persons than the king himself, shall have the privilege of holy church. Formerly allowed in all felonies.

2. Clergy was never allowed in this nation, in cases of high treason, nor is it allowed on indictments of petit larceny or trespass; but by the above recited act, clergy was allowed in all treasons and felonies, except treason against the king: So that after this statute, the benefit of clergy might be pleaded and allowed in all other treasons and felonies. Hale's Pl. 230. 2 H. H. 326. But not in treason or petit larceny.

3. Consequently, wherever clergy is not allowable in any other cases, it is taken away by some subsequent act of parliament. Hale's Pl. 230. Clergy taken away by statutes.

4. Consequently, where a new felony is made by an act of parliament, clergy is to be allowed, unless expressly taken away by such statute. Hale's Pl. 230. Allowed in new felonies, unless expressly taken away.

And if it maketh a new felony, and takes away clergy not generally, but in such or such cases, regularly in other cases, clergy is allowable; as if it take away clergy in case the party be convicted

victed by verdict, yet he shall have his clergy, if he stand mute. 2 H. H. 335.

But this is in part remedied by the 3 W. c. 9. which enacts, that if any person be indicted of any offence, for which by virtue of any former statute he is excluded from clergy, if he had been convicted by verdict or confession; if he stand mute, or will not answer directly, or challenge peremptorily above 20 of the jury, or be outlawed, he shall not be admitted to his clergy. s. 2. But this extends not to appeals, nor to offences made felonies by subsequent statutes. 2 Harv. 348.

But if the statute enacts generally, that it shall be felony without benefit of clergy, or that he shall suffer as in case of felony without benefit of clergy, this excludes it in all circumstances, and to all intents. 2 H. H. 335.

Therefore where clergy is excluded, the indictment must bring the offence within the statute.

5. It follows further, from what hath been said, that in all cases where an act of parliament ousteth clergy, in case of any felony, the indictment must precisely bring the party within the case of the statute; otherwise, altho' possibly the fact itself be within the statute, and it may so appear upon the evidence, yet if it be not so alledged in the indictment, the party, tho' convict, shall have his clergy. 2 H. H. 336.

But altho' the case be so laid in the indictment, that it comes within the statute, to exempt the prisoner from clergy, yet if upon the evidence it fall out, that tho' it be a felony, yet it is not so qualified as laid in the indictment, the jury ought to find him guilty of the felony simply, but not as to the manner laid in the indictment, and thereupon the prisoner shall be admitted to his clergy; and this is commonly done. 2 H. H. 336.

Indictment on a statute which ousteth of clergy an offence which was felony at common law.

6. But if the offence was capital at the common law, and a statute only excludes it from clergy; the indictment in such case need not conclude against the form of the statute, because the statute doth not alter the nature of the offence, but leaves it to its proper judgment, and only takes away a personal privilege of exemption from such judgment. 2 Harv. 342.

Accessory.

7. Furthermore, from what hath been observed above, it follows, that where an act taketh away clergy from the principal, and saith nothing of the accessory; the accessories as well before, as after, shall have their clergy. 11 Co. 37. Poulter's case.

IV. At what time it must be demanded.

To be demanded after conviction.

1. By the ancient common law, the benefit of clergy was demanded, as soon as the prisoner was brought to the bar, before any indictment or other proceeding against him; but this was found a great inconvenience to the prisoner, because possibly he might have been acquitted of the felony; or if not, yet in case of an inquest of office, he lost his challenges to such inquest, and yet upon such inquest found, he forfeited his goods, and the profits of his lands; and therefore *Prifot* Ch. J. with the advice of the other judges, in the reign of H. 6. for the safety of the innocent, would not allow the prisoner the benefit of clergy before he had pleaded to the felony, and (having the benefit of his challenges

leges and other advantages) had been convicted thereof: which course hath been generally observed ever since. 2 *Inst.* 164.

2 *H. H.* 378.

2. And this benefit of clergy may be allowed by the court in discretion, tho' the party challenge it not. *Hale's Pl.* 239.

May be allowed tho' not demanded.

V. Effect of clergy allowed.

1. Persons admitted to their clergy, may be continued in prison as a further punishment, not exceeding one year. 18 *El. c.* 7.

Persons having their clergy may be continued in gaol.

2. And by 4 *G. c.* 11. Persons convicted of offences within benefit of clergy (except receivers and buyers of stolen goods) may, instead of being whipped and burnt in the hand, be transported for seven years.

May be transported.

3. A person admitted to his clergy, forfeits all his goods that he hath at the time of the conviction. 2 *H. H.* 388.

Shall forfeit their goods.

4. But presently upon his burning in the hand, he ought to be restored to the possession of his lands, and from thenceforth to enjoy the profits thereof. 2 *H. H.* 388.

But not lands.

5. Also, it restores him to his credit; and consequently enables him to be a good witness. 2 *Haw.* 364.

Credit restored.

6. And it is holden that after a man is admitted to his clergy, it is actionable to call him felon; because his offence being pardoned by the statute, all the infamy and other consequences of it are discharged. 2 *Haw.* 365.

Actionable to call him felon.

Clerk of the peace.

1. **T**HE *custos rotulorum* shall appoint an able and sufficient person, residing in the county or division, to execute the office of clerk of the peace, by himself or his sufficient deputy (to be allowed of by the said *custos rotulorum*, 37 *H. 8. c.* 1.); and to take and receive the fees, profits, and perquisites thereof, for so long time only as such clerk of the peace shall well demean himself in his said office. 1 *W. c.* 21. *f.* 5.

Who shall appoint.

2. But the *custos rotulorum* shall not sell the place of clerk of the peace, or take any bond or other assurance, to receive any reward, fee, or profit, directly or indirectly, to him or to any other person for such appointment; on pain that such *custos rotulorum* selling, and such clerk of the peace buying, shall be disabled to hold their respective places, and shall each forfeit double value of the thing given, to him who shall sue. 1 *W. c.* 21. *f.* 8.

Office not to be sold.

3. And every clerk of the peace, before he enters upon the execution of his office, shall in open sessions take the oath following;

Oath.

" I *A. B.* do swear, that I have not, nor will pay any sum or sums of money, or other reward whatsoever, nor given any

Clerk of the peace.

"bond or other assurance to pay any money, fee, or profit, directly or indirectly, to any person or persons whomsoever, for such nomination and appointment: So help me god."
1 *W. c. 21. f. 8.*

Qualifying.

4. He shall moreover take the oaths of allegiance, supremacy, and abjuration, in the same manner as other persons who qualify for offices.

Not to act as solicitor.

5. No clerk of the peace, or his deputy, shall act as solicitor, attorney, or agent, or sue out any process at any general or quarter sessions, where he shall execute the office of clerk of the peace or deputy; on pain of 50*l.* to him who shall sue in 12 months, with treble costs. 22 *G. 2. c. 46. f. 14.*

Shall certify out-lawries.

6. The clerk of the peace shall certify into the king's bench, the names of such as be outlawed, attainted, or convicted of felony. 34 & 35 *H. 8. c. 14.*

Shall deliver estreats to the sheriff.

7. He shall deliver to the sheriff, within ten days after *Sept. 29.* yearly, a perfect estreat or schedule of all fines, and other forfeitures in sessions. 22 & 23 *C. 2. c. 22. f. 7.*

Shall deliver estreats into the exchequer.

8. And shall also yearly, on or before the second *Monday* after the morrow of all souls, deliver into the court of exchequer a perfect duplicate, certificate, and estreat of all such estreats and schedules delivered to the sheriffs; on pain of 50*l.* half to the king, and half to him that shall sue. 22 & 23 *C. 2. c. 22. f. 8.* And moreover he may be amerced for the same, by the barons of the exchequer. 3 *G. c. 15.*

Upon oath.

9. And he shall, upon delivery of the said estreats into the court of exchequer, take the following oath, to be administered by one of the barons;

"You shall swear, that these estreats, now by you delivered, are truly and carefully made up and examined, and that all fines, issues, amerciaments, recognizances, and forfeitures, which were set, lost, imposed, or forfeited, and in right and due course of law ought to be estreated in the court of exchequer, are, to the best of your knowledge and understanding, therein contained; and that in the same estreats are also contained and expressed, all such fines as have been paid into the court, from which the said estreats are made, without any wilful or fraudulent discharge, omission, misnomer, or defect whatsoever."
4 & 5 *W. c. 24. f. 5.*

Penalty of concealing fines.

10. And if he shall spare, take off, discharge, or conceal any such fine or forfeiture, unless it be by rule of court, he shall forfeit treble value, half to the king, and half to him that shall sue; and shall also forfeit his office, and be incapable to be employed in any office where the revenue is concerned. 22 & 23 *C. 2. c. 22. f. 9.*

Fees.

11. The clerk of the peace is not bound to enter judgment, or the like, at the suit of any, without having the fee due for the same; but if the court order any thing without suit of another, to wit, *ex officio*, there he ought to enter the same without any fee having for the entering thereof. *Crom. 159.*



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Also Mr. *Crompton* says, he shall have for every recognizance of the peace taken in court 2*s.* and for every release of the peace there 2*s.* and for process awarded against any to find surety of the peace 2*s.* *Crom.* 160.

And by 10 & 11 *W. c.* 23. he shall have only 2*s.* for drawing an indictment of felony; and if it is defective, he shall draw a new one *gratis*, on pain of 5*l.* with full costs, to him that shall sue. *f.* 7, 8.

His fees also in divers other cases are specially limited by act of parliament; and it seemeth to be one of the *desiderata* in the justices law, that the clerk of the peace his fees are not ascertained in all instances, even as those of the other clerks to justices of the peace by the statute of the 26 *G. 2. c.* 14. And withal it might be requisite to insert in the table to be agreed on for that purpose, by whom the same shall be paid in the several instances respectively, and what shall be the course of recovering the same on non-payment.

12. If any clerk of the peace shall misdemean himself in the execution of his office, and thereupon a complaint and charge in writing of such misdemeanor shall be exhibited against him, to the justices in sessions, the said justices may, on examination and due proof thereof openly in the said sessions, suspend or discharge him from the said office; and in such case, the *custos rotulorum* shall appoint another able and sufficient person, residing in the said county or division, to be clerk of the peace. And in case of refusal or neglect to make such appointment, before the next general quarter sessions, the justices in sessions may appoint one. 1 *W. c.* 21. *f.* 6.

May be displaced for misbehaviour.

His duty in other matters is interspersed where it falls in amongst the other titles of this book.

Clipping money. See Coin.

Clockmaking. See Servants.

Cloth and clothiers. See Woollen manufactures.

Coaches and chairs. See Excise and Hackney coaches.

Coals and Coalpits.

1. **B**Y the 10 *G. 2. c.* 32. (which by 24 *G. 2. c.* 57. is continued to *Sep.* 1. 1757, &c.) If any person shall wilfully and maliciously set on fire any mine, pit, or delp of coal or cannel coal; he shall be guilty of felony without benefit of clergy.

Setting on fire.

Drowning.

2. And by 13 G. 2. c. 21. If any person shall divert or convey any water into any coal work, with design to destroy or damage the same; he shall pay to the party grieved treble damages with costs.

Measure, price and duty on coals.

3. There are many regulations by several statutes, concerning the weights, measures, and prices of coals, especially in and about London, and also concerning the duties thereupon, which not being of general concern, I shall but just mention the statutes, referring thereunto those who are more particularly concerned.

Statutes concerning the measures and prices of coals, and regulating the coal trade in general, are,

9 H. 5. c. 10.

16 & 17 C. 2. c. 2.

30 C. 2. c. 8.

6 & 7 W. c. 10.

9 An. c. 28.

12 An. st. 2. c. 17.

3 G. 2. c. 26.

4 G. 2. c. 30.

11 G. 2. c. 15.

17 G. 2. c. 35.

19 G. 2. c. 35.

23 G. 2. c. 26.

Statutes concerning the duties on coals;

1 J. 2. c. 15.

6 & 7 W. c. 18.

9 & 10 W. c. 13.

10 & 11 W. c. 21.

8 An. c. 4.

9 An. c. 6.

9 An. c. 23. f. 90.

12 An. st. 2. c. 9.

1 G. st. 2. c. 23.

5 G. c. 9.

22 G. 2. c. 37.

Cocoa nuts. See Excise.

Coffee. See Excise.

Coin.

For matters common to this with other treasons, see title Treason.

Original of the word.

1. COIN, in *French*, signifieth a corner, and from thence hath its name (according to Lord Coke); because in ancient time money was square with corners, as it is in some countries at this day. 1 *Inst.* 207.

Others derive this word, which in the old *French* is written *coign*; as also the *Italian* *cunio*, and the *Spanish* *cuno*, from the *Greek* word κοινός, *communis*; because money is the common mean or instrument of traffick.

But these derivations are too artificial. The word doth properly signify a wedge, as the *Latin* *cuneus*; and hath a verb belonging to it in the several languages: and is translated to lawful money; either from the form of a wedge ingot or lingot (*lingueta*) in which bullion was transported from all antiquity; or

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 listed in alphabetical order
 and include the following:
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else from the instrument, a wedge or chissel, with which in trade, these lingots were occasionally cut to the weight required, as they are at this day in the *East Indies*, with sheers.

2. The legitimation of money, and the giving it it's denomination value, is one special part of the king's prerogative. 1 *H. H.* 188. Value of coin.

3. And the king may by his proclamation legitimate foreign Legitimating foreign coin, and make it current money of this kingdom, according to reign coin. the value imposed by such proclamation. 1 *H. H.* 192.

And therefore both *English* money, coined by the king's authority, and foreign coin made current by proclamation, are within the denomination of lawful money of *England*. 1 *Inst.* 207.

4. But only gold or silver coin, and not brass or copper, are Copper coin. within this denomination. 1 *Haw.* 42.

And no person can be enforced to take in payment any money but of lawful metal, that is, of silver or gold. 2 *Inst.* 577. Except for sums under six pence. 1 *H. H.* 195.

5. By the statute of 25 *Ed.* 3. *§.* 5. *c.* 2. it is made treason to Counterfeiting the coin of this realm. counterfeit the coin of this realm: That is to say, whether the person utter it or not. 3 *Inst.* 16. 1 *Haw.* 42.

6. And if any person shall falsly forge and counterfeit any such Counterfeiting foreign current coin. kind of coin of gold or silver, as is not the proper coin of this realm, and shall be current therein by the king's consent; he, his counsellors, procurers, aiders and abettors, shall be guilty of high treason. 1 *Mar. Sess.* 2. *c.* 6.

7. By the 5 *El.* *c.* 11. Clipping, washing, rounding, or filing, Clipping, washing, rounding, or filing. for lucre or gain, any the proper coin of this realm or the dominions thereof, or of any other realm current within this realm by proclamation, shall be adjudged treason in the offenders, their counsellors, consenters, and aiders.

8. And by the 18 *El.* *c.* 1. If any person shall, for lucre or Impairing, diminishing, falsifying. gain, by any art, ways, or means, impair, diminish, falsify, scale, or lighten the proper coin of this realm, or any the dominions thereof, or the coin of this realm allowed to be current at the time of the offence committed, by the king's proclamation; he, his counsellors, consenters, and aiders shall be guilty of treason.

9. And if any person (not employed in the mint) shall mark on Edging. the edges any the current coin of this kingdom; or, if any person whatsoever shall mark on the edges any of the diminished coin of this kingdom, or any counterfeit coin resembling the coin of this kingdom, with letters or grainings, or other marks or figures like unto those on the edges of money coined in the mint; he, his counsellors, procurers, aiders, and abettors shall be guilty of high treason. 8 & 9 *W.* *c.* 26. *f.* 3. Prosecution to be in six months. 1 *An.* *§.* 1. *c.* 9.

10. Also, if any person shall colour, gild, or case over with Colouring. gold or silver, or with any wash or materials producing the colour of gold or silver, any coin resembling any the current coin of this kingdom, or any round blanks of base metal, or of coarse gold or coarse silver, of a fit size and figure to be coined into counterfeit milled money, resembling any the gold or silver coin of this kingdom; or if any person shall gild over any silver blanks of a fit

size and figure to be coined into pieces resembling the current gold coin of this kingdom; he, his counsellors, procurers, aiders, and abettors shall be guilty of high treason. 8 & 9 W. c. 26. s. 4. Prosecution to be in three months. s. 9.

And by the 15 & 16 G. 2. c. 28. If any person shall wash, gild, or colour any lawful or counterfeit silver coin called a shilling or sixpence, or add to or alter the impression, or any part thereof, on either side, with intent to make such shilling or sixpence resemble a guinea or half guinea; or shall any way alter or colour halfpennies or farthings, with intent to make them resemble a shilling or sixpence; he, his counsellors, aiders, and abettors shall be guilty of high treason. Prosecution to be in six months.

Counterfeiting
halfpence and
farthings.

11. Lord Hale, speaking of copper halfpence and farthings, makes it a query, whether the counterfeiting of them be not treason within the statute of 25 Ed. 3. but inclines to the negative. 1 H. H. 195, 211, 212.

And with this agrees the sense of the legislature, in the statute of 15 & 16 G. 2. c. 28. which reciting that whereas the counterfeiting of the copper coin of this kingdom is only a misdemeanor, and the punishment often very small, therefore enacteth, that if any person shall coin or counterfeit brass or copper halfpence or farthings; he, his counsellors, aiders, and abettors, shall suffer two years imprisonment, and find sureties for their good behaviour for two years more. s. 6.

Nevertheless, experience assureth that this penalty is still far too small; for since the making of this act, counterfeit halfpence have abounded even more than they did before, to the great injury of trade, and vexation of the people: insomuch that I have known in a common country church a dozen or fourteen bad halfpence, good for nothing, collected upon a common charity brief; which, at the same rate throughout the kingdom, is 250*l.* loss to the petitioners. Nay even the act itself may possibly have tended to defeat its own good design; for hereby the offenders are assured (which before was in some sort doubtful to them) that the crime is not treason nor felony.

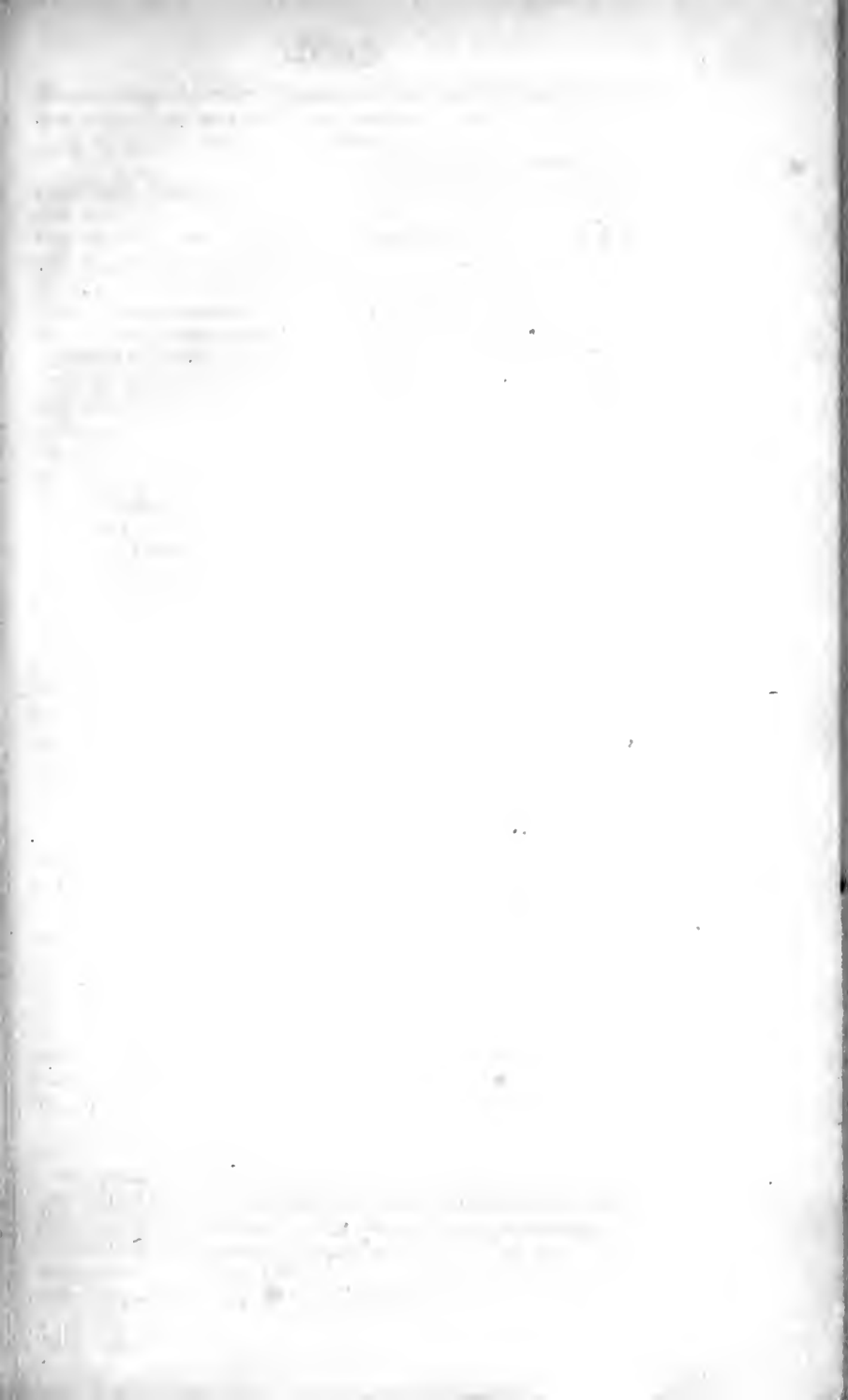
Counterfeiting
coin not current.

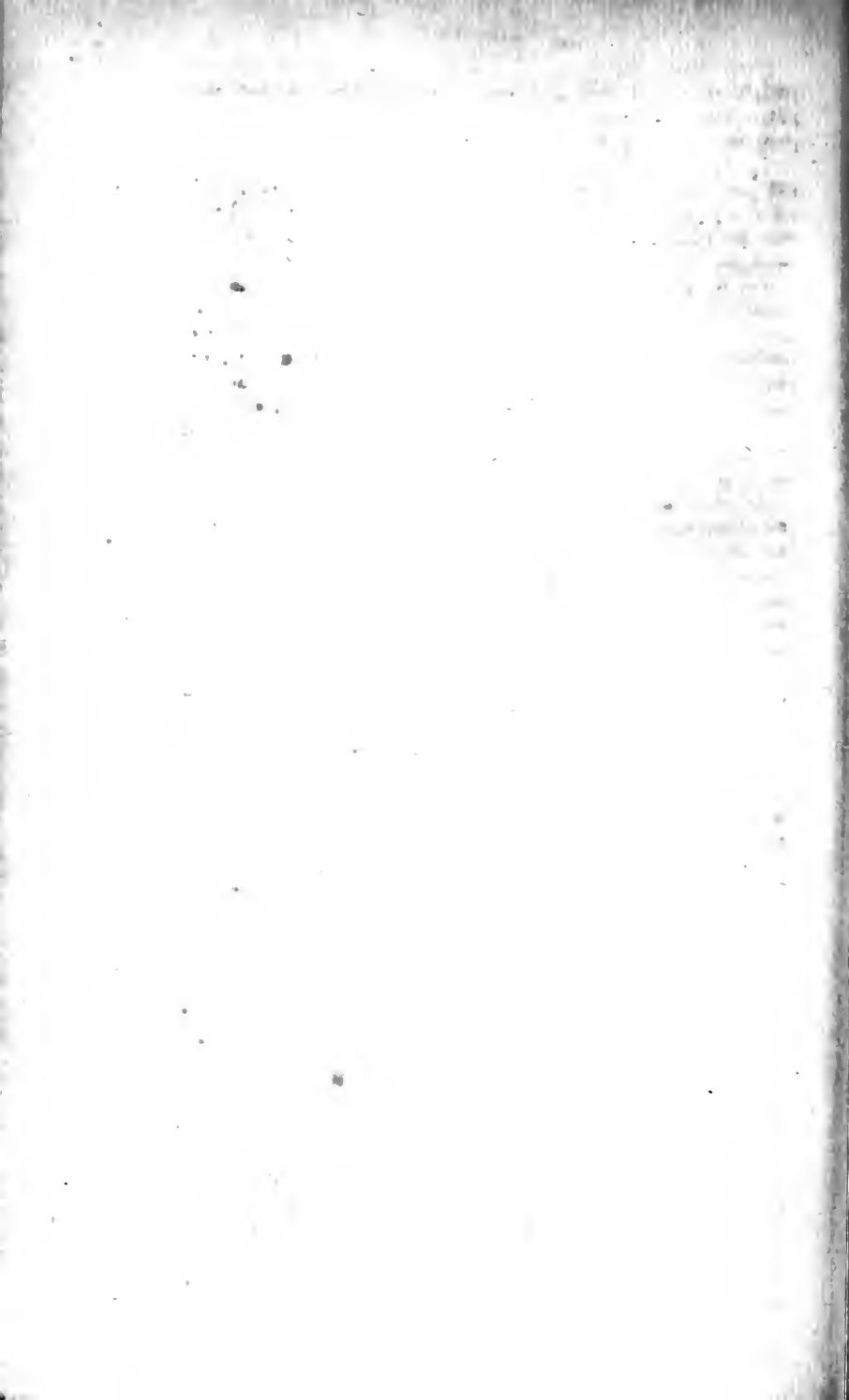
12. If any person shall falsely forge or counterfeit any such kind of coin of gold or silver, as is not the proper coin of this realm, nor permitted to be current within this realm; he, his procurers, aiders, and abettors shall be guilty of misprison of high treason. 14 Ed. c. 3.

Bringing in false
money.

13. If any person shall bring false money into the realm, counterfeit to the money of *England*, knowing the same to be false, to merchandize or make payment, in deceit of the king and his people; he shall be guilty of high treason. 25 Ed. 3. s. 5. c. 2.

Also, if any person shall bring from the parts beyond the sea, any forged and counterfeit money like to the gold or silver coin of foreign realms, current in payment within this realm by the king's sufferance and consent, knowing the same to be false and counterfeit, to the intent to utter or make payment of the same within this realm, by merchandizing or otherwise; he, his counsellors, procurers, aiders, and abettors shall be guilty of high treason. 1 & 2 P. & M. c. 11. s. 2.





Note; This must be brought from a foreign nation, and not from Ireland, or other place subject to the crown of England; because the counterfeiting there, is punishable by the laws of our king, as much as in England. 1 *Harv.* 43.

14. If any press for coinage, shall be found in the custody of any person (other than the officers of the mint), it shall be seized for the king's use; and every person in whose custody such press shall be found, shall forfeit 500*l.* half to the king, and half to the informer. 7 & 8 *W. c.* 19. *f.* 4.

And by 8 & 9 *W. c.* 26. No person, unless employed in the mint, shall knowingly make or mend, or begin or proceed to make or mend, or assist in the making or mending of any puncheon, counter-puncheon, matrix, stamp, dye, pattern, or mould, of steel, iron, silver, or other metal, or of spaud, or fine founders earth, or sand, or of any other materials whatsoever, in or upon which there shall be, or be made or impressed, or which will make or impress the figure, stamp, or resemblance of both or either of the sides or flats of any gold or silver coin, current within this kingdom; nor shall knowingly make or mend, or begin or proceed to make or mend, or assist in the making or mending of any edger or edging tool, instrument, or engine, not of common use in any trade, but contrived for making of money round the edges with letters, grainings, or other marks or figures resembling those on the edges of money coined in the mint; nor any press for coinage; nor any cutting engine for cutting round blanks by force of a screw, out of flatted bars of gold, silver, or other metal; nor shall knowingly buy or sell, hide or conceal, or without lawful authority or sufficient excuse for that purpose, knowingly have in his house, custody, or possession, any such puncheon, counter puncheon, matrix, stamp, dye, edger, cutting engine, or other tool or instrument before mentioned; on pain that such person, his counsellors, procurers, aiders, and abettors, shall be guilty of high treason. *f.* 1. Prosecution to be in six months. 1 *An. st.* 1. *c.* 9. *f.* 2.

And if any person shall, without lawful authority, knowingly convey, or assist in conveying out of the mint, any puncheon, counter-puncheon, matrix, dye, stamp, edger, press, or other tool, engine, or instrument used for or about the coining of monies there, or any useful part of such tool or instrument; he, his counsellors, procurers, aiders, or abettors, shall be guilty of high treason. 8 & 9 *W. c.* 26. *f.* 2. Prosecution to be in 3 months. *f.* 9.

And if any puncheon, dye, stamp, edger, cutting engine, press, flask, or other tool, instrument, or engine, used or designed for coining or counterfeiting gold or silver monies, or any part of such tool or engine, shall be hid or concealed in any place, or found in the house, custody, or possession of any person not employed in the mint, nor having the same by some lawful authority; any person whatsoever discovering the same, may and shall seize the same, and carry them forthwith to some justice of the peace to be by him secured, to be produced in evidence against any person who shall be prosecuted for any such offence. And

after they have been produced in evidence, they shall forthwith by order of the court (or by order and in the presence of a justice of the peace, if there hath been no trial) be totally defaced and destroyed. 8 & 9 W. c. 26. s. 5.

Selling of clippings.

15. For the better preventing the clipping, diminishing, or impairing the current coin, if any person shall buy or sell, and knowingly have in his custody or possession, any clippings or filings of the current coin of this kingdom; he shall forfeit the same, and also 500*l.* half to the king, and half to the informer; and shall be branded in the right cheek with the letter R; and be imprisoned till the payment of the 500*l.* 6 & 7 W. c. 17. s. 4.

Bullion.

16. And if any shall cast ingots or bars of silver, in imitation of *Spanish* bars or ingots, or stamp them in likeness of the *Spanish* stamp, he shall forfeit the same, and also 500*l.* half to the king, and half to the informer. 6 & 7 W. c. 17. s. 2.

And if any broker, not being a trading goldsmith or refiner of silver, shall buy or sell any bullion or molten silver, he shall be imprisoned six months. s. 7.

And two justices may search (and with the help of a constable may break open houses, trunks, or boxes, to search) for bullion suspected to be concealed; and if found, they shall seize the same, and the person in whose possession it shall be found; and if such person shall not prove by the oath of himself, or of a credible witness, that it is lawful silver, and was not current coin, nor clippings thereof, he shall be committed; and if on his trial he shall not prove the same by one witness, he shall be imprisoned six months. s. 8.

And no person shall ship any molten silver or bullion, without certificate from the court of the lord mayor and aldermen of *London*, and oath made before them by the owner and two witnesses, that it is foreign bullion, and that no part of it was the coin of this realm, or clippings thereof, nor plate wrought within this kingdom; on pain of forfeiting the same, half to the king, and half to him who shall sue. And the master or captain of a ship permitting the same, shall forfeit 200*l.* to him who shall sue; and if it is a king's ship, he shall also forfeit his employment. Also any officer of the customs offending herein, shall forfeit 200*l.* and his office. And in case of seizure of such bullion, or action brought for the forfeitures, the proof shall lie upon the owner; and for want of proof, it shall be forfeited. 7 & 8 W. c. 19. s. 8, 9.

And if any bullion is entred to be exported, other than in the name of the true owner, it shall be forfeited, half to the king, and half to him who shall seize or discover the same. 6 & 7 W. c. 17. s. 14.

Blanched copper and other base metal.

17. And whereas several mixtures of metals have been invented in imitation of gold and silver, and blanch copper is principally made use of in imitation of silver, and seldom, if ever, for any honest or good purpose, it is enacted, that if any person shall blanch copper for sale, or mix blanch copper with silver, or knowingly buy or sell or offer to sale blanch copper alone, or mixed with silver; or shall knowingly and fraudulently buy

The first part of the document
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 various components involved.
 It is divided into several
 sections, each dealing with
 a specific aspect of the
 overall process. The first
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 concepts and the second
 section describes the
 hardware requirements.
 The third section details
 the software development
 process and the fourth
 section discusses the
 testing and validation
 procedures. The final
 section provides a summary
 of the findings and
 conclusions of the study.
 The document is intended
 for use by researchers
 and practitioners in the
 field of computer science.
 It provides a comprehensive
 overview of the system
 and its implementation.
 The information presented
 here is based on the
 results of a series of
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 The authors hope that
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buy or sell or offer to sale any malleable composition or mixture of metals or minerals, which shall be heavier than silver, and look, and touch, and wear like standard gold, but be manifestly worse than standard; he shall be guilty of felony, and shall suffer death as in case of felony. Prosecution to be in three months. 8 & 9 W. c. 26. s. 6, 9.

18. If any person shall take, receive, pay, or put off any counterfeited milled money, or any milled money whatsoever unlawfully diminished, and not cut in pieces, at or for a lower rate or value, than the same by its denomination doth or shall import, or was coined or counterfeited for; he shall be guilty of felony, and suffer death as in case of felony. Prosecution to be in three months. 8 & 9 W. c. 26. s. 6, 9.

19. If one person counterfeits, and by agreement before that counterfeiting, another person is to take off and vent the counterfeited money, such other is an aider and abettor, and consequently a principal traytor (for in high treason there are no accessaries). 1 H. H. 214.

If one person counterfeits, and another (knowing that he did so) puts it off, but without any such previous agreement; such other person seems to be all one with a receiver of him, because he maintains him. 1 H. H. 214.

If one person counterfeits, and another person know that he did so, and doth neither receive, maintain, or abet him, but conceals his knowledge; this is misprision of treason. 1 H. H. 214.

But, formerly, where it did not appear, that the utterer of counterfeit money knew who counterfeited it, but barely uttered it for his own benefit, altho' he knew it was counterfeit, yet it was only a cheat and misdemeanor, punishable by fine and imprisonment (contrary to the opinion in *Stanford* and *Dalton*); but now, by the statute of 15 G. 2. c. 28. it is enacted, that whereas the uttering false money is a crime frequently committed all over the kingdom, and the offenders are not deterred, because it is only a misdemeanor, and the punishment generally small, tho' there is reason to believe that the utterers are often the coiners, or in confederacy with them; therefore, if any person shall tender in payment any counterfeit coin, knowing it to be so, he shall for the first offence suffer six months imprisonment, and find sureties for his good behaviour for six months longer; for the second offence, shall suffer two years imprisonment, and find sureties for two years more; and for the third offence, shall be guilty of felony without benefit of clergy. s. 2.

And if any person shall tender in payment any counterfeit money (knowing it to be so), and shall either the same day, or within ten days after, knowingly tender other false money in payment, or at the time of such tendering have more in his custody; he shall for the first offence suffer a year's imprisonment, and find sureties for his good behaviour for two years more; and for the second offence, shall be guilty of felony without benefit of clergy. s. 3.

Persons guilty of the said crimes shall be tried and convicted in such manner as is used against offenders for counterfeiting the coin; and the clerk of assize, or clerk of the peace, where the first conviction

Paying coin under value.

Uttering false money.

conviction

viotion was had, shall certify the same by a transcript in few words, containing the tenor of such conviction (for which he shall have 2*s.* 6*d.*); and such certificate being produced in court, shall be sufficient proof of the former conviction. Prosecution to be in six months. *f.* 5, 9.

Note; By this it should seem, that the justices of the peace in sessions have power to try such offenders; otherwise this direction to the clerk of the peace to certify the conviction is impertinent; for he is not the proper person to certify what is done in another court, where he is not necessarily supposed to be present: albeit no power is given to the sessions by any express words in this statute to hear and determine such offences.

Having false money in possession.

20. If false or clipped money be found in a man's hands; if he be suspicious, he may be arrested till he have found his warrant. *3 Inst.* 18. *Hale's Pl.* 21. *1 Hawk.* 43.

False money what to be done with.

21. Any person to whom any silver money shall be tendered, any piece whereof shall be diminished, otherwise than by reasonable wearing, or that by the stamp, impression, colour, or weight thereof, he shall suspect to be counterfeit, may cut, break, or deface such piece: and if any piece so cut, broken, or defaced shall appear to be counterfeit, the person tendering the same shall bear the loss thereof; but if the same shall be of due weight, and appear to be lawful money, the person that cut, broke, or defaced the same, shall receive the same at the rate it was coined for. And if any question arise, whether the piece so cut be counterfeit, it shall be determined by the next justice of the peace, or chief magistrate in a corporation. *9 & 10 W. c.* 21. *f.* 1.

And if any counterfeit or unlawfully diminished money shall be produced in any court of justice, either in evidence or otherwise, the judge shall cause it to be cut in pieces in open court, or in the presence of a justice of the peace, and then to be delivered to or for the person to whom it belongs. *8 & 9 W. c.* 26. *f.* 5.

Bail.

22. By the *3 Ed. 1. c.* 15. Persons taken for false money are not bailable by justices of the peace.

But they must take the examinations and informations, and bind over the witnesses to the proper court, and commit the persons accused. *1 H. H.* 372.

Evidence.

23. It is not necessary there should be two witnesses in cases of counterfeiting the coin, as it is in other high treasons; but persons may be convicted according to the course of the common law, by one witness only. *1 H. H.* 318, 328.

Judgment.

24. The judgment for high treason, relating to the coin, is, to be drawn to the place of execution, and there hanged by the neck till he be dead. *2 Hawk.* 444.

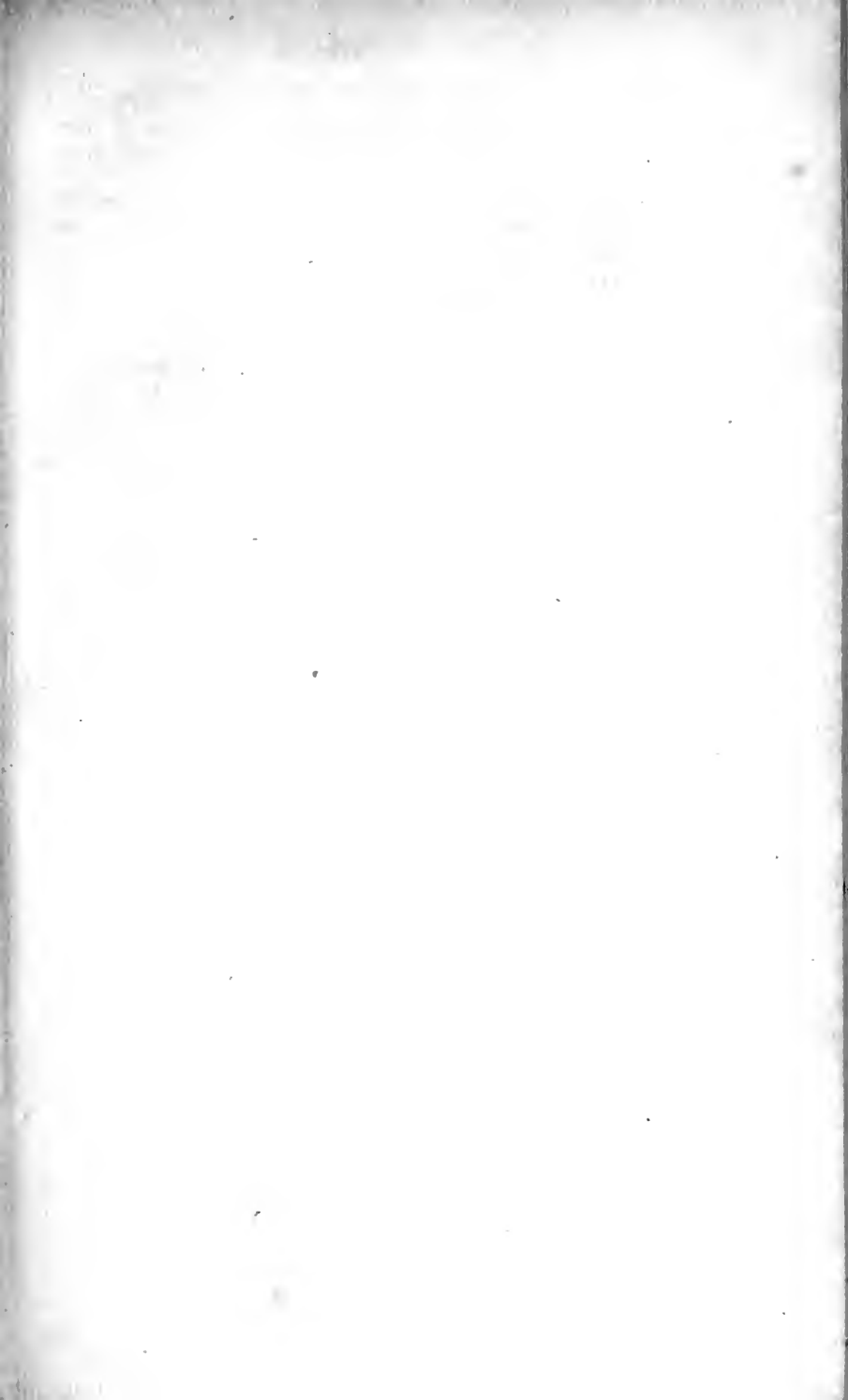
But it is generally provided by the several statutes, that this shall work no corruption of blood, nor loss of dower.

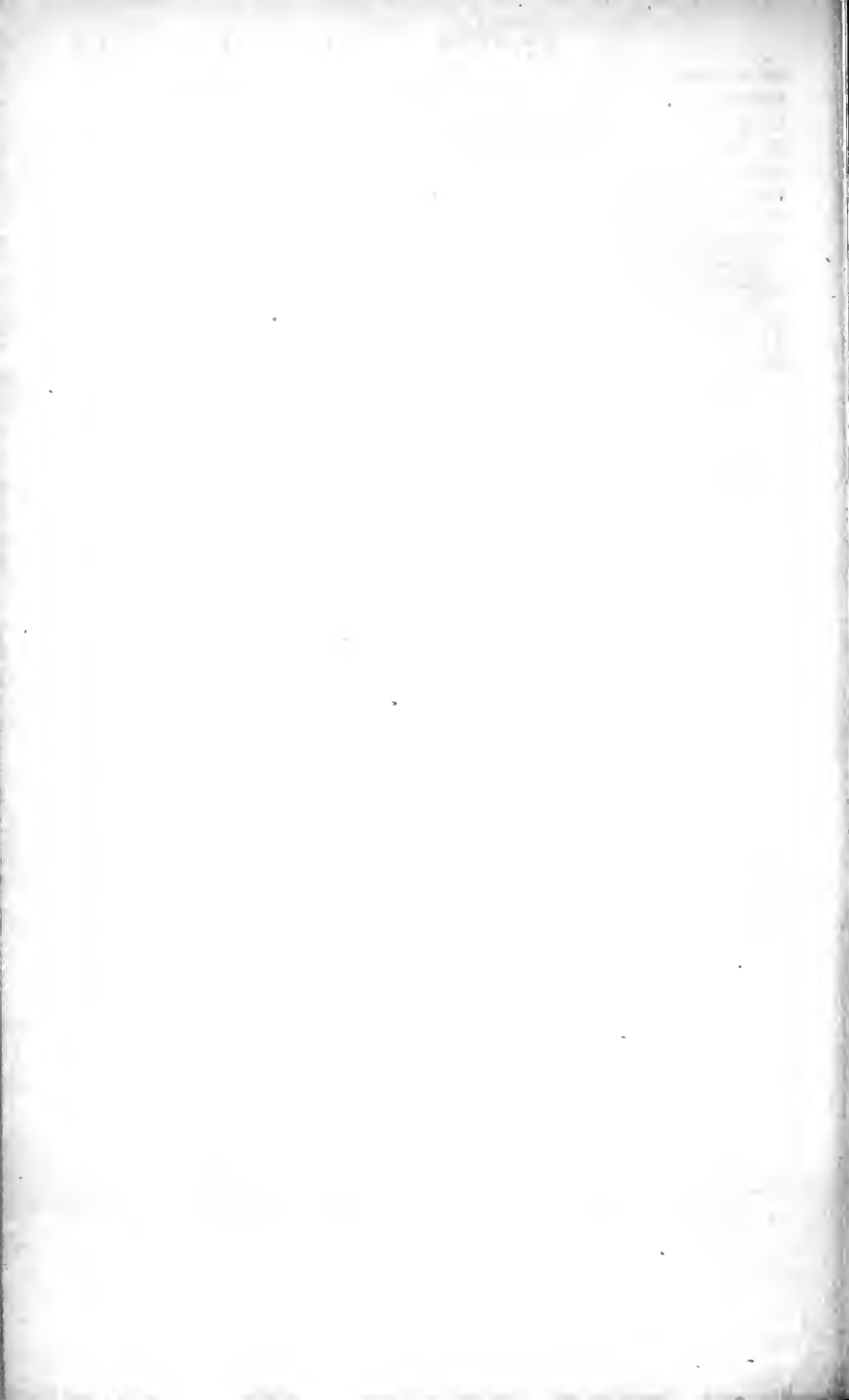
Excepted out of the general pardon.

25. The above-said offences relating to the coin, are excepted out of the general pardon, of the *20 G. 2. c.* 52.

Reward for convicting an offender.

26. Every person who shall apprehend any person who hath counterfeited any of the current [gold or silver] coin of this realm; or that for lucre or gain hath clipped, washed, filed, or any way diminished the same; or hath altered shillings and sixpences to make





make them resemble guineas and half guineas, or halfpenies and farthings to make them look like shillings and sixpences; or shall bring or cause to be brought into this kingdom, any clipt, false, or counterfeit coin; and prosecute such person to conviction: every such person shall have a reward of 40*l*. In order to which, the judge shall give him under his hand, a certificate certifying the conviction, and the county in which it was made, and that the offender was taken and prosecuted by such person; and if any dispute shall arise between several persons apprehending and prosecuting, the judge shall in the certificate appoint the reward to be paid amongst them, in such proportion as he shall think reasonable. The said certificate to be tendered to the sheriff, who shall thereupon pay the same without fee, within one month after such tender and demand, on pain of forfeiting to the party double the sum, with treble costs. The sheriff to be repaid out of the treasury. 6 & 7 *W. c. 17. f. 9, 10, 11.* 15 & 16 *G. 2. c. 28. f. 7.*

In like manner a reward of 10*l* shall be paid, for apprehending and convicting a counterfeiter of the copper money. 15 & 16 *G. 2. c. 28. f. 7.*

27. If any person, being out of prison, shall be guilty of clipping, coining, counterfeiting, washing, filing, or otherwise diminishing the [gold or silver] coin of this realm, and afterwards discover two or more persons who have committed any of the said crimes, so as two or more be convicted; he shall have the king's pardon, and if he is an apprentice, he shall be made a freeman. 6 & 7 *W. c. 17. f. 12.*

Pardon to accomplices informing.

In this clause at large in the statute, is an instance of that multiplicity of words, which is sometimes ridiculed in our laws; where it is said, *two or more person or persons*, and again, *two or more of the person or persons*.

Further; If any person, being out of prison, shall be guilty of altering sixpences or shillings, to make them look like half guineas or guineas; or altering farthings or halfpenies, to make them look like sixpences or shillings; or of counterfeiting brass or copper halfpenies or farthings; or of uttering false money, ——— and afterwards discover two or more persons who have committed any of the said crimes, so as two be convicted; he shall have the king's pardon. 15 & 16 *G. 2. c. 28. f. 8.*

28. The commissioners of the treasury may issue a sum not exceeding 600*l*. yearly, for the charges and expences of the officers and others employed in the prosecution of offences in counterfeiting, diminishing, or otherwise concerning the current coins of this realm. 7 *An. c. 24. f. 4.* 15 & 16 *G. 2. c. 28. f. 10.*

Charges of prosecuting.

Commitment.

Without war-
rant.

Anciently there were more felons committed to gaol without mittimus in writing, than were with it: such were all the commitments by constables, watchmen, and private persons arresting for felony, and bringing to the common gaol, long before there were any justices of the peace; and yet mittimus's are not of so ancient date even as they. 1 H. H. 610.

But now, since the *habeas corpus* act, a commitment in writing seems more necessary than it was in former times; otherwise the prisoner may be admitted to bail upon that act, whatsoever his offence may have been.

Commitment,
when.

When a statute appoints imprisonment, but limits no time when, it is to be understood that he shall be imprisoned presently. *Dalt.* c. 17c.

Concerning which I will set forth,

- I. *Who may be committed.*
- II. *To what place.*
- III. *The form of the commitment.*
- IV. *Charges of the commitment.*
- V. *That the gaoler shall receive the prisoner.*
- VI. *Shall certify the commitment.*
- VII. *Commitment discharged.*

Who may be
committed:

Persons not bail-
able, or not
finding bail.

I. *Who may be committed.*

1. There is no doubt, but that persons apprehended for offences which are notailable, and also all persons who neglect to offer bail for offences which areailable, must be committed. 2 *Harw.* 116.

Persons guilty of
contempt.

2. And it is said, that wheresoever a justice is empowered by any statute to bind a person over, or to cause him to do a certain thing, and such person being in his presence shall refuse to be bound, or to do such thing, the justice may commit him to the gaol, to remain there till he shall comply. 2 *Harw.* 116.

Persons charged
with felony.

3. If a prisoner be brought before a justice, expressly charged with felony upon oath, the justice cannot discharge him, but must bail or commit him. 2 *H. H.* 121.

Persons charged
with suspicion.

4. But if he be charged with suspicion only of felony, yet if there be no felony at all proved to be committed, or if the fact charged as a felony be in truth no felony in point of law, the justice may discharge him; as if a man be charged with felony for stealing a parcel of the freehold, or for carrying away what was delivered to him, and such like, for which tho' there may be cause to bind him over as for a trespass, the justice may discharge him as to felony, because it is not felony. But if a man be killed by another,

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another, tho' it be by misadventure, or self defence (which is not properly felony), or in making an assault upon a minister of justice in execution of his office (which is not at all felony), yet the justice ought not to discharge him, for he must undergo his trial for it; and therefore he must be committed, or at least bailed. 2 H. H. 121.

5. But commitment by the justices of the peace almost in all cases (except for the peace, good behaviour, felony, or higher offences) is but to retain the party till he hath made fine to the king; and therefore if he offer to pay it, or find sureties by recognizance to pay it, he ought not to be committed, but to be delivered presently. *Dalt. c. 170.* Persons not paying their fine.

II. To what place.

To what place :

1. All felons shall be committed to the common gaol, and not elsewhere. 5 H. 4. c. 10. To the gaol.

2. But vagrants and other criminals, offenders, and persons charged with small offences, may for such offences, or for want of sureties, be committed either to the common gaol, or house of correction, as the justices in their judgment shall think proper. 6 G. c. 19. House of correction.

3. And they may commit other offenders to the stocks, or other custody, by particular statutes. Stocks.

4. Generally, if a man commit felony in one county, and be arrested for the same in another county, he shall be committed to gaol in that county where he is taken. - *Dalt. c. 170.* Different county.

Yet if he escapes, and is taken on fresh suit, in another county, he may be carried back to the county where he was first taken. *Dalt. c. 170.*

Also by the 24 G. 2. c. 55. If a person is apprehended, upon a warrant indorsed, in another county, for an offence not bailable, or if he shall not there find bail, he shall be carried back into the first county, and be committed (or if bailable, bailed) by the justices in such first county.

III. Form of the commitment.

Form :

1. It must be in writing, either in the name of the king, and only tested by the person who makes it, or it may be made by such person in his own name, expressing his office, or authority, and must be directed to the gaoler, or keeper of the prison. 2 Harv. 119. In whose name

Yet the mention of the name and authority of the justice, in the beginning of the mittimus, is not always necessary, for the seal and subscription of the justice to the mittimus is sufficient warrant to the gaoler; for it may be supplied by averment, that it was done by the justice. 2 H. H. 122.

2. It should contain the name and surname of the party committed, if known; if not known, then it may be sufficient to describe the person by his age, stature, complexion, colour of his The party's name.

his hair, and the like, and to add that he refuseth to tell his name.
1 *H. H.* 577.

Oath.

3. It is safe, but not necessary, to set forth, that the party is charged upon oath. 2 *Haw.* 120.

Cause.

4. It ought to contain the cause, as for treason, or felony, or suspicion thereof; otherwise if it contain no cause at all, if the prisoner escape it is no offence at all; whereas if the mittimus contained the cause, the escape were treason or felony, tho' he were not guilty of the offence; and therefore for the king's benefit, and that the prisoner may be the more safely kept, the mittimus ought to contain the cause. 2 *Ist.* 52.

And hereupon it appeareth, that a warrant or mittimus to answer to such things as shall be objected against him, is utterly against law. 2 *Ist.* 591.

Also, it ought to contain the certainty of the cause; and therefore if it be for felony, it ought not to be generally for felony, but it must contain the special nature of the felony briefly, as for felony *for the death of such an one*; or for burglary *in breaking the house of such an one*; and the reason is, because it may appear to the judges of the king's bench, upon an *habeas corpus*, whether it be felony or not. 2 *H. H.* 122.

But the want hercof seems not to make the commitment absolutely void, so as to subject the gaoler to a false imprisonment; but it lies in averment to excuse the gaoler or officer, that the matter was for felony. 1 *H. H.* 584.

Conclusion.

5. It must have an apt conclusion; as if it is for felony, to detain him till he be thence delivered by law, or by order of law, or by due course of law. 2 *Haw.* 120. 2 *H. H.* 123.

But if the conclusion be irregular, it doth not seem to make the warrant void, but the law will reject that which is surplussage, and the rest shall stand; so that if the matter appear to be such, for which he is to remain in custody, or be bailed, he shall be bailed or committed as the case requires, and not discharged, but the wrong conclusion shall be rejected. 1 *H. H.* 584.

It is also to be observed, that a commitment grounded on an act of parliament, ought to be conformable to the method prescribed by it. As where the overseers were committed for refusing to account, and the warrant concluded in the common form, until they be duly discharged according to law, upon the return of an *habeas corpus* the court held the commitment void, because the warrant ought to have concluded, there to remain until he shall account, as the 43 *El. c. 2.* doth appoint. And a difference is, where a man is committed as a criminal, and where only for contumacy; in the first case, the commitment must be, until discharged according to law; but in the latter, until he comply. 2 *Haw. Not.* 33.

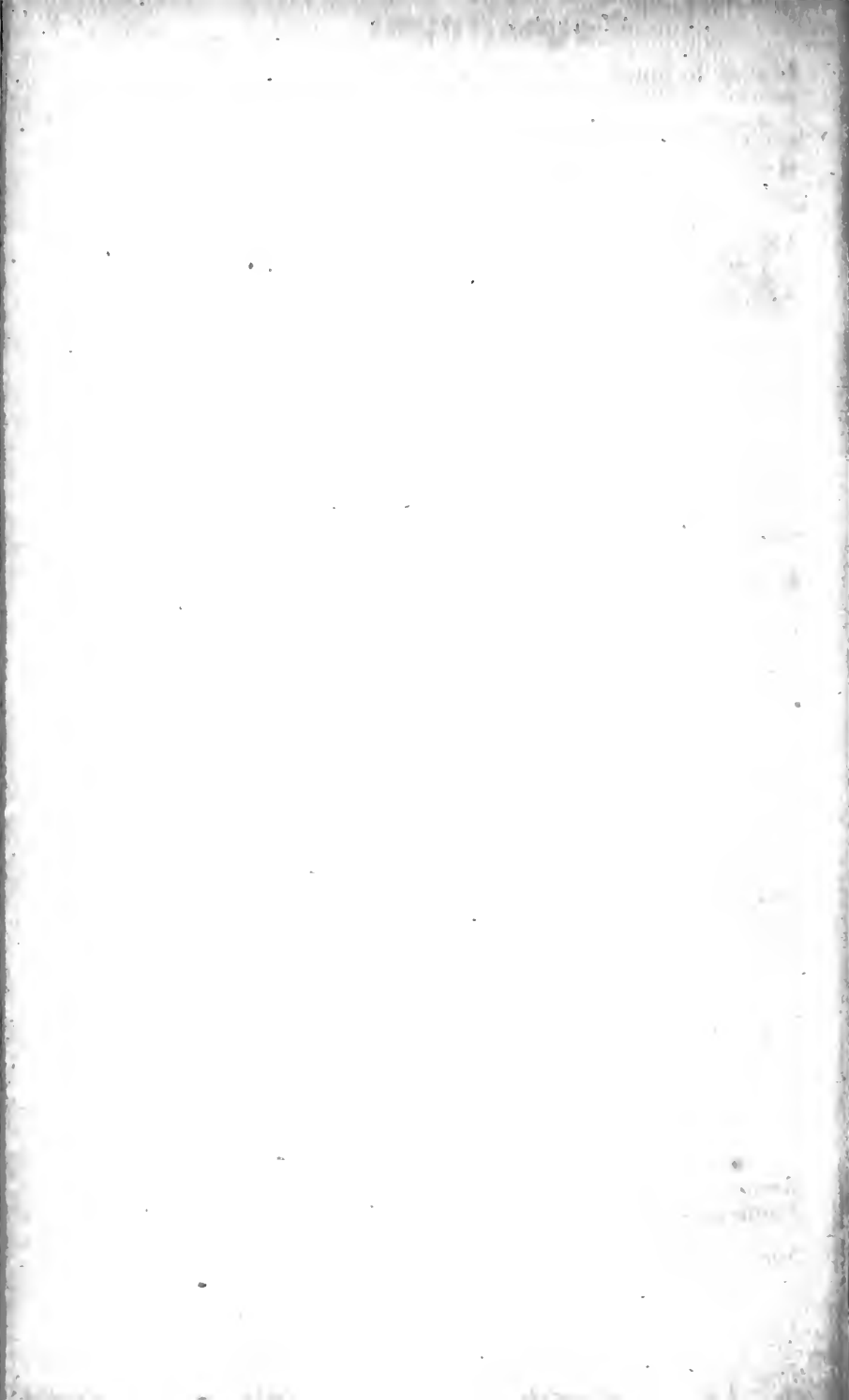
Where a statute appoints imprisonment, but limits no time how long, in such case the prisoner must remain at the discretion of the court. *Dalt. c.* 170.

Seal.

6. It must be under seal; and without this, the commitment is unlawful, the gaoler is liable to a false imprisonment, and the wilful

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ful escape by the gaoler, or breach of prison by the felon, makes no felony. 1 *H. H.* 583.

But this must not be intended of a commitment by the sessions, or other court of record; for there the record it self, or the memorial thereof, which may at any time be entred of record, are a sufficient warrant, without any warrant under seal. 1 *H. H.* 584.

7. It should also set forth the place at which it is made. 2 *Harv. Place.* 119.

8. It must also have a certain date, of the year and day. *Time.* 2 *H. H.* 123.

IV. Charges of the commitment.

By the 3 *J. c.* 10. Every person who shall be committed to the common or usual gaol, within any county or liberty, by any justice of the peace, for any offence or misdemeanor, the said person so to be committed, having means or ability thereunto, shall bear his own reasonable charges for so conveying or sending him to the said gaol, and the charges also of such as shall be appointed to guard him to such gaol, and shall so guard him thither: And if any such person so to be committed, shall refuse at the time of his commitment and sending to the said gaol, to defray the said charges, or shall not then pay or bear the same; then such justice shall by writing under his hand and seal, give warrant to the constable of the hundred, or constable of the township where such person shall be dwelling and inhabit, or from whence he shall be committed, or where he shall have any goods within the county or liberty, to sell such and so much of the goods and chattels of the said person so to be committed, as by the discretion of the said justice shall satisfy and pay the charges of such his conveying and sending to the said gaol, the appraisement to be made by four of the honest inhabitants of the parish where such goods shall be; the overplus to be delivered to the party.

And by the statute of the 27 *G. 2. c.* 3. When any person, not having goods or money in the county where he is taken, sufficient to bear the charges of himself and of those who convey him, is committed to gaol, or to the house of correction, by warrant from a justice, then on application by the constable or other officer who conveyed him, to any justice for such county or place, [such justice] shall upon oath examine into and ascertain the reasonable expences, and shall without fee by his warrant order the treasurer to pay the same. But in *Middlesex*, the same shall be paid by the overseers of the poor of the parish where the person was apprehended.

Note; By the *habeas corpus* act, the charges of conveying an offender is limited not to exceed 12 *d.* a mile; which may be an argument for allowing as much in this case, especially as security is to be given before a man is removed on that act by *habeas corpus*, that he shall not escape by the way, which renders guards in that case not so necessary.

V. Gaoler shall receive the prisoner.

Gaoler refusing to receive.

If the gaoler shall refuse to receive a felon, or take any thing for receiving him, he shall be punished for the same, by the justices of gaol delivery. 4 *Ed. 3. c. 10.* *Dalt. c. 170.*

But if a man be committed for felony, and the gaoler will not receive him, the constable must bring him back to the town where he was taken; and that town shall be charged with the keeping of him, until the next gaol delivery: Or the person that arrested him, may in such case keep the prisoner in his own house, as it seemeth. *Dalt. c. 170.*

But in other cases it seems, that regularly no one can justify the detaining a prisoner in custody out of the common gaol, unless there be some particular reason for so doing; as if the party be so dangerously sick, that it would apparently hazard his life to send him to the gaol, or there be evident danger of a *rescous* from rebels, or the like. 2 *Harv. 118.*

VI. The gaoler shall certify the commitment.

Commitment to be certified.

By the 3 *H. 7. c. 3.* The sheriff or gaoler shall certify the commitments, to the next gaol delivery.

VII. Commitment discharged.

Commitment discharged.

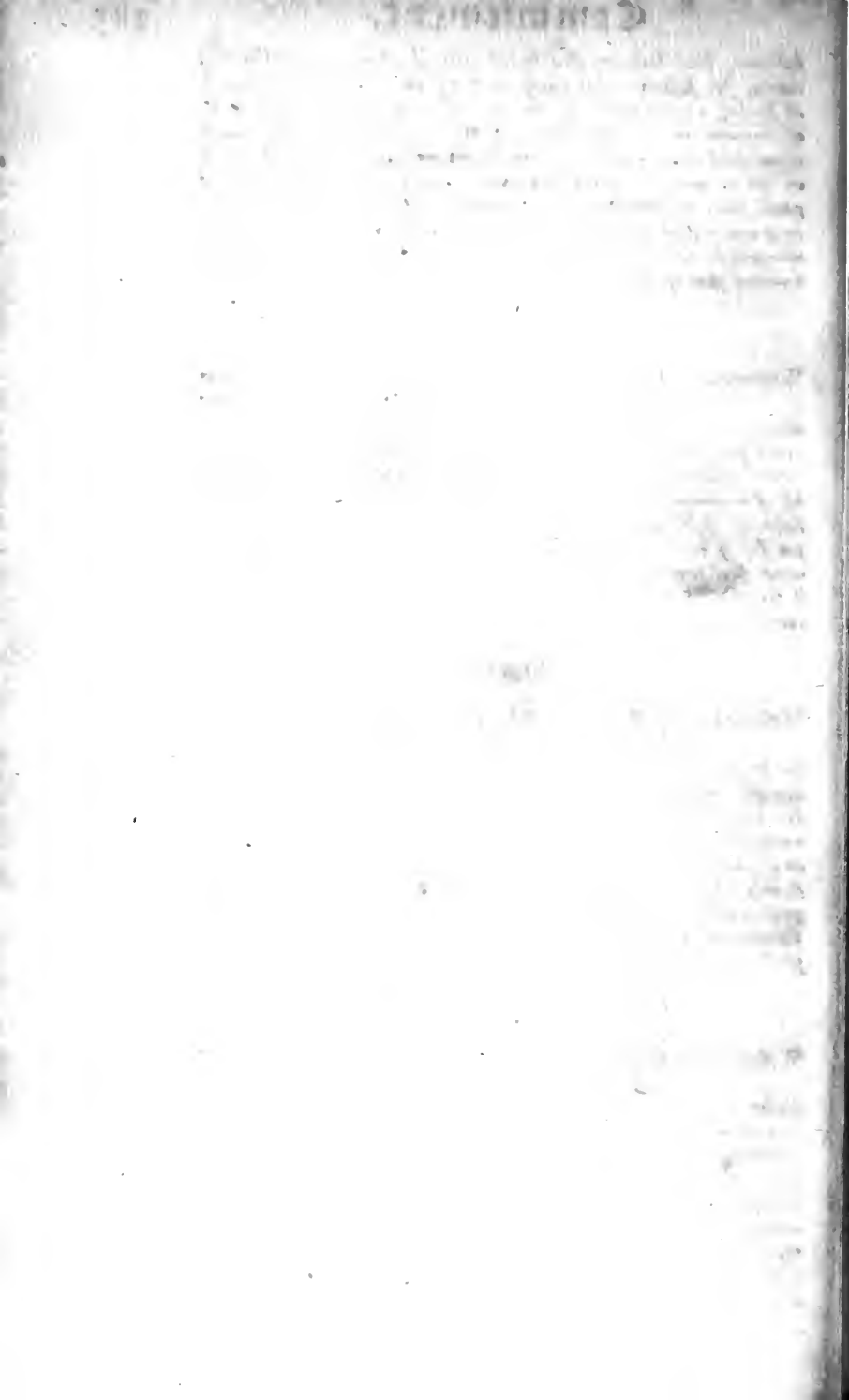
It seems that a person legally committed for a crime, certainly appearing to have been done by some one or other, cannot be lawfully discharged by any one but the king, till he be acquitted on his trial, or have an *ignoramus* found by the grand jury, or none to prosecute him on a proclamation for that purpose by the justices of gaol delivery. But if a person be committed on a bare suspicion, without an indictment, for a supposed crime, where afterwards it appears that there was none, as for the murder of a person thought to be dead, who afterwards is found to be alive; it hath been holden, that he may be safely dismissed without any farther proceeding, for that he who suffers him to escape is properly punishable only as an accessory to his supposed offence; and it is impossible that there should be an accessory, where there can be no principal; and it would be hard to punish one for a contempt, in disregarding a commitment founded on a suspicion, appearing in so uncontested a manner to be groundless. 2 *Harv. 121.*

Mittimus for felony.

Westmorland. **S**IR John Pennington, *baronet, one of the justices of our lord the king, assigned to keep the peace in the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed; To the keeper of the gaol of our said lord the king at ——— in the said county, or to his deputy there, and to each of them, greeting.* Whereas A. O. late of ——— is the said county, labourer,

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labourer, hath been arrested by the constable of ——— in the said county, for suspicion of a felony by him, as it is said, committed, in stealing a black mare, of the value of 40s. the property of A. P. of ——— in the said county, yeoman: Therefore on the behalf of our said lord the king, I command you and each of you, that you or one of you receive the said A. O. into your custody in the said gaol, there to remain till he be delivered from your custody by the law and custom of England. Given under my hand and seal at ——— in the said county, the ——— day of ——— in the ——— year of the reign of our said lord ———.

Another.

Westmorland. **J.** P. esquire, &c. To the keeper of the common gaol at ——— in the said county, or to his deputy there: These are in his majesty's name to charge and command you, that you receive into your said gaol, the body of A. O. late of ——— in the said county, yeoman, taken by A. C. constable of ——— in the said county, and by him brought before me for suspicion of felony, that is to say, for stealing ——— And that you safely keep the said A. O. in your said gaol, until the next general gaol delivery for the said county [if he be not bailable; or if bailable, then thus] until he shall thence be delivered by due course of law. And hereof fail you not, &c.

Another.

Westmorland. **J.** P. esquire, &c. To the keeper of ——— I send you herewithal the body of A. O. late of ——— in the said county, labourer, brought before me this present day, and charged with the felonious taking and carrying away forty sheep, the property of ——— which also he hath confessed upon his examination before me [by which he is not bailable]: Therefore these are on the behalf of our said lord the king to command you, that immediately you receive the said A. O. and him safely keep in your said gaol, until that he be thence delivered by the due order of law. Hereof fail you not, as you will answer for your contempt at your peril. Given under my hand and seal at ——— &c.

Or thus, in the king's name.

Westmorland. **G** EORGE the second by the grace of god, of Great Britain, France, and Ireland, king, defender of the faith, and so forth: To the keeper of our gaol at ——— in our said county of W. or to his deputy, greeting: Whereas A. O. late of ——— in our said county, yeoman, is arrested for suspicion of felony by him, as it is said, committed, in feloniously taking and carrying away ——— of the value of ——— the property of ——— We therefore command you, and each of you, that you receive him the said A. O. into your custody in our said gaol, or that one of you do receive him, there to remain till he be delivered from your custody, according to the law of our kingdom of

Common prayer.

England. *Witness* J. P. *esquire, one of the justices assigned to keep the peace in our said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in our said county committed, at* _____ *in the said county, the* _____ *day of* _____ *in the* _____ *year of our reign.*

General warrant of commitment.

Westmorland. J. P. *esquire, one of the justices of our lord the king, assigned to keep the peace within the said county, To the constable of* _____ *in the said county, and to the keeper of* _____ *at* _____ *in the said county.*

These are to command you the said constable, in his majesty's name, forthwith to convey and deliver into the custody of the said keeper of the said _____ *the body of A. O. &c. And you the said keeper are hereby required to receive the said A. O. into your custody in the said* _____ *and him there safely to keep &c. Given under my hand and seal, the* _____ *day of* _____ *in the* _____ *year of the reign of his said majesty king George the second.*

Common. (Nufance by digging holes therein.)
See **Highways.**

Common prayer.

Impugners of the book of common prayer.

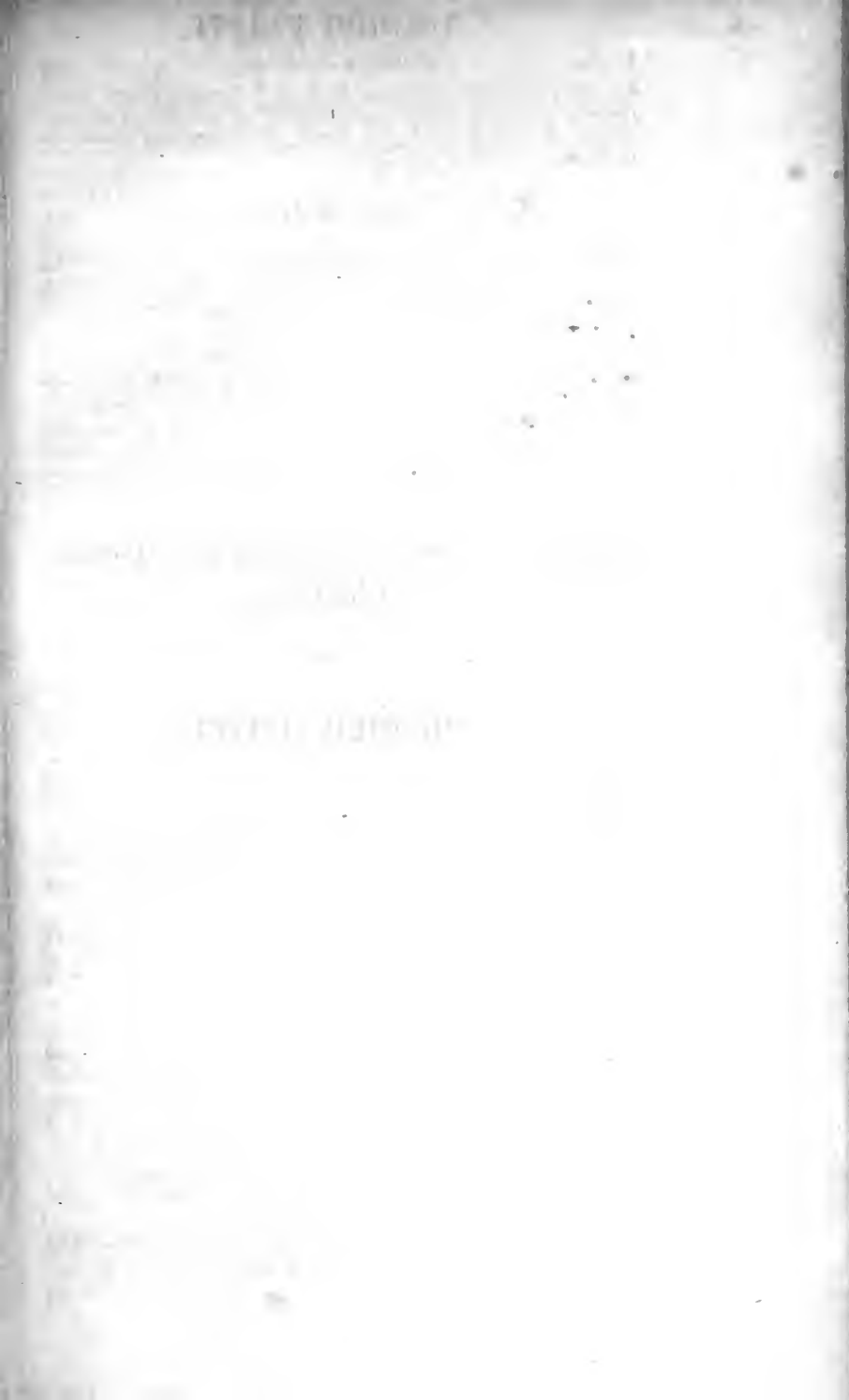
1. **I**mpugners of the form of worship in the church of *England*, established by law, and contained in the book of common prayer; of the 39 articles; of the rites and ceremonies of the church; and of episcopal government; shall be excommunicated *ipso facto*, and not restored but by the bishop or archbishop on their repentance. *Can. 5, 6, 7.*

Ministers derogating from the book of common prayer.

2. If any parson, vicar, or other minister, that ought to use the common prayer, or to minister the sacraments, shall refuse to do the same, or (wilfully standing in the same) shall use any other form, or shall speak any thing in derogation of the same book or of any thing therein contained; he shall, on conviction, for the first offence forfeit to the king one year's profit of all his spiritual promotions, and be imprisoned for six months; for the second offence, shall be deprived of all his spiritual promotions, and be imprisoned for a year; and for the third offence, shall be deprived of all his spiritual promotions, and be imprisoned during life. And if he has no spiritual promotion, he shall for the first offence be imprisoned for a year; and for the second offence, during life.

1 El. c. 2. f. 4—8.

But this shall not restrain the spiritual court, from proceeding against these offenders; and they may be deprived by the said court,



THE CITY OF BOSTON
FROM THE FIRST SETTLEMENT
TO THE PRESENT TIME
BY NATHAN OSGOOD

NEW-YORK
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1846

THE HISTORY OF
THE CITY OF BOSTON
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court, according to the course of the spiritual law, for the first offence. *id. f. 16, 23. 1 Harw. 9.*

3. If any person whatsoever shall in plays, songs, or by other open words, speak any thing in derogation of the same book, or any thing therein contained; or shall by open fact cause or procure any minister in any place to say common prayer openly, or to minister any sacrament, in other form; or shall interrupt or let any minister to say the said common prayer; he shall (being indicted for the same at the next assizes) forfeit to the king for the first offence 100 marks, and for the second 400 marks; (which if not paid in 6 weeks after conviction, he shall suffer 6 months imprisonment for the first offence, and 12 months for the second;) and for the third offence shall forfeit all his goods and chattels, and be imprisoned during life. *1 El. c. 2. f. 9, 10, 11, 12, 13, 20.*

Any person de-
praving the book
of common
prayer.

4. Where an incumbent resides upon his living, and keeps a curate, the incumbent himself (not having lawful impediment to be allowed by the bishop) shall at least once a month openly and publicly read the common prayer, and (if there be occasion) administer the sacraments, and other rites of the church; on pain of 5*l.* to the poor, on conviction by confession, or oath of two witnesses, before two justices; and in default of payment in ten days, the same to be levied by the churchwardens or overseers by distress and sale, by warrant of such justices. *13 & 14 C. 2. c. 4. f. 7.*

Resident incum-
bent to read the
common prayer
once a month.

Confession.

CONFESSIO is twofold, either *express*, or *implied*.

An *express* confession is, where a person directly confesses the crime with which he is charged; which is the highest conviction that can be. *2 Harw. 333.*

But it is usual for the court, especially if it be out of clergy, to advise the party to plead and put himself upon his trial, and not presently to record his confession, but to admit him to plead. *2 H. H. 225.*

An *implied* confession is, where a defendant in a case not capital, doth not directly own himself guilty, but in a manner admits it by yielding to the king's mercy, and desiring to submit to a small fine; which submission the court may accept of if they think fit, without putting him to a direct confession. *2 Harw. 333.*

It seems that the confession of the defendant taken upon an examination before justices of the peace, or in discourse with private persons, may be given in evidence against the party confessing, but not against others. *2 Harw. 429.*

All those who on their examination own themselves guilty of a felony alleged against them, and are charged in their *mittimus* with the felony so confessed, seem to be excluded from bail; for bail is only proper where it stands indifferent whether the party be guilty or innocent. *2 Harw. 97.*

Conspiracy.

Conies. See Game.

Conjuration. See Witchcraft.

Conspiracy.

I. *What it is.*

II. *How punishable.*

I. *What it is.*

By the common
law.

1. **B**Y the common law there can be no doubt, but that all confederacies whatsoever, wrongfully to prejudice a third person, are highly criminal; as where divers persons confederate together by indirect means to impoverish a third person, or falsely and maliciously to charge a man with being the reputed father of a bastard child, or to maintain one another in any matter whether it be true or false. 1 *Harv.* 190.

By statute.

2. And conspiracy by statute is as follows: *Conspirators are they, that do confederate or bind themselves by oath, covenant, or other alliance, that every of them shall aid and bear the other falsely and maliciously to indict, or cause to indict, or falsely to move or maintain pleas; and such as retain men in the country, with liveries or fees to maintain their malicious enterprises; and this extendeth as well to the takers, as to the givers: And stewards and bailiffs of great lords, who by their office or power, undertake to bear or maintain quarrels, pleas, or debates, that concern other parties than such as touch the estate of their lords or themselves.* 33 Ed. 1. st. 2.

From this definition of conspirators, it seems clearly to follow, contrary to the opinion of Lord Coke, that not only those who actually cause an innocent man to be indicted, and also to be tried upon the indictment, whereupon he is lawfully acquitted, are properly conspirators, but that those also are guilty of this offence, who barely conspire to indict a man falsely and maliciously, whether they do any act in prosecution of such conspiracy or not. 1 *Harv.* 189. L. *Raym.* 1169.

But an *action* will not lie for the conspiracy, unless it be put in execution; for in such case, the *damage* is the ground of the action. L. *Raym.* 378.

Also it plainly appears from the words of the statute, that one person alone cannot be guilty of conspiracy, within the purport of it; from whence it follows, that if all the defendants who are prosecuted for such a conspiracy be acquitted but one, the acquittal of the rest, is the acquittal of that one also: And upon the same ground it hath been holden, that no such prosecution is maintainable against a husband and wife only, because they are esteemed but as one person in law. But it is certain, that an action on the case, in the nature of a conspiracy, may be brought against one only: Also, it hath been resolved, that if such an ac-

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Received of the Treasurer of the State of New York
the sum of \$1000.00

for the purchase of land for the State of New York

in the County of Albany

to the use of the State of New York

in full of the sum of \$1000.00

paid by the State of New York

to the Treasurer of the State of New York

on the 1st day of January 1870

Witness my hand and seal this 1st day of January 1870

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tion be brought against several persons, and all but one be acquitted, yet judgment may be given against that one only. 1 *Haw.* 192.

Also in the case of *K.* against *Kinnerley and Moore*, T. 5 G. An information was brought, setting forth that the defendants, being evil disposed persons, in order to extort money from my lord *Sunderland*, did conspire together to charge my lord with endeavouring to commit sodomy with the said *Moore*. The defendant *Kinnerley* only appears, and pleads to issue, and is found guilty. And now exception was taken in arrest of judgment, that to every conspiracy there must be two persons at least, whereas here is only one brought in and found guilty, and the other possibly may be acquitted. But it was answered, that this is arguing from what has not happened, and probably never will; for tho' *Moore* may have an opportunity to acquit himself, and is not concluded by the verdict as *Kinnerley* is, yet as the matter now stands, *Moore* himself is found guilty, for the conspiracy is found as it is laid, and therefore judgment may be given against one, before the trial of the other. And a case was quoted, where several were indicted for a riot, *with many others*, and two only were found guilty; and it was objected, that there must be three to make a riot; but upon the words, *with many others*, judgment was given against the defendants. And the court overruled the exception. And the defendant had sentence. And in the *Easter* term following, *Moore* also was convicted and had judgment. *Str.* 193.

And, *E.* 18 G. 2. *K.* against *Eliz. Niccols*. She was indicted for conspiring with *Tho. Bygrave*, unjustly to charge *William Frankland* with a robbery, and for that purpose going before a justice, where *Bygrave* swore it upon him. *Niccols* only came in, and pleaded not guilty. And the jury found that she was guilty, but that *Bygrave* died before the indictment was preferred. Exception was taken, that one alone cannot be guilty of a conspiracy, and here is but one convicted. But the court overruled this, on the authority of *Kinnerley's* case, in which case there was a possibility of contradictory verdicts, which here cannot be. *Str.* 1227.

II. How punished.

1. It is clear, that those who are convicted of conspiracy at On action. the suit of the party, shall have judgment of fine and imprisonment, and to render the plaintiff his damages. 1 *Haw.* 193.

2. Also it is certain, that he who is convicted at the suit of the On indictment or information. king, of a conspiracy to accuse another of a matter which may touch his life, shall have judgment that he shall lose the freedom and franchise of the law (whereby he is disabled from being put upon any jury, or to be sworn as a witness, or even to appear in person in any of the king's courts), and also that his houses, lands, and goods shall be seized into the king's hands, and his houses and lands stripped and wasted, his trees rooted up, and his body imprisoned. And this is commonly called *villainous* judgment, and is given by the common law, and not by any statute, and is said generally

generally in some books to be the proper judgment upon every conviction of conspiracy at the suit of the king, without any restriction to such as endangered the life of the party; but this point doth not seem to be any where settled. 1 *Haw.* 193.

In the case of *Kinnerley* and *Moore* above-mentioned, *Kinnerley* was fined 500*l.* a year's imprisonment, and to find sureties for his good behaviour for 7 years. *Moore* was sentenced to stand in the pillory, suffer a year's imprisonment, and to find sureties for 7 years. *Str.* 196.

Constable.

THE office of a constable, in executing of warrants, is treated of under the titles *Arrest*, and *Warrant*; and in like manner the other particulars of his duty may be found under the respective titles throughout the book; this title treating only of the office of a constable in general.

I. Of the antiquity and original of constables.

II. Who shall be a constable.

III. How chosen and sworn.

IV. His power as a conservator of the peace.

V. His duty as a subordinate officer to justices of the peace.

VI. His indemnity and protection in his office.

VII. Concerning the expences of his office.

VIII. Concerning his account and removal from his office.

I. Of the antiquity and original of constables.

Antiquity of constables in general.

1. The sundry names of high constables, or constables of lathes, rapes, wapentakes, hundreds, and franchises; and the divers names also of petty constables, tythingmen, borsholders, borroheads, headborows, chief pledges, and such other (if there be any) that bear office in towns, parishes, hamlets, tythings, or borows, are all in effect but two, that is to say, *constables* and *borsholders*. *Lamb. Const.*

The word *constable* hath afforded matter of much disquisition to the learned. It is evidently a compound; but from what two original words it hath sprung, hath been variously conjectured. History traceth it from its arrival in *England*, backwards through *France*, and *Germany*, and *Greece*, to the imperial seat at *Constantinople* in the days of *Constantine* the great. From whence we ascend further still towards the east, where we find the word *cône*

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CONFIDENTIAL

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7. Birth Date
8. Sex
9. Race
10. Religion
11. Education
12. Occupation
13. Marital Status
14. Number of Children
15. Annual Income
16. Assets
17. Liabilities
18. Credit History
19. Criminal Record
20. Other Information



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or *cune* in *Palestine*, which signified in the times of the old testament a stability, strength, or stay. Of which word there seem to be some traces in the mongrel name of *Laocoon* at *Troy*; and more especially of this same *Constantine*, who was himself of oriental extraction, having sprung from *Dardania*, a country of the upper *Moesia*, and was said by his flatterers to have been descended from *Dardanus* and the *Trojans*. And perhaps this appellation of the emperor might give occasion to the adopting of the word into the *Roman* language at that time. For it was then that the word *count* (the genuine offspring of *cône* or *cûne*) first became a name of dignity, and from thence travelled westwards (with a little variation according to the genius of each language) throughout the provinces. Amongst the *Saxons*, the word was *konig* or *kyninge*, from whence undoubtedly we received our *English* word *king*. Again, the word *stole*, *stalle*, *stafte*, *stable*, by an easy transmutation of those letters frequent in almost all languages (and which seemeth the other constituent of the word *constable*) is likewise common to those languages of the middle ages, and signifieth a standing place, division, or department, called by the *Romans* *statio*; and all of them probably from the same origin with the *Latin* *sto*, and the ancient *Greek* word *στω*. So that according to this etymology, the word *constable* will properly signify the stability or stay of the place, or the strong man of the division. The *German* word is *connestafte*; the *French* *connestable*; the *Italian* *conestabile*; the *Spanish* *condestable*, from the word *conde* which they use for *count*. All which seem to be comprehended in the imperial denominations of the *Constantine* family, such as *Constans*, *Constantius*, *Constantinus*, *Constantia*, *Constantina*, *Constantianus*, *Constantinacius*, and the like.

As touching *borsholders* (which is the other general name, and doth contain within it the meaning of tything-men, borowheads, headborows, thirdborows, and chief pledges) that is made up of the *Saxon* *borge*, *borrow*, or *borboe*, a pledge, and *ealder*, the elder, chief or head; and *borshælder* in one word doth mean the chief or head of the sureties or pledges. For the understanding whereof, it is to be remembred, that by the ancient laws of this realm (before the coming in of king *William* the conqueror) it was ordained for the more sure keeping of the peace, and for the better repressing of thieves and robbers, that all free born men should cast themselves into several companies, by ten in each company; and that every of those ten men of the company should be surety and pledge for the forthcoming of his fellows: so that if any harm were done, by any of these ten, against the peace, then the rest of the ten should be amerced, if he of their company that did the harm should fly, and were not forthcoming to answer to that wherewith he should be charged. And for this cause, these companies are yet in some places of *England* called *boroes*, of the said word *borge*, *borrow*, or *borboe*, signifying a pledge or surety; and in other places they are called *tythings*, because they contain (as hath been said) the number of ten men with their families. And even as ten times ten do make an hundred, so because it was then also appointed that ten of these companies

should at certain times meet together for their matters of greater weight, therefore that general assembly, or court, was and yet is called a *hundred*. Furthermore, it was then also ordained, that if any man were of so evil credit, that he could not get himself to be received into one of these tythings or boroes, then he should be shut up in prison, as a man unworthy to live at liberty, amongst men abroad. Now whereas every of these tythings or boroes did use to make choice of one man amongst themselves, to speak and to do, in the name of them all; he was therefore in some places called the tythingman, in other places the boroes elder (whom we now call borholder) in other places the borohed, or headborow, and in some other places the chief pledge, which last name doth plainly expound the other three that are next before it; for head or elder of the boroes, and chief of the pledges, are all one: and in some shires, where every third borow hath a constable, there the officers of the other two are called *thirdborows*. And in these tythings, or boroes, sundry goods orders were observed; and amongst others, first, that every man of the age of 12 years should be sworn to the king: Then, that no man shall be suffered to dwell in any town or place, unless he were also received into some such suretyship and pledge as is aforesaid: Thirdly, that if any of these pledges were imprisoned for his offence, then he ought not to be delivered without the assent of the rest of his pledges: Again, that no man might remove out of one tything or boroe, to dwell in another, without lawful warrant in that behalf: Lastly, that every of these pledges should yearly be presented and brought forth by their chief pledge, at a general assembly for that purpose, which we yet in remembrance thereof do call the *view of frankpledge*, or the leet court. *Lamb. Const.*

Some small shadow of which antiquity we seem still to retain in a common phrase in drinking, when a man says to another that he will *pledge* him; which is said to have begun when the *Danes* lorded it in this land; and the meaning was, to exhort the person to drink freely, for that the other would be surety to him that no one should do him any bodily harm whilst he was drinking.

Also we do still retain the word *borrow* as a verb in our language, signifying to take money upon pledge or surety.

Antiquity of
high constables.

2. By the statute of *Winchester*, *In every hundred and franchise two constables shall be chosen to make the view of armour; and they shall present defaults of armour, and of suits of towns, and of highways, and such as lodge strangers in uplandish towns, for whom they will not answer.* 13 Ed. 1. st. 2. c. 6.

And from hence Lord *Coke*, and others, will have it, that high constables are no ancienter than this statute: But Mr. *Haavkins* (agreeably with *Lambard*, *Dalton*, and other authorities) says, that it seems to be the better opinion, that both constables of hundreds, which are commonly called high constables, and also constables of tythings, which are at this day commonly called petty constables, or tythingmen, were by the common law, and

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SUBJECT : [Illegible]

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not first ordained by the said statute of *Winchester*; for that statute doth not say, that there shall be such officers constituted, but clearly seems to suppose that there were such before the making of it. 2 *Harv.* 61.

In short, the truth of the matter seems to be this: The far greatest part of the business of high constables at this day, is not at all appropriated to them, as high constables; but only as officers to execute the precepts of the justices of the peace, which any other person may do as well as they. The original and proper authority of an high constable, as such, seems to be the very same, and no other within his hundred, as that of the petty constable within his vill; and therein most probably, he is coeval with the petty constable. The other usual branches of his office, such as the surveying of bridges, the issuing precepts concerning the appointing of overseers of the poor, surveyors of the highways, assessors and collectors of the land tax and window duties, and in like manner the viewing of armour by the abovementioned statute, are in him, not of necessity, but as matter of convenience, and it is discretionary in the justices whom they will appoint to be their officers in these cases; others have been super-added to their office, for the like reason of convenience, by sundry acts of parliament, such as the issuing precepts for the licensing of ale-houses, for levying the county rates, and for returning lists of jurors; for that one person can do all the same much easier and cheaper, than so many different persons.

II. Who shall be a constable.

1. It hath been said, that a custom in a town, that the inhabitants shall serve the office of constable by turns, according to the situation of their several houses, is not good; for that by such a course, it may come to a woman's turn to be constable, as inhabitant of one of those houses; yet we find such customs allowed to be good in later books; and it seems, that the consequence of the reasoning abovementioned may well be denied, since a woman in such case may procure another to serve for her. 2 *Harv.* 63.

2. Apothecaries in *London*, and within seven miles thereof, being free of the company of apothecaries; and also those in the country who have served seven years apprenticeship, shall be exempted from the office of constable. 6 & 7 *W. c.* 4.

3. Also it seems certain, that if a sworn attorney, or other officer, of the courts at *Westminster*, be chosen into this office, he may have a writ of privilege for his discharge, by reason of his necessary attendance in those courts: And it hath been resolved, that such officers shall have this privilege, not only where there is no special custom concerning the election of constables, but also where they are chosen by a particular custom, in respect of their estates, or otherwise; for that no such custom shall be intended to be more ancient than the usages of those courts, and therefore shall give way to them. 2 *Harv.* 63.

4. And upon the like reasons, it is taken for granted, that practising barristers at law, and the servants of members of parliament, shall be exempted from the office of constable. Barristers at law, servants to members of parliament.

liament, have the same privilege; but there seem to have been no resolutions to this purpose. *2 Harv. 63.*

Alderman of London.

5. Also it hath been resolved, that an alderman of *London*, for the like reasons, is not compellable to be a constable. *2 Harv. 63.*

Captain of the guards.

6. But it hath been holden, that a captain of the king's guards, being presented to serve as constable, in pursuance of a custom in respect of his lands in a town, cannot claim this privilege; for that notwithstanding he is bound by his office to personal attendance on the king's person, yet such office being of late institution, shall not prevail against an ancient custom. *2 Harv. 63.*

Physician.

7. Also it seems, that a practising physician, being chosen constable in pursuance of such custom, has no remedy for his discharge; for that there are no precedents of this kind, and his calling is private. *2 Harv. 63.*

But by the *32 H. 8. c. 40.* The president, commons and fellows of the faculty of physick in *London*, shall not be chosen constables.

Where there are others sufficient

8. Yet if such an officer as before mentioned, or a gentleman of quality who hath no such office, or a practising physician, be chosen constable of a town, which hath sufficient persons besides to execute this office, and no special custom concerning it; perhaps he may be relieved by the king's bench: but it seems that even a custom cannot exempt fitting persons from serving the office of constable, where there are not sufficient besides them to execute it. But these points seem not to be settled. *2 Harv. 63.*

Dissenting teachers.

9. By the *1 W. c. 18. s. 11.* Every teacher or preacher in holy orders, or pretended holy orders, in a congregation tolerated by law, shall from the time of his subscription and taking the oaths, be exempted from the office of constable.

Prosecutors of felons.

10. And by *10 & 11 W. c. 23. s. 2, 3.* The prosecutor of a felon to conviction, or person to whom he shall assign the certificate thereof, shall be discharged from the office of constable.

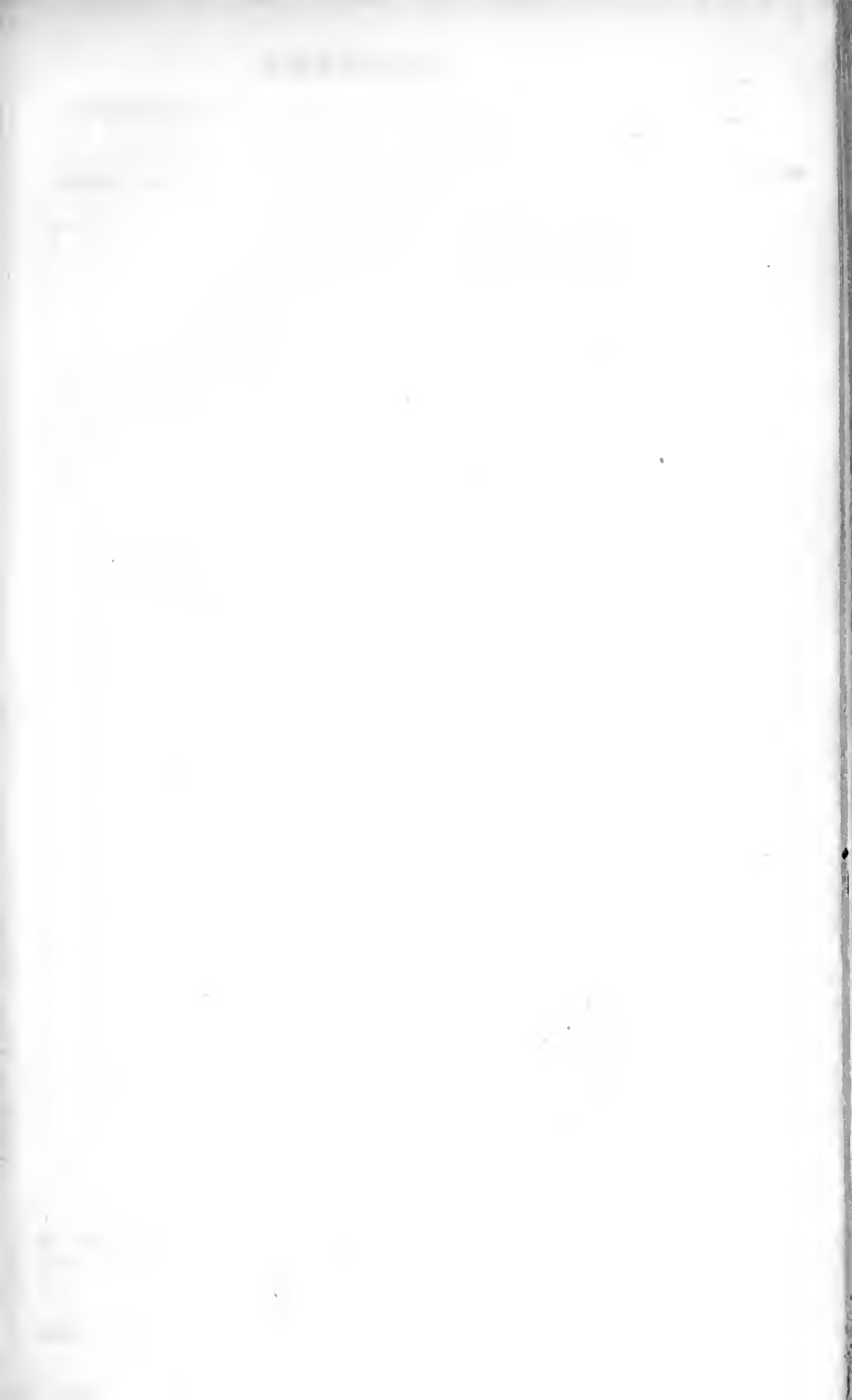
Whether he may appoint a deputy.

11. Inasmuch as the office of a constable is wholly ministerial, and no way judicial, it seems, that he may appoint a deputy to execute a warrant directed to him, when by reason of sickness, absence, or otherwise, he cannot do it himself; yet it doth not seem to be settled, that a constable can make a deputy, without some special cause. *2 Harv. 62.*

And the superior must be answerable for his deputy, upon any miscarriage; unless the deputy is duly allowed and sworn; for then he is constable. *Wood 145.*

Dissenters appointing a deputy.

12. And by *1 W. c. 18. s. 7.* If any person dissenting from the church of *England*, shall be chosen constable, and shall scruple to take upon him the office, in regard of the oaths, or any other matter required to be done in respect of such office; he may execute it by a sufficient deputy by him to be provided, to be allowed by such persons, and in such manner, as such officer should have been allowed.



III. How chosen and sworn.

1. It being said in some books, that both high and petty constables are to be chosen and appointed by the sheriff in his torn (or by the lord of the leet); and by others, that they are to be chosen by the decennary, it seems difficult to determine, to whether of them the power of chusing doth of right belong. *2 Haw. 62.*

By whom to be chosen.

2. Yet it seems clear, that whether a constable be to be chosen by the sheriff, or decennary, yet he is to be sworn and placed in his office by the sheriff, as being judge of the court (or by the lord of the leet). *2 Haw. 62.*

By whom to be sworn.

3. Also it seems certain, that a custom for chusing a constable either way is good; and it seems to have been the opinion of the makers of the act of 13 & 14 C. 2. hereafter following, that the lords of the courts leet have this power of common right, and consequently the sheriff in his torn, where there is no court leet. *2 Haw. 63.*

Custom of chusing.

4. But now the usual manner is, that the high constables of hundreds be chosen either at the sessions, or by the greater number of the justices of the division; and likewise that they be sworn at sessions, or by warrant from the sessions; which course hath been often allowed and commended by the justices of assize. *Dalt. c. 28.*

Chusing high constables.

And the reason thereof may be this, as hath been intimated above; namely, that their office at present doth not so much consist in executing the office of high constable as such, as in executing the justices precepts, which they may do for the most part, whether they be indeed high constables or not.

5. And moreover, every petty constable, being a principal peace officer, and it being necessary for the preservation of the peace, that every vill should be furnished with one; the justices of the peace have ever since the institution of their office, taken upon them as conservators of the peace, not only to swear the petty constables, which have been chosen at a torn or leet, but also to nominate and swear those who have not been chosen at any such court, on the neglect of the sheriffs or lords to hold their courts, or to take care that such officers are appointed in them. And this power of justices of the peace having been confirmed by the uninterrupted usage of many ages, shall not now be disputed, but shall be presumed to have been grounded on sufficient authority. And some have carried this point so far, as to allow the justices at their sessions, to swear one who was chosen at the leet, and unduly rejected by the steward, who had sworn another in his place. *2 Haw. 65.*

Petty constables appointed by justices of the peace.

6. However it is certain, that justices of the peace had power to nominate and swear constables, on the default of the torn or leet, before the statute of 13 & 14 C. 2., c. 12. and therefore, that they have such authority in some cases not mentioned in that statute; which enacts, that if a constable shall die, or go out of the parish, or continue above a year in his office, any two justices

Where the leet shall make default.

offices may make and swear a new one, until the lord shall hold a leet, or till the next sessions, who shall approve of the officer so made and sworn, or appoint another. 2 *Haw.* 65.

Mandamus to compel the swearing a constable.

7. And it seems to be clear at this day, that the king's bench hath power by *mandamus* to compel the court or judge to swear a constable duly chosen. 2 *Haw.* 65.

Constable refusing to be sworn.

8. Constables lawfully chosen, if they shall refuse to be sworn, a justice of the peace may bind them over to the assizes or sessions. *Dalt.* c. 28.

How punished.

9. But it seemeth that the sheriff, or steward of the leet, cannot lawfully commit them for such refusal, without more; but it is said, that if the party be present in the court, he may be fined; and that if he be absent, and have a certain time and place appointed him by the sheriff or steward, for the taking of the oath before a justice of the peace, and have also express notice of such appointment, and be presented at the next court, for having refused to take it accordingly, he may be amerced: also it seems, that in either case he may be indicted (A) either at the assizes or sessions. And it is advisable in all pleadings, in any action concerning such a fine or amercement, and in all indictments for such refusal, specially and expressly to set forth the manner of every such election, appointment, notice, and refusal, and before whom the court was holden: and it hath been adjudged, that it is insufficient to say in general, that the party was duly elected, or lawfully elected, or that he had notice, without setting forth the special circumstances thereof. Also it is said to have been adjudged, that an indictment for not finding a sufficient person to serve the office of constable, without shewing that the party refused to serve it himself, is insufficient. 2 *Haw.* 64.

Constable's oath.

10. There is a long form of a constable's oath in *Dalton*, which is adopted by Mr. *Barlow*, expressing his duty in many instances; but as that form nevertheless doth not contain the hundredth part of the constable's duty, nor indeed the moit material instances of it, it may be more eligible (as no particular form is directed by any statute) to swear him (B) to the due execution of his office in general, than to descend to those particulars; lest by mentioning some parts of his duty, and not others, he may be induced to think, that those others are not so necessary.

Oaths of allegiance and supremacy.

11. By the 1 *G.* *st.* 2. c. 13. High constables are to take the oaths of allegiance, supremacy, and abjuration, and receive the sacrament, as other persons who qualify for offices; but petty constables are exempted.

IV. His power as a conservator of the peace.

Constable a conservator of the peace.

1. Every high and petty constable are by the common law conservators of the peace. 2 *Haw.* 33. *Crom.* 6. *Dalt.* c. 1.

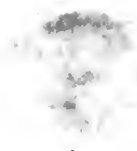
May commit for an affray in his presence.

2. And therefore if any man shall make an affray or assault upon another in the presence of the constable, or shall threaten to kill, beat, or hurt another, or shall be in a fury ready to break the peace; the constable may commit him to the stocks, or other safe custody for the present, and after may carry him before a justice,



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justice, or to gaol, until he shall find surety for the peace, which surety the constable himself may also take by obligation, to be sealed and delivered to the king's use, and if the party will not find surety to the constable, he may imprison the party until he shall do it. *Dalt. c. 1.*

3. But he may not require surety of the peace, unless the offence be upon his own view, and not if it be committed out of his sight; for he cannot take any man's oath that he is afraid of death, because he is not a judge of record; which is the reason that an obligation taken by him, shall be in his own name, and not in the king's name: and the same shall be certified at the sessions of the peace. *Cro. Eliz. 375, 376.*

But not when he is absent.

V. His duty as a subordinate officer to justices of the peace.

It hath been always holden, that the constable is the proper officer to a justice of the peace, and bound to execute his warrants; and therefore it hath been resolved, that where a statute authorizes a justice of the peace to convict a man of a crime, and to levy the penalty by warrant of distress, without saying to whom such warrant shall be directed, or by whom it shall be executed, the constable is the proper officer to serve such warrant, and indictable for disobeying it. *2 Harv. 62.*

Subordinate to the justices of the peace.

VI. His indemnity and protection in his office.

1. If an action is brought against a constable, for any thing done by virtue of his office; he, and also all others which in his aid, or by his command, shall do any thing concerning his office, may plead the general issue, and give the special matter in evidence, and if he recovers, he shall have double costs. *7 J. c. 5.*

Double costs.

2. And such action shall be laid in the county where the fact was committed, and not elsewhere. *21 J. c. 12.*

Proper county.

3. Formerly the constable was bound to take notice of the jurisdiction of the justice; insomuch that if the justice issued a warrant in any matter wherein he had no jurisdiction, the constable was punishable for the execution of it: but now, by the statute of *24 G. 2. c. 44.* it is enacted;

No action if he delivers a copy of the warrant.

That no action shall be brought against any constable, or other person acting by his order, and in his aid, for any thing done in obedience to the warrant of a justice of the peace, until demand hath been made, or left at the usual place of his abode, by the party, or by his attorney, in writing, signed by the party demanding the same, of the perusal and copy of such warrant, and the same hath been refused or neglected for six days after such demand: and if after compliance therewith, any such action shall be brought, without making the justice who signed such warrant defendant, on producing and proving such warrant at the trial, the jury shall give their verdict for the defendant, notwithstanding any defect of jurisdiction in the justice. And if such action be brought jointly against the justice and constable; on proof of such

warrant,

warrant, the jury shall find for the constable, notwithstanding such defect of jurisdiction as aforesaid; and if the verdict be given against the justice, the plaintiff shall recover his costs against him, to be taxed in such manner by the proper officer, as to include such costs as the plaintiff is liable to pay to such defendant, for whom such verdict shall be found as aforesaid. *f. 6.*

Note; By this it seemeth, that the constable ought not to return the warrant to the justice, but to keep it for his own justification; for he cannot grant to the party the perusal of the warrant, unless he hath it: but he must certify to the justice what he hath done in the execution thereof.

No action but within 6 months.

4. And no action shall be brought against any constable, but within six months after the act committed. *24 G. 2. c. 44. f. 8.*

Constable assaulted need not go back to the wall.

5. And if the constable is assaulted in the execution of his office, he need not go back to the wall, as private persons ought to do; and if in the striving together, the constable kills the assailant, it is no felony; but if the constable is killed, it shall be construed premeditated murder. *Hale's Pl. 37. 1 H. H. 457.*

VII. Concerning the expences of his office.

Charges of making distrefs.

1. By the *27 G. 2. c. 20.* The constable executing a justice's warrant, for levying a penalty, or other sum of money directed by any act of parliament, by distrefs, may deduct his own reasonable charges of taking, keeping, and selling the goods distrained; returning the overplus on demand, after such penalty or sum of money and charges deducted.

Charges of conveying an offender to gaol.

2. A person committed to gaol, for any misdemeanor, shall bear his own charges (if able) for conveying or sending him to the said gaol, and the charges of those that guard him thither; and if he shall refuse at the time of commitment to defray the same, or shall not then pay the same, the justice committing him, shall by warrant to the high or petty constable where the person shall inhabit, or from whence he shall be committed, or where he shall have any goods within the county, order so much to be sold thereof, as by his discretion shall satisfy the same; the appraisement to be made by four honest inhabitants. *3 Y. c. 10. f. 1.*

And if he have not money nor goods within the county, sufficient to bear the charges of himself and of those who convey him to the gaol, or house of correction, the constable may make application to a justice, who may upon oath examine into and ascertain the reasonable expences, and shall by his warrant (without fee) order the treasurer to pay the same; except in *Middlesex*, where the same shall be paid by the overseers of the parish where the person was apprehended. *27 G. 2. c. 3.*

Charges about vagrants.

3. And by the *13 & 14 C. 2. c. 12.* it is enacted, that whereas constables may be at great charge in relieving, conveying with passes, and in carrying rogues, vagabonds, and sturdy beggars to the house of correction, and have no power to make rates to reimburse themselves; therefore the said constables, together with the churchwardens and overseers, and other inhabitants shall make a rate in like manner as the poor rate by the *43 El. c. 2.* which

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which being confirmed under the hands and seals of two justices, may be levied by distresses.

Mr. *Nelson* and Mr. *Shaw* say, that this rate may be made for the purpose abovementioned, and for *other parish charges*; and direct five different forms of instruments to compel the payment thereof, setting forth therein generally, that the rates are to be made and levied for reimbursing the constable's necessary charges in the execution of his office. But there seems to be no such power given by the statute; for it is limited to expences about vagrants only; and even that seems to be rendered useless, by the vagrant act of 17 G. 2. which orders the said expences to be paid out of the general county rate.

Neither is any such power given by any other statute; which indeed is hard upon the constable. It is but reasonable, that the justices should have power given by some act of parliament, to allow to the constable, in all cases a competent satisfaction for his trouble: for there seemeth to be no cause, why a constable who hath himself been guilty of no crime, should be at much trouble and expence about those who have, and have no compensation for it.

VIII. Concerning his account and removal from his office.

1. The high constables shall at the general or quarter sessions, Account. if thereunto required, account for the general county rate by them received; on pain of being committed to gaol until they shall account; and shall pay over the money in their hands, according to the order of the said court, on the like pain: And all their accounts and vouchers shall, after having been passed at the said sessions, be deposited with the clerk of the peace, to be kept amongst the records, and inspected by any justice without fee. 12 G. 2. c. 29. f. 8.

2. And in such manner as constables are to be chosen, in the Removal. same manner, and by the like authority are they to be removed; so as if there shall be cause to remove and put an high constable from his place, it hath not been thought fit, that any one or two justices should do it upon their discretion, but that it should be done by the greater part of the justices of that division, and that for some just cause; or else that it be done at the sessions *Dait. c. 28.*

And it seems clear, that the sheriff, or steward of the leet, having power to place a constable in his office, have by consequence a power of removing him. 2 *Haw. 63.*

And also the justices of the peace have always used, for good cause, to displace all such constables, as have been chosen and sworn by them. 2 *Haw. 65.*

And by the 13 & 14 C. 2. c. 12. If a constable shall continue above a year in his office, the sessions may discharge him, and put another in his place, till the lord shall hold a leet. f. 15.

And if the court, or other judge, shall refuse to discharge a constable, the king's bench may compel them by *mandamus.* 2 *Haw. 65.*

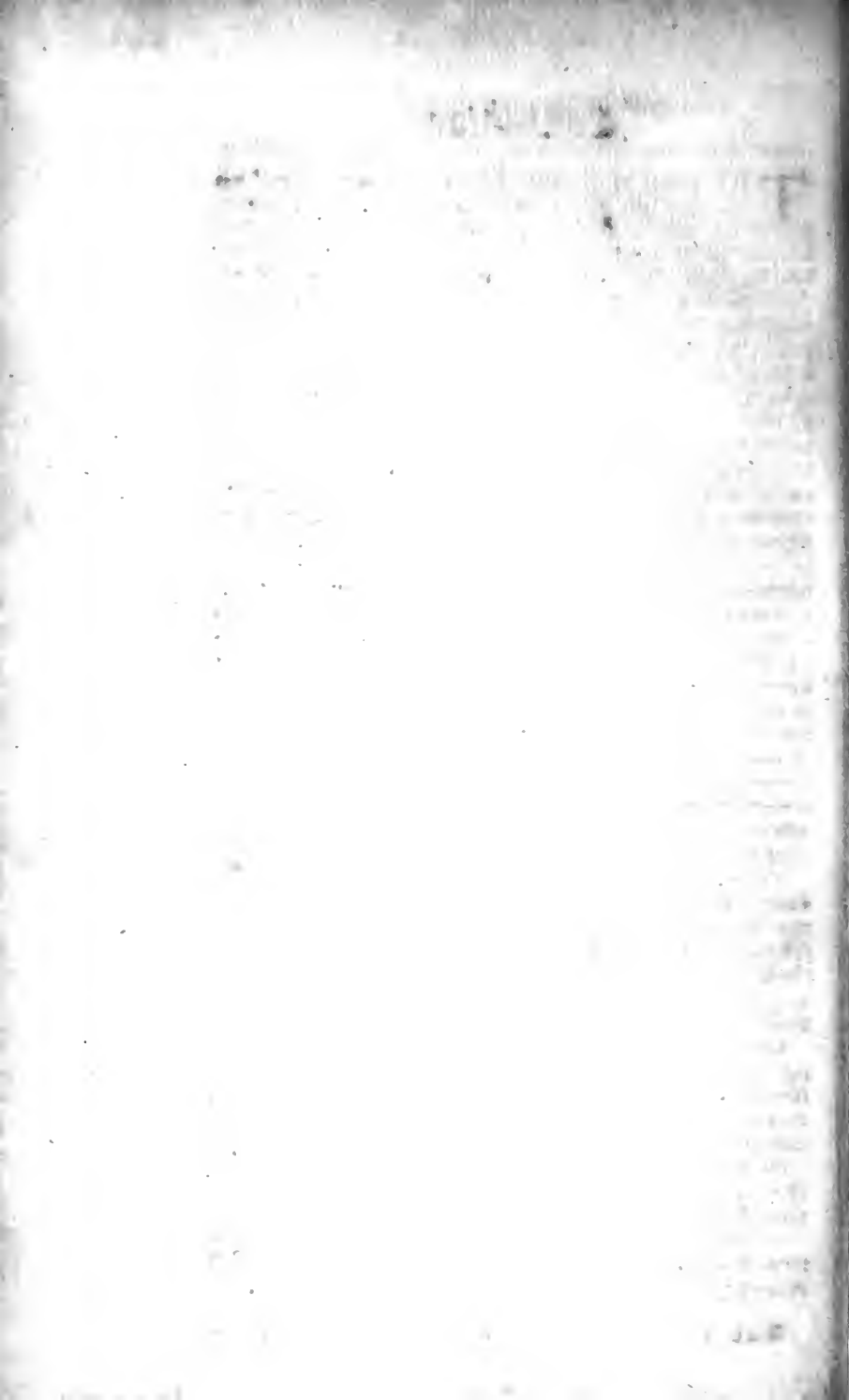
A. Indictment for not taking the office.

THE jurors for our lord the king upon their oath present, that A. O. late of ——— in the township of ——— in the said county, yeoman, on the ——— day of ——— in the ——— year of the reign of ——— and long before, and always after until the day of the preferring of this indictment, was and is an inhabitant and residing within the township of ——— aforesaid in the county aforesaid, and an able person to serve the office of constable for the same township; and he the said A. O. on the said ——— day of ——— in the year aforesaid, in the township aforesaid, lawfully and in due manner was elected and chosen by ——— ancient inhabitants of the same township, according to the ancient custom of choosing constables for the said township, into the office of constable for the said township of ——— in the said county, for one year from thence next following, to do and execute all and singular those things which belong to the office of constable; and that the said A. O. afterwards, to wit, on the ——— day of ——— in the year aforesaid, at the township of ——— aforesaid in the county aforesaid, had due notice thereof, and then and there was required to appear before J. P. esquire, then and yet one of his majesty's justices assigned to keep the peace within the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, on the said ——— day of ——— in the year aforesaid, to take his oath for the due executing the said office of constable for the same township, according to the duty of that office; nevertheless the said A. O. his duty in that behalf not regarding, but contriving and intending wholly to neglect to serve the said office of constable, after he the said A. O. was so elected and chosen into the said office as aforesaid, to wit, on the said ——— day of ——— in the year aforesaid, and continually afterwards until the day of taking this inquisition, at the township aforesaid in the county aforesaid, unlawfully and contemptuously did refuse, and still doth refuse, to take his said oath for the due executing the said office of constable, and in any wise to execute the same office, to the great hindrance of justice, in contempt of our said lord the king, and to the evil example of all others in the like case offending, and against the peace of our said lord the king.

B. Constable's oath.

YOU shall well and truly serve our sovereign lord the king, [and the lord of this leet, if sworn in a court leet] in the office of constable, for the township of ——— for the year ensuing [or, until you shall be lawfully discharged therefrom; or, until another shall be sworn in your place:] You shall well and truly do and execute all things belonging to the said office, according to the best of your skill and knowledge: So help you god.

The first part of the document
 discusses the importance of
 maintaining accurate records
 and the role of the
 various departments in
 ensuring the smooth
 operation of the
 organization. It also
 outlines the procedures
 for handling
 correspondence and
 reports. The second
 part of the document
 provides a detailed
 account of the
 activities of the
 various departments
 during the year.
 It includes a list of
 the projects
 completed and the
 progress made on
 the outstanding
 work. The document
 also contains a
 summary of the
 financial results
 and a comparison
 with the budget.
 Finally, it
 concludes with a
 list of the
 recommendations
 for the future.



Conviction.

THE power of a justice of the peace is in restraint of the common law, and in abundance of instances is a tacit repeal of that famous clause in the great charter, that a man shall be tried by his equals; which also was the common law of the land long before the great charter, even for time immemorial, beyond the date of histories and records. Therefore generally nothing shall be presumed in favour of the office of a justice of the peace; but the intendment will be against it. Therefore where a special power is given to a justice of the peace by act of parliament, to convict an offender in a summary manner, without a trial by jury, it must appear that he hath strictly pursued that power; otherwise the common law will break in upon him, and level all his proceedings. Therefore where a trial by jury is dispensed withal, yet he must proceed nevertheless according to the course of the common law in trials by juries, and consider himself only as constituted in the place both of judge and jury. Therefore there must be an information or charge against a person; then he must be summoned or have notice of such charge, and have an opportunity to make his defence; and the evidence against him must be such as the common law approves of, unless the statute specially directeth otherwise; then, if the person is found guilty, there must be a conviction, judgment, and execution, all according to the course of the common law, directed and influenced by the special authority given by statute; and in the conclusion, there must be a *record* of the whole proceedings, wherein the justice must set forth the particular manner and circumstances, so as if he shall be called to account for the same by a superior court, it may appear that he hath conformed to the law, and not exceeded the bounds prescribed to his jurisdiction.

The difficulty of drawing up a conviction in due form, hath induced the legislature to institute a more apt and compendious method in divers instances; and it were to be wished, in ease of the justices, that this provision might be made more general. These summary forms of convictions, which are specially directed by act of parliament, are interspersed throughout this book under the titles to which they do respectively belong.

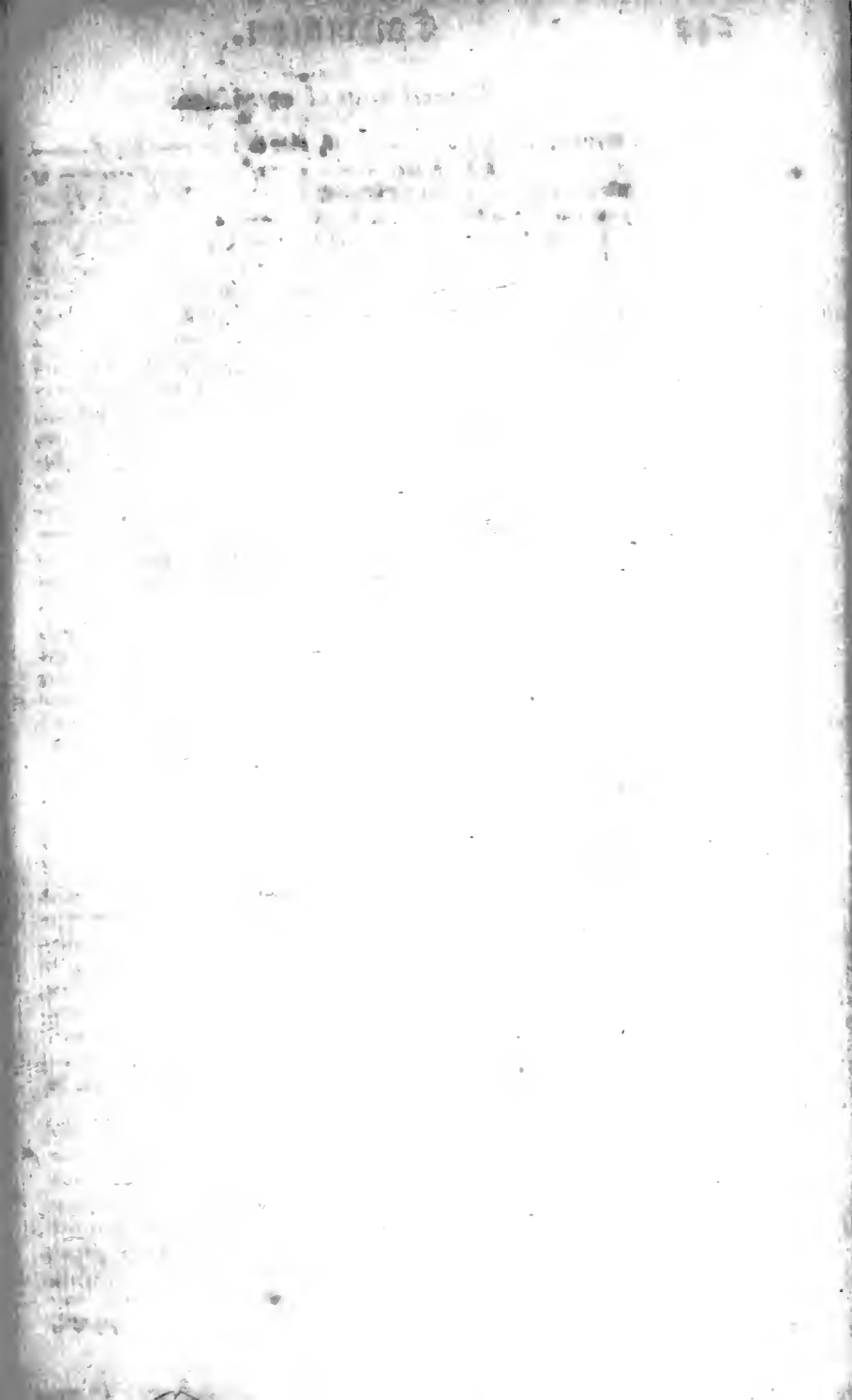
Other forms of convictions, which are left at large according to the course of the common law (having no prescriptive form of words directed by any act of parliament) are likewise drawn forth at length under divers titles; particularly, concerning such matters as have been often controverted in the courts above, occasioned either by the largeness of the penalties, or sometimes by the greatness of the offenders; as in cases of riots, forcible entries, deer stealing, and such like.

It remaineth, under this title, to insert one general precedent or form of conviction for the whole; which may be to the effect following:

General form of conviction.

Westmorland. **B**E it remembered, that on the ——— day of ——— in the ——— year of the reign of ——— by the grace of god, of Great Britain, France, and Ireland, king, defender of the faith, and so forth, at ——— in the county of ——— aforesaid, A. I. of ——— cometh before me J. P. esquire, one of the justices of our said lord the king, assigned to keep the peace of our said lord the king in the said county, and also to bear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, [residing near to the place where the offence herein after mentioned was committed; or as the statute requires] and giveth me the said justice to understand and be informed, that one A. O. of ——— in the said county, yeoman, on the ——— day of ——— now last past, at ——— in the said county, did [here set forth the fact, in the words of the statute as near as may be] against the form of the statute in such case made and provided: And afterwards, upon the aforesaid ——— day of ——— in the year aforesaid, at ——— aforesaid, in the county aforesaid, he the said A. O. after being duly summoned in this behalf before me the justice aforesaid appeareth and is present, in order to make his defence against the said charge contained in the said information, and having heard the same, he the said A. O. is asked by me the said justice, if he can say any thing for himself, why he the said A. O. should not be convicted of the premisses above charged upon him in form aforesaid; who pleadeth that he is not guilty of the said offence. Nevertheless, on the day aforesaid, in the year aforesaid, at ——— aforesaid, in the county aforesaid, one credible witness, to wit, A. W. of ——— yeoman, cometh before me the justice aforesaid, and before me the same justice upon his oath on the holy gospel to him then and there by me the justice aforesaid administered, deposeth, sweareth, and on his oath aforesaid affirmeth and saith, that the aforesaid A. O. on the ——— day of ——— aforesaid, in the year aforesaid, at ——— aforesaid, in the county aforesaid, did [here again set forth the fact, or so much thereof as is sufficient to convict the offender] And thereupon the aforesaid A. O. the ——— day of ——— aforesaid, in the year aforesaid, before me the justice aforesaid, by the oath of one credible witness aforesaid, according to the form of the statute aforesaid is convicted; and for his offence aforesaid hath forfeited the sum of ——— of lawful money of Great Britain, to be distributed as the statute aforesaid doth direct. In witness whereof, I the said justice to this present record of the conviction as aforesaid, have set my hand and seal at ——— aforesaid, in the county aforesaid, the day and year first abovescribten.

If he confesses the fact then say, ——— And because the said A. O. hath nothing to say, nor can say any thing in his own defence touching and concerning the premisses aforesaid, but doth of his own accord freely and voluntarily acknowledge and confess all and singular the said premisses to be true, in manner and form as the same are charged upon him in the said information; and because all and singular the premisses being heard and fully understood by me the said justice, it manifestly appears to me ——— Or, if the party hath been summoned,



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moned, and doth not appear, then say, — *Whereupon, on the said* _____ *day of* _____ *in the year aforesaid, at* _____ *aforesaid, in the county aforesaid, be the said A. O. was duly summoned in this behalf, to appear before me, in order to make his defence against the said charge contained in the said information, but the said A. O. doth neglect to appear before me, and doth not appear, nor make any defence against the said charge as aforesaid; Therefore I the said justice, on the said* _____ *day of* _____ *in the year aforesaid, at* _____ *aforesaid, in the county aforesaid, do proceed to examine into the truth of the said complaint; And A. W. of* _____ *a credible witness, cometh before me the justice aforesaid, and before me the same justice upon his oath &c.*

Cometh before me] A conviction ought to be in the present tense, and not in the time past. *L. Raym.* 1376. *Str.* 608. *Roberts's case.*

And giveth me to understand and be informed] A conviction ought to be on an information or complaint precedent. *M.* 11 *W. K.* and *Fuller.* *L. Raym.* 510.

That one A. O. of _____ *in the said county, yeoman, &c.*] All acts, which subject men to new and other trials, than those by which they ought to be tried by the common law, being contrary to the rights and liberties of Englishmen, as they were settled by *magna charta*, ought to be taken strictly; and the court of king's bench will require, that it do appear upon the face of such proceedings, that the fact was an offence within the act, and that the justices have proceeded accordingly. *M.* 1 *An. K.* and *Chandler.* 1 *Salk.* 378. *L. Raym.* 581.

Therefore the particular manner of the offence ought to be set forth. Thus in the case of swearing, before the legislature by the act of the 19 G. 2. had directed a summary form of words for the conviction, it was required not only to set forth that the person had cursed or sworn in general, but the particular oaths and curses were to be set forth, that the court might judge thereupon, whether they were indeed oaths and curses or not. *H.* 8 G. K. and *Sparling.* *Strange* 497.

And in the case of *K. and Roberts*, *M.* 11 G. which was a conviction for swearing 150 oaths in these words *by god*, and cursing 150 curses in these words *god damn you*, this matter was carried so far, that it was insisted this was not sufficient, but that the oaths and curses ought to have been set forth 150 times each. But the oaths and curses being all only in the same words over again, the court held the conviction good. *Str.* 608. *L. Raym.* 1376.

And it seemeth, that a conviction on a penal statute ought expressly to shew, that the defendant is not within any of its provisions; for since no plea can be admitted to such a conviction, and the defendant can have no remedy against it, but from an exception to some defect appearing in the face of it, and all the proceedings are in a summary manner, it is but reasonable that such a conviction should have the highest certainty, and satisfy the court,

that the defendant had no such matter in his favour, as the statute it self allows him to plead. 2 *Hare*. 250.

But in the case of *K. and Ford*, T. 9 G. There was a conviction on the 3 C. c. 3. for keeping an alehouse without licence; and it was objected, that in the act there is a proviso to exempt persons who have been punished by the former law of the 5 & 6 Ed. 6. c. 25. and therefore it should have been said, he had not been proceeded against upon that act; But by the court, That coming in by way of proviso, he should have insisted on it in his defence; it appears he was asked what he had to say, and therefore we may reasonably presume he had no such defence to make. And the conviction was confirmed. *Strange* 555.

And in the case of *K. and Bryan*, M. 12 G. 2. The defendant was convicted on the gin act; and an exception was taken, that there was no averment, that it was not sold to be used in medicine: and the cases on the game act were mentioned, where in convictions it is necessary to exclude all the qualifications for killing game. On the other hand, it was insisted, that the reason of that was, because those were in the enacting clause, whereas this about medicine comes in by way of proviso, and is by way of defence to be shewn on the defendant's part: And for that purpose was cited, M. 11 G. *K. and Theed*; where in a conviction for obstructing an excise officer on the 8 An. c. 9. it was objected, that it not being averred to be in the day, it should have been shewn that there was a constable present, which is made necessary in the night; but was held to be well, and its being in the night, should have been shewn on the defendant's part. And by the court, This is brought within the general enacting clause: and the true distinction is, where the extenuation comes in by way of proviso, or exception. And the conviction was confirmed. *Strange* 1101.

Being duly summoned] T. 11 G. *K. and Venables*. The court were unanimously of opinion, that the party ought to be heard, and for that purpose ought to be summoned in fact; and that if the justices proceeded against a person without summoning him, it would be a misdemeanor in them, for which an information would lie. L. *Raym*. 1406.

And in the case of *K. and Allington*, H. 12 G. On affidavit that no summons was had, the court granted an information against the justice who made the conviction. *Strange* 678.

H. 6 G. *K. and Johnson*. The defendant was convicted for keeping a gun. And exception was taken, that there was not a reasonable summons; for it was made to appear the same day, which might be impossible upon account of the distance, or the summons being served late, and his witnesses might not be got together on so short a warning: then it was to appear at the parish aforesaid, whereas there were two parishes mentioned before; so the man might have gone to one, whilst they were convicting him at the other. It was answered, that the defendant appeared at the time, and made defence; so that cures

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all defects in the summons. And by the court, The answer is right. *Strange* 261.

H. 3 G. K. and Simpson. The defendant was convicted for deer stealing; and the conviction set forth, that he had been summoned to appear before the justices, but it did not appear he ever was before them. Exception was taken to this, that as no appeal lies in this case, the justices should not have proceeded in the absence of the party, especially where it may end in a corporal punishment, as it may do here for want of a distress. And at another day, on consideration, *Parker Ch. J.* delivered the resolution of the court: We are all of opinion, the offender may be convicted, without appearing. The statute is silent as to the method of proceeding, and the law of *England*, it is true, in point of natural justice, always requires the party charged with any offence, to be heard before he be condemned in judgment; but that rule must have this exception, unless it is through his own default: were it otherwise, every criminal might avoid conviction. *Strange* 44.

But, generally, it is not necessary to *set forth the summons in the conviction*; for although no summons is set forth, yet the court will intend one: but where a summons is set forth, and that summons appears to be irregular, the court will quash the conviction, there being then no room to intend any other summons. *11 G. K. and Venables. Sess. C. V. 1. 210. L. Raym. 1405.*

One credible witness, to wit, A. W. of ——— yeoman] It is requisite to name the witness, that it may appear he is not the same person who was the informer; for an informer who hath a share of the penalty, is never allowed to be a witness, unless in case where a statute shall specially so direct it.

On his oath aforesaid affirmeth and saith] In all convictions, being in the nature of judgments, the whole evidence ought to be set forth, or at least so much thereof as is sufficient to warrant the conviction; that the court of king's bench may judge of the sufficiency thereof: but otherwise it is in orders, which are authoritative. And so it was laid down in the case of *K. and Floyd, M. 8 G. 2.* which was thus; A motion was made to quash an order of sessions, made under the statute of the *1 W. c. 21. s. 6.* whereby the defendant was adjudged guilty *upon full proof* of the charge against him, and that he be discharged from his office of clerk of the peace, upon the objection that the evidence is not set out: But it was adjudged after consideration, that this was an order, and therefore the evidence need not be shewn; but that it would be otherwise if it was a conviction. *Andr. 82. Str. 996.*

M. 5 G. 2. K. and Theed. A conviction on the candle act was quashed, because the evidence was not set out; it being only alleged, that the offence was *fully and duly proved.* *Strange* 919. *Andr. 84.*

T. 6 G. K. and Baker. A conviction for taking pilchards, against the form of the statute, quashed; because the witness swears generally that the defendant *is guilty of the premises*, and that is taking upon himself to swear the law. *Strange* 316.

M. 11 W. K. and Fuller. A conviction ought to be certain, and not taken upon collection. *L. Raym.* 510.

And for his offence aforesaid hath forfeited] H. 3 G. 2. K. and Hawks. A conviction for killing a deer was quashed, because it was only ——— he is convicted, without any judgment of forfeiture. *Strange* 858.

To be distributed as the statute aforesaid doth direct] M. 9 An. K. and Barret. A conviction for deer stealing did set forth, that ——— he is convicted, and shall forfeit 30*l.* according to the form of the statute, without making a distribution, which ought to be 10*l.* to the informer, 10*l.* to the party grieved, and 10*l.* to the poor. But by the court, This is well enough; for by the statute he is only to forfeit in case he has goods, which is conditional, and not absolute. *1 Salk.* 383.

Note; On a suggestion that the defendant hath a title to the thing in question, a prohibition will be granted by the king's bench, before or after conviction, to stay the justice from proceeding; for without doubt if the defendant have but a colour of title, the justices have no jurisdiction in the cause, as where the defendant was convicted for cutting trees, where he had a right of common. *L. Rym.* 901.

Corn.

For the forestalling, ingrossing, or regrating of corn; see title *Forestalling*.

I. The measure of corn.

II. Licensing badgers of corn.

III. The offences of cutting corn growing, and of burning stacks of corn.

IV. Exportation of corn.

V. Importation of corn.

I. The measure of corn.

Buying corn in the sheaf without measuring.

TO buy or sell corn in the sheaf, before it is threshed and measured, is against the common law of *England*; and the reason thereof seemeth to be, for that by such sale the market is in effect forestalled. *3 Inst.* 197.

Penalty of selling otherwise than by Winchester measure.

2. If any person shall sell corn otherwise than by *Winchester* measure, sealed and stricken by the brim, he shall forfeit 40*s.* on conviction before one justice, on the oath of one witness; to be levied

Received of the Treasurer of the
County of ... the sum of ...
for ...

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levied by the churchwardens and overseers, or some of them, to the use of the poor, by distress and sale. In default of distress, imprisonment till paid. 22 C. 2. c. 8. f. 2.

And if any mayor, or other head officer, shall knowingly permit the same, he shall, upon conviction thereof at the county sessions, forfeit 5 *l.* half to the prosecutor, and half to the poor, by distress and sale; for want of distress, to be imprisoned by warrant of the justices, till payment be made. f. 3.

3. And moreover, every person who shall sell or buy corn, without measuring, being thereunto required, or in any other manner than is by the 22 C. 2. c. 8. directed, and that without shaking of the measure by the buyer, he shall, beside the penalty of that act, forfeit all the corn so bought or sold, or the value thereof, to the party complaining. 22 & 23 C. 2. c. 12. f. 2. Further penalty.

And on complaint made to a justice of the peace, that corn hath been bought, sold, or delivered contrary to this act, the proof shall lie upon the defendant, to make it appear by the oath of one witness, that he sold or bought the same lawfully; wherein if he shall fail, he shall forfeit as is said before, to be levied by distress and sale; which shall by the justice be distributed, half to the poor, and half to the informer. 22 & 23 C. 2. c. 12. f. 3.

4. But notwithstanding all the statutes that have been made, for the uniformity of measures throughout the realm, yet the measure of corn differs in many places, the bushel being greater in one place than in another. And altho' regularly, a custom or prescription against a statute is void, except it be confirmed by the statute, or saved by another statute; yet it is said, that in the measure of corn, the custom of the place is to be observed, if it be a custom beyond all memory, and used without any visible interruption. *Barl.* 578. Difference of measures.

II. Licensing badgers of corn.

1. No badger, lader, kidder, carrier, buyer, or transporter of corn or grain shall be licensed (A) but only such who is or hath been a married man, and is an householder, and not an household servant, nor retainer to any person, and of the age of 30 years at the least. 5 *El.* c. 12. f. 4. Who may be licensed to be a badger.

2. And he shall be licensed only in the open sessions of the shire where he hath dwelt for three years last past. 5 *El.* c. 12. f. 4. In sessions only.

3. Which licence shall bear date of the day and place where the sessions is holden, and shall be signed and sealed, by three justices at such sessions, one being of the *quorum*. 5 *El.* c. 12. f. 5. Date and signing.

4. And the justices at such sessions may take recognizance (B) that the person licensed shall not by colour thereof forestall or ingross, or do any thing contrary to the act against forestalling, ingrossing, and regrating, of the 5 & 6 *Ed.* 6. c. 14. 5 *El.* c. 12. f. 6. Recognizance to pursue the licence.

5. And the licence and recognizance shall be written by the clerk of the peace, or his deputy, and no other person; for which, he shall have 12 *d.* for the licence, and 8 *d.* for the recognizance, and for registering them both 4 *d.* For which fee, he

shall also keep a register book, and therein enter the names and dwelling places of the persons licensed, with a brief declaration of the licence, and of the day, time, and place when granted: which book he shall have at the sessions. 5 *El. c. 12. f. 6.*

How long the licence shall continue.

6. And such licence shall be only of force for one year. 5 *El. c. 12. f. 4.*

Penalty of being licensed otherwise.

7. Any person taking licence contrary hereto, shall forfeit to the king 5*l.* and the licence shall be void. 5 *El. c. 12. f. 5.*

Not to buy out of the market.

8. And no person, by authority of such licence, shall buy corn out of open fair or market, to sell again, unless he be thereunto particularly licensed, and have special and exprefs words in the licence, that he may so do; on pain of 5*l.* half to the king, and half to him that will sue. 5 *El. c. 12. f. 7.*

Sessions may determine,

9. And the sessions may hear and determine the offences aforesaid, by inquisition, presentment, bill, or information, and by examination of two witnesses, and make process thereupon, as upon indictment, and estreat the king's moiety, and award execution of the other moiety to the party, by *feri facias*, or *capias*, as the courts at *Westminster* may do. 5 *El. c. 12. f. 8.*

Not to extend to corporations.

10. But nothing of all this shall extend to prejudice the liberty of a city, or town corporate, but that they may licence purveyors for the provision thereof, as before this act. 5 *El. c. 12. f. 9.*

Not to extend to certain counties.

11. Also it is provided, that this shall not extend to the counties of *Westmorland*, *Cumberland*, *Lancaster*, *Chester*, and *York*; but that they may do as heretofore they have lawfully used to do. 5 *El. c. 12. f. 10.*

But by a general clause in the statute of the 13 *El. c. 25. f. 20.* these other counties seem now to be included; which enacts, that no person or persons (without any exception as to particular counties) shall be a buyer, badger, kidder, or carrier of corn in other manner than is contained in the statute made in the 5 *El. c. 12.* nor shall be any other ways admitted or licensed to be a buyer, badger, kidder, or carrier as aforesaid, than is mentioned and appointed by the said statute.

III. The offences of cutting corn growing, and of burning stacks of corn.

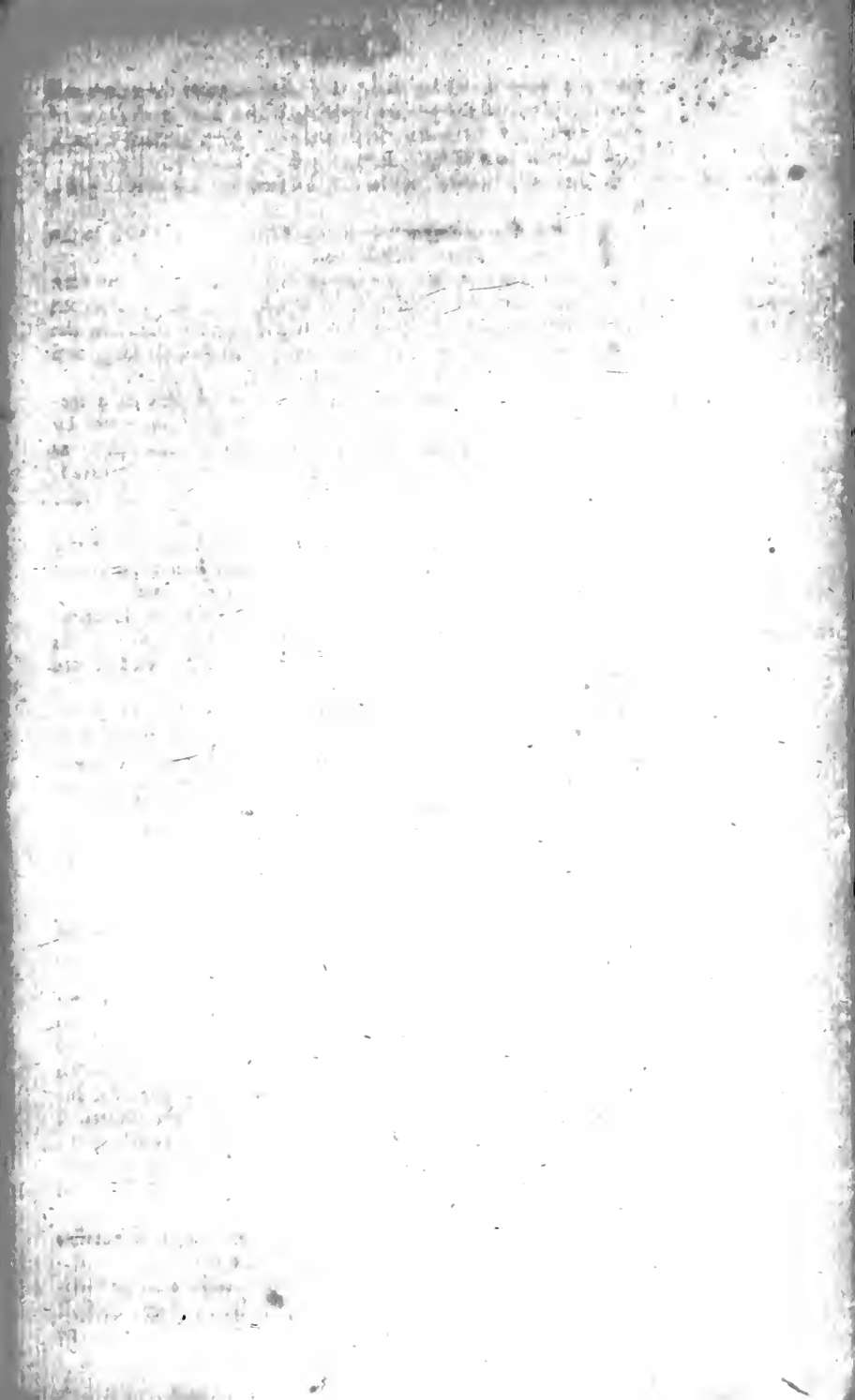
Cutting corn growing.

1. Every person who shall unlawfully cut or take away any corn or grain growing, being convicted thereof by confession, or oath of one witness, before one justice, shall for the first offence pay such damages as the justice shall appoint: and if the justice shall think him not able or sufficient, or if he do not pay such damages, he shall commit him to the constable where the offence is committed, or where the party is apprehended, to be whipped; and for every other offence he shall in like manner be whipped. The constable refusing, shall be committed by the justice, till he conform. 43 *El. c. 7.*

But if he cut it at one time, and then come again at another time and take it away, it is felony. 1 *Hen. 93.*

Burning corn in the night.

2. If any person shall, in the night time, maliciously and willingly burn or cause to be burnt, any sick or stack of corn, he shall be



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be guilty of felony: but to avoid judgment of death, he may make his election to be transported for seven years. And three justices (1 Q.) may determine the same. 22 & 23 C. 2. c. 7.

3. But by the 9 G. c. 22. commonly called the Black act, which is inserted more at large in the title of that name, and which by the last continuance is to be of force till Sep. 1. 1757. &c. If any person shall set fire to any mow or stack of corn, he shall be guilty of felony without benefit of clergy. f. 1.

Burning by night or day.

And the hundred shall answer the damages, not exceeding 200 l. f. 7, 8, 9, 10.

And if any person shall apprehend, or cause to be convicted, such offender, and shall be killed, or wounded so as to lose an eye, or the use of any limb, in apprehending or endeavouring to apprehend such offender, on proof thereof at the sessions, and certificate thereof from thence, the sheriff shall pay to the person intitled the sum of 50 l. in 30 days, to be repaid to him out of the treasury. f. 12.

IV. Exportation of corn.

1. The king may at any time, by proclamation, prohibit the exportation of corn generally, or out of any special ports by name, for such time as shall be therein limited. 1 J. c. 25. f. 27.

The king may prohibit by proclamation.

2. No duty or subsidy whatsoever shall be paid on the exportation of wheat, rye, barley, malt, beans, pease, or other grain, bread, biscuit, or meal. 11 & 12 W. c. 20. f. 4.

Duty on exportation taken off.

3. But when malt or barley are at or under 24 s. a quarter, rye 32 s. wheat 48 s. every person exporting the same in English shipping, shall have from the officers of the customs, for every quarter of barley or malt exported (ground or unground) 2 s. 6 d. of rye 3 s. 6 d. of wheat 5 s. 1 W. c. 12. And of wheat malt 5 s. 5 An. c. 29. f. 15.

Bounty on exportation.

And by 5 An. c. 8. art. 6. & ch. 29. f. 10. when oats do not exceed 15 s. a quarter, a bounty of 2 s. 6 d. a quarter shall be paid for oatmeal exported.

4. And if any person shall wilfully and maliciously beat, wound, or use any other violence to any person, with intent to hinder him from buying corn in any market or other place; or shall unlawfully stop or seize upon any waggon, cart, or other carriage, or horse, loaded with wheat, flour, meal, malt, or other grain, in or on the way to or from any city, market town, or sea port, and wilfully and maliciously break, cut, separate, or destroy the same, or any part thereof, or the harness of the horses drawing the same; or shall unlawfully take off, drive away, kill, or wound any of such horses; or unlawfully beat or wound the driver; or shall by cutting of the sacks, or otherwise, scatter or throw abroad such wheat, flour, meal, malt, or other grain, or shall take and carry away, spoil, or damage the same, or any part thereof: every such person, being convicted thereof, before two justices or the sessions, shall be sent to the gaol or house of correction, for any time not exceeding three months, nor less than one month, and be once publicly and openly whipped by the master of such gaol

Penalty of hindering exportation.

or house of correction, in such city, market town, or sea port, in or near which the offence shall be committed, on the first convenient market day, at the market cross, or market place there, between the hours of 11 and 2. 11 G. 2. c. 22 § 1.

And if any such person so convicted, shall commit any of the offences aforesaid a second time; or if any person shall wilfully and maliciously pull down, throw down, or otherwise destroy any storehouse, or granary, or other place where corn shall be then kept in order to be exported; or shall unlawfully enter any such storehouse, granary, or other place, and take and carry away any corn, flour, meal, or grain therefrom, or otherwise spoil or damage any meal, flour, wheat, or grain therein, intended for exportation: every person so offending, and being thereof lawfully convicted, shall be adjudged guilty of felony, and be transported for seven years. §. 2, 3.

And the hundred shall be liable to answer damages (not exceeding 100*l.*), to be sued for and levied as in cases of robbery; the person injured giving notice of the offence in two days, by himself or servant, to a constable of the hundred, or the constable of the place in or near which the fact shall be committed; and within ten days after such notice, giving in the examination on oath of himself, or of his servant present at the time of the fact, or having the care of such his property, before a justice of the peace, whether he knows the persons that committed the fact, or any of them; and if he confesses that he does, then the person so confessing, entering into recognizance to prosecute. 11 G. 2. c. 22. §. 5, 6.

But if an offender is convicted in 12 months, the hundred shall not be liable; and therefore the action must not be brought till after one year: nor shall it be commenced but within two years. §. 7, 8.

Note; It is proper here to take notice of a very odd mistake in some of the books, relating to an act made in the 14 G. 2. c. 3. by reason of which act one author asserts, that the statute last recited is of little use, because that now by the said statute of 14 G. 2. *no corn can be exported*: and another says, that by the said statute of 14 G. 2. *no corn shall be exported after Dec. 15. 1741*. And the mistake is no other than this; that instead of *after Dec. 15.* the statute says, *before Dec. 15. 1741*, none shall be exported; and the reason was, because at that time there was great scarcity of corn in the nation. To which may be added, that other books take no notice of either the one act or the other; perhaps from the above supposition, that the one act renders the other useless: by which it may seem, that the publishers of the new editions do not always bring down the alterations from the statutes themselves, but quote from one another.

V. Importation of corn.

Poundage on
importation.

1. When corn doth not exceed the following prices, the custom and poundage for corn imported shall be as follows: wheat not above 53*s.* 4*d.* a quarter, shall pay 16*s.* if above 53*s.* 4*d.* and not

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not above 4*l.* it shall pay 8*s.* rye not above 40*s.* a quarter, shall pay 16*s.* barley and malt not above 32*s.* a quarter, shall pay 16*s.* buck wheat not above 32*s.* a quarter, shall pay 16*s.* oats not above 16*s.* a quarter, shall pay 5*s.* 4*d.* pease or beans not above 40*s.* a quarter, shall pay 16*s.* 22 C. 2. c. 13. f. 1.

But when the prices exceed these rates, then the duties payable before this act, shall only be paid, *id. f. 2.* That is to say, for every quarter of wheat imported, 5*s.* 4*d.* of rye 4*s.* barley or malt 2*s.* 8*d.* buck wheat 2*s.* oats 1*s.* 4*d.* pease or beans 4*s.* 15 C. 2. c. 7. f. 3.

2. And that it may be known what price corn bears where such foreign corn is imported, the justices of the peace for the counties where foreign corn is imported, shall at every their quarter sessions give in charge to the grand jury to make enquiry and presentment upon their oaths, of the common market prices of the several sorts of middling *English* corn, as the same shall be commonly bought and sold in the county; which presentment shall be certified by the justices to the chief officer and collector of the customs at the port where the corn is imported, to be hung up in some publick place in the custom house. But this shall not extend to the city of *London.* 5 G. 2. c. 12. f. 1, 2, 3, 4.

3. And for preventing the fraudulent importation of foreign corn, no warrant shall be allowed for carrying forth to sea, to any other port, any foreign corn after importation; and no person shall carry forth the same, or procure it to be shipped for that purpose, on pain of forfeiting the same, and also 20*s.* for every bushel, and also the ship, with all her guns, tackle, and furniture; half to the king, and half to him who shall sue in any court of record. And the master and mariners, knowingly assisting therein, shall be imprisoned for three months. 5 G. 2. c. 12. f. 5.

A. Licence for a badger of corn.

Westmorland. **A**T the general quarter sessions of the peace held at _____ for the county aforesaid, the _____ day of _____ We A. B. C. D. and E. F. esquires, justices of the peace for the said county (one whereof is of the quorum) have licensed, and by these presents do license and admit G. H. of _____ being upwards of 30 years of age, and also being a married man, and an householder, and having been an inhabitant in the said county, for three years last past, to be a common badger, carrier, buyer, and seller of corn and grain in any market or fair whatsoever, and the same to convert into meal, and to carry to, and vend the same in any fair or market, from time to time, and at all times for and during the space of one whole year, from the date hereof; so as he do use and follow the said business, according to the true intent and meaning of the statutes in that case made and provided against regrators, fore-stallers, and ingrossers, and not otherwise. Given under our hands and seals the day and year first above-written.

B. Condition of the recognizance.

— that he shall not forestall, or ingross, or do any thing contrary to the true meaning of the statutes made against regrators, forestallers, and ingrossers, or any thing therein contained.

Coroner.

CORONERS are ancient officers by the common law, so called because they deal principally with the pleas of the crown, and were of old time the principal conservators of the peace. 2 *Harw.* 42.

Concerning whom I shall shew,

- I. *Who may be a coroner.*
- II. *How chosen.*
- III. *His power and duty in taking an inquisition of death.*
- IV. *His power and duty in other matters.*
- V. *His fees.*
- VI. *Punishment for not doing his duty.*

I. *Who may be a coroner.*

Dignity.

1. Of ancient time this office was of great estimation; for none could have it under the degree of a knight. 3 *Ed.* 1. c. 10; 4 *Inst.* 271.

Estate.

2. And by the 14 *Ed.* 3. *st.* 1. c. 8. No coroner shall be chosen unless he have land in fee, sufficient in the same county, whereof he may answer to all manner of people.

II. *How chosen.*

To be chosen in the county court.

1. The coroner (as of ancient time the sheriffs and conservators of the peace) shall be chosen in full county, that is, in the county court, by the commons of the same county. 28 *Ed.* 3. c. 6.

And this must be in pursuance of the king's writ for that purpose, issuing out of, and returnable into the chancery; and none but freeholders have a voice at such election, for they only are suitors to the county court. 2 *Harw.* 43, 44.

County to answer for him.

2. And being elected by the county, if he be insufficient, and not able to answer such fines and other duties in respect of his office, as he ought; the county, as his superior, shall answer for him. 2 *Inst.* 175.

3. And

The first part of the year was spent in
 the study of the history of the
 country. The second part was spent
 in the study of the natural history
 of the country. The third part was
 spent in the study of the political
 history of the country. The fourth
 part was spent in the study of the
 social history of the country. The
 fifth part was spent in the study
 of the economic history of the
 country. The sixth part was spent
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The first part of the year was spent in
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 of the country. The tenth part was
 spent in the study of the
 philosophical history of the
 country.

I have the honor to acknowledge the receipt of your letter of the 14th inst. in relation to the above mentioned matter. I have the pleasure to inform you that the same has been forwarded to the proper authorities for their consideration.

I am, Sir, very respectfully,
 Yours,
 J. H. [Name]

3. And being chosen by the county, his office continues, notwithstanding the demise of the king. *4 Inst.* 271. Office not void by the king's death.
4. And after he is chosen, he shall be sworn, by the sheriff, for the due execution of his office. *2 Hale's H.* 55. To be sworn.
5. But in the statute of 28 *Ed.* 3. which enacts that they shall be chosen by the county, there is a saving to the king and other lords, who ought to make coroners, their franchises. Others not chosen by the county.
6. The lord chief justice of the king's bench, by virtue of his office, is the chief coroner of *England.* *2 H. H.* 53. Chief Justice.

III. His power and duty in taking an inquisition of death.

1. When it happens that any person comes to an unnatural death, the township shall give notice thereof to the coroner. Otherwise, if the body be interred before he come, the township shall be amerced. *Hale's Pl.* 170. Notice.
2. And by *Holt Ch. J.* It is a matter indictable to bury a man that dies a violent death, before the coroner's inquest hath sat upon him. *2 Harv. Not.* 8. Burying without notice.
3. And if the township shall suffer the body to lie till putrefaction, without sending for him, they shall be amerced. *Hale's Pl.* 170. *2 Harv.* 48. Lying unburied.
4. When notice is given to the coroner, he is to issue a precept to the constables of the four or six next townships, to return a competent number of good and lawful men of their townships, to appear before him in such a place, to make an inquisition touching that matter. *2 H. H.* 59. Or he may send his precept to the constable of the hundred. *Wood* 848. Precept to summon a jury.
5. These are to be at least 12; and it is said, that all persons of the neighbouring towns, above the age of 12 years, are bound to attend at the taking the inquisition, unless they have a reasonable excuse to the contrary. *2 Inst.* 148. *2 Harv.* 54. Jury.
6. If the constables make not a return, or the jurors returned appear not, their defaults are to be returned to the coroner; and the constables or jurors in default shall be amerced before the judges of assize. *2 H. H.* 59. Default in not appearing.
7. The jury appearing is to be sworn and charged by the coroner to enquire, upon the view of the body, how the party came by his death. *2 H. H.* 60. Swearing and charge.
8. For he can take indictments of death, only upon view of the body, and not otherwise; therefore if the body be interred before he come, he must dig it up. And this he may do lawfully, within any convenient time, as in 14 days. *Hale's Pl.* 170. *2 Harv.* 48. View of the body.
9. If the body cannot be viewed, the coroner can do nothing; and the justices of the peace shall inquire thereof. *Hale's Pl.* 170. *2 Harv.* 48. Where the body cannot be viewed.
10. The jury being sworn, and the body upon view, he shall inquire upon the oaths of them, in this manner, by the statute of *4 Ed. 1. §. 2.* called the statute *de officio coronatoris*; viz. Form of the charge, where a person is slain.

If they know where the person was slain; whether it were in any house, field, bed, tavern, or company:

Who are culpable, either of the act, or of the force; and who were present, either men or women, and of what age soever they be, if they can speak, or have any discretion:

And how many soever be found culpable, they shall be taken and delivered to the sheriff, and shall be committed to the gaol;

And such as be found, and be not culpable, shall be attached until the coming of the judges of assize.

Where a person slain is found in the fields or woods.

11. And, by the same statute, if it fortune any such man be slain, which is found in the fields, or in the woods, first it is to be inquired, whether he was slain in the same place or not:

And if he were brought and laid there, they shall do so much as they can to follow their steps that brought the body thither, whether he were brought upon a horse, or in a cart:

It shall be also inquired, if the dead person were known, or else a stranger, and where he lay the night before.

Wounds.

12. Also, by the same statute, all wounds ought to be viewed, the length, breadth, and deepness; and with what weapons; and in what part of the body the wound or hurt is; and how many be culpable; and how many wounds there be; and who gave the wound.

Defendants evidence.

13. And they must hear evidence on all hands, if it be offered to them, and that upon oath, because it is not so much an accusation or an indictment, as an inquisition or inquest of office. 2 H. H. 157.

To inquire of the murderer's lands and goods.

14. And by the aforesaid statute, if any be found culpable of the murder, the coroner shall immediately go to his house, and shall inquire what goods he hath, and what corn he hath in his graunge; and if he be a freeman, they shall inquire how much land he hath, and what it is worth yearly, and further, what corn he hath upon the ground: and likewise of his freehold, how much it is worth yearly, over and above the service due to the lord of the fee; and the land shall remain in the king's hands, until the lords of the fee have made fine for it:

And when they have thus enquired upon every thing, they shall cause all the land, corn, and goods to be valued, in like manner as if they should be sold immediately; and thereupon they shall be delivered to the whole township, which shall be answerable before the judges for all.

Persons drowned or suddenly dead.

15. In like manner, by the said statute, it is to be inquired of them that be drowned, or suddenly dead, whether they were so drowned, or slain, or strangled by the sign of a cord tied streight about their necks, or about any of their members, or upon any other hurt found upon their bodies. And if they were not slain, then ought the coroner to attach the finders, and all other in the company.

Flight.

16. He shall also inquire, whether the persons found guilty, fled; for which flight they forfeit goods and chattels. 2 Hawk. 48, 53.

I have been thinking of you very much lately
 and wondering how you are getting on.
 I hope you are well and happy.
 I have not much news to write at present.
 Everything is going on as usual here.
 I am still working hard and trying to
 do my best for the church.
 I have been thinking of you very much lately
 and wondering how you are getting on.
 I hope you are well and happy.
 I have not much news to write at present.
 Everything is going on as usual here.
 I am still working hard and trying to
 do my best for the church.

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17. And if any person be slain or murdered in the day time, and the murderer escape untaken, the township shall be amerced. Township. amerced for an escape.
 3 *H. 7. c. 1.*
18. Concerning horses, boats, carts, and the like, whereby any are slain, which properly are called deodands, they also shall be valued, and delivered unto the towns as before. Deodands.
 4 *Ed. 1. f. 2.*
19. All which things must be inrolled in the rolls of the coroner. Coroner's rolls.
 4 *Ed. 1. f. 2.*
20. And the sheriffs shall have counter rolls with the coroner, of things belonging to their office. Sheriff's rolls.
 3 *Ed. 1. c. 10.*
21. But it is not necessary that the inquisition be taken in the very same place where the body was viewed; but they may adjourn to a place more convenient. Adjourning after view.
 2 *Harw. 48.*
22. Immediately upon these things being inquired, the bodies of such persons being dead, or slain, shall be buried. Burial.
 4 *Ed. 1. f. 2.*
23. By the 1 *E. & 2 P. & M. c. 13. f. 5.* Every coroner, upon any inquisition before him found, whereby any person shall be indicted for murder or manslaughter, or as accessory before the offence committed, shall put in writing the effect of the evidence given to the jury before him, being material; and shall bind over the witnesses to the next general gaol delivery to give evidence; and shall certify the evidence, the recognizance, and the inquisition or indictment before him taken and found, at or before the trial, on pain of being fined by the court. Certifying to the assizes.
- By the express words of which statute, he may inquire of *accessaries before the fact*; but he cannot inquire of *accessaries after the fact*. 2 *Harw. 48.*
24. He ought also to inquire of the death of all persons who die in prison; that it may be known, whether they died by violence, or any unreasonable hardships: for if a prisoner, by the dures of the gaoler, comes to an untimely death, it is murder in the gaoler, and the law implies malice in respect of the cruelty. Persons dying in gaol.
 3 *Inst. 52, 91.*
25. If the inquisition shall be quashed in the court of king's bench, the coroner by leave of the court may take up the body again, and take a new inquisition. Inquisition quashed in the court of king's bench.
E. 5 G. K. and Saunders. Str. 167. M. 9 G. Case of the coroner of Wenlock. Str. 533.

IV. His power and duty in other matters.

1. He ought to inquire of treasure that is found; who were the finders, and likewise who is suspected thereof; and that may well be perceived, where one liveth riotously, haunting taverns, and hath done so of long time: hereupon he may be attached for this suspicion, by four, or six, or more pledges, if he may be found. Treasure trove.
 4 *Ed. 1. f. 2.*
2. Besides his judicial place, he hath also an authority ministerial as a sheriff, namely, when there is just exception taken to the sheriff, judicial process shall be awarded to the coroner, for the execution of the king's writs: and in some special cases, Executing process.
 the

the king's original writ shall be immediately directed to him.
4 *Inst.* 271.

Outlawry.

3. He is bound to be present in the county court, to pronounce judgment of outlawry upon the exigent, after *quinto exactus*, at the fifth court, if the defendant doth not appear.
Wood 833.

Appeals.

4. He had anciently also a power in certain appeals, as of rape, and maim; which are now out of use.

V. His fees.

Fee of 13s. 4d.

1. By the statute of 3 *H.* 7. c. 1. The coroner shall have for his fee, upon every inquisition taken upon the view of the body slain, 13s. 4d. of the goods and chattels of him that is the slayer and murderer, if he have any goods; and if not, he shall have for his said fee, of such amerancements as shall fortune any township to be amerced for escape of such murderer.

Fee of 20s. and 9d. a mile.

2. Moreover, by the 25 *G.* 2. c. 29. For every inquisition (not taken upon view of a body dying in gaol) he shall have 20s. and also 9d. for every mile he shall be compelled to travel from his usual place of abode to take such inquisition; to be paid by order of the justices in sessions, out of the county rates; for which order no fee shall be paid. *f.* 1.

And for every inquisition taken on view of a body dying in prison, he shall be paid so much, not exceeding 20s. as the justices in sessions shall allow; to be paid in like manner. *f.* 2.

But no coroner of the king's household, and of the verge of the king's palaces; nor any coroner of the admiralty; or of the county palatine of *Durham*; nor of the city of *London* and borough of *Southwark*, nor any franchises belonging to the said city; nor of any city, town, or franchise, not contributing to the county rates, or within which such rates have not been usually assessed, shall be intitled to any benefit by this act; but they shall have such fees and salaries as they were allowed before this act, or as shall be allowed by the persons by whom they have been appointed. *f.* 5.

VI. His punishment for not doing his duty.

His punishment for neglect of duty.

1. Coroners concealing felonies, or not doing their duty thro' favour to the misdoers, shall be imprisoned a year, and fined at the king's pleasure. 3 *Ed.* 1. c. 9.

2. And by the 3 *H.* 7. c. 1. If any coroner be remiss, and make not inquisitions upon the view of the body dead, and certify the same to the gaol delivery; he shall forfeit to the king an hundred shillings.

3. And by the 25 *G.* 2. c. 29. If any coroner, not appointed by an annual election or nomination, or whose office is annexed to any other office, shall be convicted of extortion for taking more than his lawful fees, or of wilful neglect of his duty, or misdemeanor in his office; the court may adjudge him to be removed from

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CHAPTER

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from his office; and thereupon, if he shall have been elected by the freeholders, a writ shall issue for the removing him, and electing another in his stead; and if he hath been appointed by the lord of any liberty or franchise, or in any other manner than by the freeholders, the person intitled to nomination, shall on notice of such judgment of removal, nominate another person in his stead. *f. 6.*

4. And he ought to execute his office in person, and not by deputy; for he is a judicial officer. *Wood 141.* Otherwise it seemeth that he shall incur the aforefaid penalties, for remissness or neglect of duty.

The coroner's precept to summon a jury.

Westmorland. { To the high constable of — in the said county.

THESE are in the name of our sovereign lord the king, to require you, immediately upon sight hereof, to summon and warn 24 good and lawful men of the four next townships to — in the said county, to be and appear before me A. C. gentleman, one of the coroners of the county aforefaid, at — aforefaid in the said county, on the — day of — then and there to inquire of, do, and execute all such things as on his majesty's behalf shall be lawfully given them in charge. Whereof fail not, as you will answer the contrary at your peril. Given under my hand and seal, the — day of —.

The jurors oath on the coroner's inquest.

YOU shall diligently inquire, and true presentment make, on the behalf of our sovereign lord the king, how and in what manner A. D. (or, a person unknown, as the case is) here lying dead, came to his death; and of such other matters relating to the same as shall be lawfully required of you, according to your evidence: So help you god.

After the foreman is sworn, the rest may be sworn, three or four together, as follows;

Such oath as A. F. the foreman of this inquest hath for his part taken, you and every of you shall well and truly observe and keep on your parts respectively: So help you god.

Inquisition of murder.

Westmorland. **A**N inquisition indented, taken at — in the county of — aforefaid, the — day of — in the — year of the reign of — before me A. C. gentleman, one of the coroners of our lord the king, for the county aforefaid, upon the view of the body of A. D. then and there lying dead, upon the oaths of A. B. C. D. E. F. &c. good and lawful

men of ——— aforesaid, and of three other of the next towns, to wit, K. L. and M. in the said county, who being sworn and charged to inquire on the part of our said lord the king, when, where, how, and after what manner, the said A. D. came to his death, do say upon their oath, that one A. M. late of ——— aforesaid, gentleman, not having god before his eyes, but being moved and seduced by the instigation of the devil, on the ——— day of ——— in the ——— year of ——— aforesaid, at the first hour in the night of the same day, with force and arms, at ——— in the county aforesaid, in and upon the aforesaid A. D. then and there being in the peace of god and of the said lord the king, feloniously, voluntarily, and of his malice forethought, made an assault; and that the aforesaid A. M. then and there with a certain sword made of iron and steel, of the value of 5 s. which he the said A. M. then and there held in his right hand, the aforesaid A. D. in and upon the left part of the belly of the said A. D. a little above the navel of the said A. D. then and there violently, feloniously, voluntarily, and of his malice forethought, struck and pierced, and gave to the said A. D. then and there with the sword aforesaid, in and upon the aforesaid left part of the belly of the said A. D. a little above the navel of the said A. D. one mortal wound of the breadth of half an inch, and of the depth of three inches, of which said mortal wound the aforesaid A. D. then and there instantly died; and so the said A. M. then and there feloniously killed and murdered the said A. D. against the peace of our said lord the king, his crown and dignity.

And the said jurors further say, upon their oath aforesaid, that A. A. of ——— yeoman, and B. A. of ——— yeoman, were feloniously present with drawn swords, at the time of the felony and murder aforesaid in form aforesaid committed, that is to say, on the said ——— day of ——— in the ——— year aforesaid, at ——— aforesaid in the county aforesaid, at the first hour in the night of the said day, then and there comforting, abetting, and aiding the said A. M. to do and commit the felony and murder aforesaid in manner aforesaid, against the peace of our said lord the king, his crown and dignity.

And moreover, the jurors aforesaid, upon their oath aforesaid, do say, that the said A. M. A. A. and B. A. had not, nor any of them had, nor as yet have or hath any goods or chattels, lands or tenements, within the county aforesaid, or elsewhere, to the knowledge of the said jurors.

In witness whereof, as well the aforesaid coroner, as the jurors aforesaid, have to this inquisition put their seals, on the day and year aforesaid, and at the place aforesaid.

A. C. Coroner.

A. B.

C. D.

E. F. &c. jurors.

An inquisition where one hangs himself.

——— As above to ——— not having god before his eyes, but being seduced and moved by the instigation of the devil, at ——— aforesaid, in a certain wood at ——— aforesaid standing and being,

The first part of the book is devoted to a general history of the world, from the beginning of time to the present day. The author has followed the usual plan, and has treated the subject in a clear and concise manner. The second part of the book is devoted to a history of the British Empire, from the reign of King James I. to the present day. The author has followed the usual plan, and has treated the subject in a clear and concise manner.

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An important factor in the development of the colonies

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being, the said A. D. being then and there alone, with a certain hempen cord of the value of 3d. which he then and there had and held in his hands, and one end thereof he then and there put about his neck, and the other end thereof he tied about a bough of a certain oak-tree, and himself then and there, with the cord aforesaid, voluntarily and feloniously, and of his malice forethought, hanged and suffocated; and so the jurors aforesaid, upon their oath aforesaid say, that the said A. D. then and there in manner and form aforesaid, as a felon of himself, feloniously, voluntarily, and of his malice forethought, himself killed, strangled, and murdered, against the peace &c.

An inquisition where one drowns himself.

_____ at _____ aforesaid, in the county aforesaid, then and there being alone, in a common river there, called _____ himself voluntarily and feloniously drowned; And so the jurors aforesaid, upon their oath aforesaid say, that the aforesaid A. D. in manner and form aforesaid, then and there himself voluntarily and feloniously as a felon of himself killed and murdered; against the peace _____.

An inquisition upon one who dies in gaol.

_____ who say upon their oath, that the aforesaid A. D. on the day of the taking of this inquisition, being a prisoner in the gaol at _____ in the county aforesaid, then and there and of the visitation of god, and then and there in manner and form aforesaid came to his death, and not otherwise. In witness &c.

An inquisition on one non compos mentis.

_____ who say upon their oath, that the aforesaid A. D. on the day and year aforesaid, and at the time of his death, to wit, from the _____ day of _____ to the time of his death, and at the time of his death aforesaid, was a lunatick, and a person of insane mind; and that the said A. D. being a lunatick and a person of insane mind as aforesaid, did on the _____ day of _____ come alone to a certain river, called _____ in the said county, and did then and there cast himself into the said river, and drowned himself in the water of the said river. And so the jurors aforesaid, upon their oath aforesaid say, that the aforesaid A. D. from the cause aforesaid, in manner and form aforesaid, came to his death, and not otherwise. In witness &c.

An inquisition on one for cutting his throat.

_____ by the instigation of the devil, at _____ aforesaid in the county aforesaid, in and upon himself, then and there being in the peace of god and of the said lord the king, feloniously, voluntarily, and of his malice forethought, made an assault; and that the aforesaid A. D. then and there with a certain knife, of the value of

one penny, which he the said A. D. then and there held in his right hand, himself upon his throat then and there feloniously, voluntarily, and of his malice forethought did strike, and gave to himself then and there with the knife aforesaid, upon his throat aforesaid, one mortal wound, of the breadth of four inches, and the depth of one inch, of which said mortal wound the said A. D. at _____ aforesaid in the county aforesaid languished, and languishing lived, from the said _____ day of _____ in the _____ year aforesaid, to the _____ day of _____ and that the said A. D. on the _____ day of _____ aforesaid, in the _____ year aforesaid, at _____ aforesaid, in the county aforesaid, of that mortal wound died. And so the jurors aforesaid &c.

For killing another in his own defence.

_____ upon their oaths say, that A. K. late of _____ gentleman, at _____ aforesaid in the said county, on the _____ day of _____ in the _____ year of _____ in the peace of god and of our said lord the king then being, A. M. late of _____ in the county of _____ at the hour of _____ in the afternoon of the same day, did come, and upon him the said A. K. then and there of his malice forethought did make an assault, and him the said A. K. did then and there endeavour to beat and kill, by continuing the assault aforesaid, from the house of one W. H. in _____ aforesaid to a certain place called _____ in the county aforesaid, and the said A. K. seeing that the said A. M. was so maliciously disposed, to a certain wall in the said place, called _____ did flee, and from thence for fear of death could not escape, and so the said A. K. himself, in preservation of his life, against the said A. M. continued to defend, and in his own defence him the said A. M. upon the right part of the breast of him the said A. M. with a certain sword of the price of one shilling, which the said A. K. then and there held in his right hand, did strike, then and there giving to the said A. M. one mortal wound, of the breadth of one inch and of the depth of three inches, of which said mortal wound the said A. M. at _____ aforesaid in the county aforesaid languished, and languishing lived from the said _____ day of _____ to the _____ day of _____ from thence next ensuing, and that the said A. M. on the said _____ day of _____ in the _____ year aforesaid, at _____ aforesaid in the said county, of that mortal wound died; And so the said A. K. did then and there kill him the said A. M. in his own defence.

An inquisition where the murderer is unknown.

_____ The same as before, only say _____ that a certain person unknown &c. and add _____ And the said jurors upon their oath aforesaid further say, that the said person unknown, after he had committed the said felony and murder in manner aforesaid, did fly away: Against the peace &c.

Cottage.

A Cottage (Sax. *Cote*) is a little house for habitation, without any land belonging to it. *Wood* 763.

By the 31 El. c. 7. No person shall build any cottage for habitation, nor convert any building to be used as a cottage for habitation, unless he lay to the same four acres of ground at the least, according to the statute or ordinance de terris mensurandis, being his own freehold or inheritance lying near to the said cottage, to be continually occupied and manured therewith, so long as the same cottage shall be inhabited; on pain of 10l. to the king. §. 1.

And every person who shall uphold and continue any such cottage, to be erected or converted for habitation, whereunto four acres shall not be laid to be occupied therewith, shall forfeit to the king 40s. for every month. §. 2.

And there shall not be any inmate, or more families than one, dwelling in any one cottage; on pain that the owner or occupier shall forfeit to the lord of the leet 10s. a month, who on presentment may levy the same by distress, or sue for it in any court of record. §. 3.

And the justices of assize, justices of the peace in sessions, and every lord within his leet, and no others, may hear and determine all offences against this act, by indictment, or by presentment, or information, and award execution by fieri facias, elegit, capias, or otherwise. §. 4.

But this act shall not extend to any cottage in any city, town corporate, or ancient borough, or market town; nor to any cottages for workmen only, in any mineral works, coal mines, quarries, or dells of stone or slate, or in making brick, tile, lime, or coals, so as they be not above one mile distant from the place of working. §. 5.

Also this shall not extend to any cottage within a mile of the sea, or on the side of a navigable river where the admiral ought to have jurisdiction, so long as no person shall inhabit therein, but a sailor, or man of manual occupation for furnishing any ship or vessel; nor to any cottage to be made in any forest, chase, warren, or park, so long as no other person shall therein inhabit, but an under keeper or warrener; nor to any cottage heretofore made, so long as no other person shall therein inhabit, but a common herdsman or shepherd, for keeping the cattle or sheep of the town, or a poor, lame, sick, aged, or impotent person; nor to any cottage to be made, which for any just respect, on complaint to the assizes or sessions, shall by their order be decreed to continue for habitation, so long only as by such decree shall be limited. §. 6.

And by the 43 El. c. 2. The churchwardens and overseers, by consent of the lord of the manor, may erect cottages on the wastes and commons, for the habitation of the poor, but for no other purpose. §. 5.

No person shall build any cottage for habitation] An indictment for erecting a cottage contrary to the statute, was quashed; because it was not said that any inhabited it: for if it was not inhabited, it was no offence. 1 *Ventr.* 107.

According to the statute or ordinance de terris mensurandis] That is, after 16 $\frac{1}{2}$ foot to the pole. 2 *Inst.* 737.

Being his own freehold or inheritance] Therefore neither grounds holden by copy, or for life or lives, or for any number of years will serve: and it must be freehold, either in fee simple, or fee tail. 2 *Inst.* 737.

Justices of assize, justices of the peace in sessions, and every lord within his leet] So that there is a concurrent power in every of these three; and the judgment of such one of them as doth first enquire of, hear, and determine the same, shall stand. 2 *Inst.* 739.

Nor to any cottage heretofore made] That is, erected before the making of this act.

Finally, Lord Coke observing upon this act of the 31 *El.* says, The inconveniences that grow by unlawful cottages against this statute are great; being neits to hatch idleness, the mother of pickings, thieveries, stealing of wood, and the like; tending also to the prejudice of lawful commoners, for that new erected cottages within the memory of man, tho' they have four acres of ground, or more, laid to them, according to this act, ought not to common in the wastes of the lord; but the greatest inconvenience of all is, the ill breeding and educating of youth; which inconveniences may be easily helped and remedied, by the provisions of this excellent law, if lords of leets and their stewards would look to the execution of this act, which (he says) he holds to be the readiest means; for albeit the cottage erected, or converted, cannot by any provision in this statute be demolished, or pulled down, yet the execution of the penalty of this act will make it uninhabitable, and work the desired effect. And they may also be amerced, for wrongful commoning, in the court baron. 2 *Inst.* 740.

Counterfeit. See Coin, Cheat, Forgery.

County court.

County,

1. **A**NCIENTLY, the *comites*, *counts*, or *earls*, had the government of the counties; and afterwards the *vice-comites* or *sheriffs*. And the county seemeth to be nothing else, but the district of the *comes* or *count*. *Shire* is a Saxon word, from *styran*, to share or divide, for that the shires or counties are divided

County Court

And by the Court, the same is ordered, that the said ...

The Court doth hereby order, that the said ...

It is the order of the Court, that the said ...

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divided by certain metes and bounds from each other. And the sheriff, in *Saxon scyregerefa*, is the *reve*, *grave*, or governor of the *shire*; wherein he hath great power, being therein the chief officer under the king.

2. The sheriff holdeth in his county two courts; the *torn*, and County court. the *county court*: The *torn* is the king's court of record, for criminal causes, and for redressing of common grievances within the county; the *county court* is not a court of record, but only a court baron, for civil causes, and this is the court of the sheriff himself.

3. By the 2 & 3 Ed. 6. c. 25. No county court shall be longer deferred than one month from court to court, so that the county court shall be kept every month, and not otherwise. When to be holden.

And this is to be accounted 28 days to the month, and not according to the month of the kalendar. 2 *Inst.* 71.

4. It may be kept at any place within the county, unless restrained by statute. *Wood* 832. Where to be kept.

5. The suitors, that is, the freeholders, are the judges in this court; except that in re-disseisin, by the statute of *Merton*, the sheriff is judge. And by the statutes concerning parliamentary elections, he is judge at the election of knights; for he must make a true return at his peril. *Barl. County Court.* How far the sheriff is judge.

6. This court shall hold pleas betwixt party and party, where the debt or damage is under 40s. 4 *Inst.* 266. Of what sum this court hath cognizance.

But in a *replevin*, the sum may be above 40s. 4 *Inst.* 266.

7. Also it hath not cognizance of trespass *vi & armis*, because a fine is thereby due to the king, which it cannot impose. Of what offences this court hath cognizance. 4 *Inst.* 266.

8. And by the 11 H. 7. c. 15. No plaint shall be entred in the county court, but where the plaintiff or his attorney is present; and the plaintiff shall find pledges to pursue his plaint; and he shall have but one plaint for one trespass or contract; on pain of 40s. half to the king, and half to the prosecutor. And one justice may examine the sheriff or other officer, making default; and shall, within a quarter of a year, certify the examination into the exchequer. One plaint for one trespass or contract.

But as to the pledges abovementioned, they are now disused in this court; and were formerly used only in cases where the plaintiff lived out of the county. *Greenw.* 11. *Read. County C.*

9. But by virtue of a writ of *justicies*, the court may hold plea of trespass *vi & armis*, and of any sum, or of all actions personal above 40s. For this writ is in the nature of a commission to the sheriff, and is *vicontiel*, that is, belongs to the sheriff, and is triable in the county court, and is not returnable. 4 *Inst.* 266. Writ of justicies.

10. By the 12 G. 2. c. 13. f. 7. If any person shall commence or defend any action, or sue out any writ, process, or summons, or carry on any proceedings in the county court, who shall not be admitted attorney or solicitor according to the act of 2 G. 2. c. 23. he shall forfeit 20l. with costs, to him who shall sue in any court of record. Who shall act as attorney in this court.

Which said act of 2 G. 2. hath continuance by the 22 G. 2. c. 46. to June 24. 1757, &c.

Summons.

11. The plaintiff in this court first takes out a summons, returnable at the next county court; and if the defendant do not appear, an attachment or *distingas* is to be made out: but if the defendant appears, the plaintiff is to file his declaration, shewing his cause of action, or matter of complaint, in what manner the action accrued, at what time and place the wrong was done, and the damage he hath sustained. *Greenw. 11. Read. County C.*

Declaration.

12. If the defendant doth appear, and the next court after gives a rule to declare, and the plaintiff doth not file his declaration within the time, he may be nonsuited. *id.*

Continuance.

13. When the plaintiff hath declared, he must continue his suit from court day to court day, otherwise the defendant may take advantage of it; and this is called a continuance, being an adjourning of the suit from time to time, to keep it on foot. *id.*

Dies datus.

14. The rule, or *dies datus*, is when farther day is given to the plaintiff to declare, or to the defendant to plead; and the time given is usually to the next court day, but upon occasion may be enlarged. *id.*

Answer.

15. The next court after filing the declaration, and imparlance given, the defendant is to put in his answer or plea, and if the plaintiff join issue, they may proceed to trial the next court day, if they proceed not farther by replication, rejoinder, surrejoinder, and the like. *id.*

Plea of freehold.

16. But if freehold is pleaded by the defendant, this court can proceed no further, for freehold shall never be tried without writ; therefore the cause must be removed: as when a defendant avoweth for damage feasant, and the plaintiff justifieth by reason of common of pasture. *Wood 833.*

Judgment and distress.

17. Where a verdict is given for the plaintiff, and judgment entred thereupon, a *feri facias* may be awarded against the defendant's goods, which may be taken by virtue thereof, and appraised and sold, to satisfy the plaintiff; but if the defendant hath no goods whereupon to levy, the plaintiff remains without remedy in this court, for it being no court of record, no *capias* lies there; but an action may be brought at common law upon the judgment entred. *Greenw. 22. Read. County C.*

Removal by recordare.

18. Causes are removed out of this court, by a writ of *recordare*, which issues out of the chancery, directed to the sheriff, commanding him to send the plaint that is before him in his county court (without writ of *justicies*) into the court of king's bench, or common pleas, to the end the cause may be there determined. And the sheriff is hereupon to summon the other party to be in that court (into which the plaint is to be sent) at a day certain. And of all this he is to make a certificate under his own seal, and the seals of four suitors of the same court. *Read. County C.*

Removal by pone.

19. Causes are also removed by *pone*, which differs in nothing from a *recordare*, but that it removes such suits as are before the sheriff by writ of *justicies*, and a *recordare* is to remove the suit that is by plaint only, without writ. *id.*

COMMUNITY CENTER

The purpose of this community center is to provide a place where people can meet and talk over their problems. It is a place where people can get help and advice. It is a place where people can learn new things and have fun. It is a place where people can feel better and more like they belong.

The center will be open every day from 10:00 a.m. to 6:00 p.m. There will be a staff of people who will be there to help you. There will be a lot of things to do and a lot of people to meet.

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20. And altho' the plea be discontinued in the county, yet the plaintiff or defendant may remove the plaint into the common pleas or king's bench, and it shall be good, and he shall declare upon the same. *id.* Removal after discontinuance.

21. In this court, after the *quinto exaltus*, the coroner gives judgment of outlawry. *4 Inst.* 266. Outlawry pronounced.

22. Out of the county court is derived the hundred court, for the ease of the subject; and it hath like jurisdiction as the county court, and may be held every three weeks. *2 Inst.* 71. Hundred court.

County rate.

1. **T**HE several rates hereafter following, in order to avoid the inconveniences of separate collections, shall for the future be levied and raised by one general county rate; Several rates thrown into one general county rate.

That is to say,

(1) For repairing county bridges, and highways thereto adjoining, and salaries for the surveyors of bridges; as directed by the *22 H. 8. c. 5.* and *1 An. st. 1. c. 18.*

(2) For building and repairing county gaols; by *11 & 12 W. c. 19.*

(3) For the master of the house of correction his salary, and relieving the weak and sick in his custody; by the *7 J. c. 4.*

(4) For relief of the prisoners in the king's bench and marshalsea prisons, and of poor hospitals in the county, and of those that shall sustain losses by fire, water, the sea, or other casualties, and other charitable purposes for relief of the poor; by the *43 El. c. 2.*

(5) For relief of prisoners in the county gaol; by *14 El. c. 5.*

(6) For setting prisoners on work; by the *19 C. 2. c. 4.*

All which said six distinct rates (and that for vagrants by the *11 An.* now repealed) are incorporated into one general county rate, by the *12 G. 2. c. 29.* And by the said statute, and other subsequent statutes, these other following charges are likewise directed to be paid out of the said general county rate; to wit,

(7) The treasurer's salary; by the *12 G. 2. c. 29.*

(8) Charges attending the removal of any the said general county rates by *certiorari*; by the *12 G. 2. c. 29.*

(9) Money for purchasing lands at the ends of county bridges; by the *14 G. 2. c. 33.*

(10) Charges of building or repairing houses of correction, and for sitting up and furnishing the same, and employing the persons sent thither; by the *17 G. 2. c. 5. s. 33.*

(11) Charges of apprehending, conveying and maintaining rogues and vagabonds; by the *17 G. 2. c. 5.*

(12) Charges of the soldiers carriages, over and above the officers pay for the same, by the several yearly acts against mutiny and desertion.

(13) The

(13) The coroner's fee of 9d. a mile for travelling to take an inquisition, and 20s. for taking it; by the 25 G. 2. c. 29.

(14) Charges of carrying persons to the gaol, or house of correction; by the 27 G. 2. c. 3.

(15) Charges of prosecuting and convicting felons; by the 25 G. 2. c. 36. and 27 G. 2. c. 3.

(16) Charges of prosecuting and convicting persons plundering shipwrecked goods; by the 26 G. 2. c. 19.

To which may be added these following, by former statutes; viz.

(17) By the 6 G. c. 23. The charges of transporting felons are directed to be paid by the treasurer out of the county stock; which is now the same in effect, as to charge it upon the general county rate; since there can be no county stock in the treasurer's hands but that.

(18) Charges of bringing insolvent debtors to the assizes, in order to their discharge, if themselves are not able to pay; by the 3 G. 2. c. 27.

(19) Charges of carrying parish apprentices, bound to the sea service, to the port to which the master belongeth; by the 2 & 3 An. c. 6.

Sessions to lay
the rate.

2. And that the same may be collected with as much ease, and as little expence as possible, the justices at their general or quarter sessions, or the greater part of them, shall have power to make one general rate to answer all the purposes aforesaid. 12 G. 2. c. 29. f. 1.

Which rate shall be assessed in such proportions, in every parish or place, as any of the rates by the said several former acts have been usually assessed. id.

By which last words reference being made to the former acts, as to the manner of proportioning the rate, it is proper to insert here, how the case stands upon the said former acts, as to such laying of the assessment; and it is thus:

(1) By the abovementioned act of the 22 H. 8. (in regard to bridges) the justices were to rate every inhabitant within their jurisdiction, in such reasonable sum, as they should think convenient. And by the 1 An. st. 1. c. 18. Every town, parish, or place was to be assessed, as they usually had been assessed towards the repair of bridges.

(2) By the 14 El. c. 5. (for relief of prisoners) the justices were to rate every parish at such reasonable sums as they should think convenient.

(3) By the 43 El. c. 2. (for hospitals and the marshalsea) the same was to be rateably assessed upon every parish.

(4) By the 7 J. c. 4. (for the master of the house of correction his salary) the same was to be rated, as for hospitals and the marshalsea, by the 43 El. c. 2.

(5) By the 19 C. 2. c. 4. (for sitting prisoners on work) to be raised as other county charges.

(6) By the 11 & 12 W. c. 19. (for repairing gaols) to be assessed by the justices in equal proportions, on every hundred, ward, or other division.

(7) And

And for the purpose of the law of the State of New York, the said parties do hereby certify that the above is a true and correct copy of the original instrument, and that the same has been duly recorded in the office of the County Clerk of the County of New York, in accordance with the provisions of the law of the State of New York, in that behalf made.

Witness my hand and seal of office, this 10th day of June, 1901.

Notary Public in and for the County of New York.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office, this 10th day of June, 1901.

Attest:

Notary Public in and for the County of New York.

Attest:

Notary Public in and for the County of New York.

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(7) And for *vagrants* (by the 12 *An.* now repealed) the money was to be raised as for bridges and gaols.

So that upon the whole, here seems to be intended an equal, proportionable rate, upon every division.

3. And where any person, liberty, division, or place hath usually contributed, or is liable to pay, only to one or more of, and not to all the rates hereby intended to be raised, and thrown into one general rate; the justices at their general or quarter sessions may order and ascertain, what proportion thereof shall be assessed on, and paid by such person, liberty, division, or place. Places exempted from part of the rate.

12 G. 2. c. 29. f. 5.

As for instance, where by the statute of 22 H. 8. c. 5. towns corporate are charged for the repairing of bridges within their respective liberties; and the counties, for the bridges out of such liberties; in such case, a town corporate ought not to be charged towards the bridges in the county at large; and consequently ought to have an abatement in the rate charged upon them, in such proportion as the expence of bridges is to the whole expence of the several articles charged upon the said general county rate; as if the expence of bridges be a tenth part of the whole expence chargeable upon the county rate, then such town corporate shall have an abatement of one shilling for every ten, which it would otherwise be charged with in such rate.

4. And by the 13 G. 2. c. 18. f. 7. Where any liberties or franchises have commissions within themselves, and are not subject to the county justices, and do not, nor did before the 12 G. 2. contribute to the county rates; the justices within such liberties may exercise the same powers within their liberties, as justices in their counties. Places exempted from the whole rate.

5. Which said rates the high constables shall, at such times as the said justices by their order in sessions shall direct, demand of the churchwardens and overseers; which demand shall be made in writing (A) and given to them, or any of them, or left at their dwelling houses, or affixed on the church doors, by the said high constables. High constable to make demand.

6. Whereupon the said churchwardens and overseers shall, in 30 days after such demand made, out of the money collected for relief of the poor, pay the sums so assessed on each parish or place. Overseers to pay.

7. And if the churchwardens or overseers, or any of them, shall neglect or refuse so to pay, the high constable shall levy the same by distress and sale of the goods of such churchwardens or overseers so refusing or neglecting, by warrant of two or more justices residing in or near such parish or place. To be levied by distress.

8. And the receipt of such high constable shall be a full discharge to the churchwardens and overseers, or other person paying the same. High constable's receipt.

9. Where there is no poor rate, the justices, in their general or quarter sessions, shall by their order direct the sum assessed on such parish, township, or place, to be rated and levied by the petty constable, or other peace officer, as money for relief of the poor. Case where there is no poor rate.

County rate.

poor is by law to be rated or levied: Which sum so rated and levied shall be paid by him to the high constable, and shall be demanded of, paid by, or levied on such petty constable, in the same manner as before of the churchwardens and overseers. And if any petty constable shall pay such sum before he hath collected it, he may afterwards rate and levy the same, or may be allowed and reimbursed the same, out of any constable's or other rate, which the justices in their sessions shall order and direct. 12 G. 2. c. 29. s. 3.

As money for relief of the poor is to be rated or levied] That is to say, by taxation of every inhabitant, parson, vicar, and other, and of every occupier of lands, houses, tithes, coal mines, or saleable underwoods. 43 El. c. 2. s. 1.

10. And whereas it will be inconvenient to many towns, parishes, and places, in the counties of York, Derby, Durham, Lancaster, Chester, Westmorland, Cumberland, and Northumberland, that the said rates should be paid out of the poor rate, the justices at their general or quarter sessions, *if they shall think convenient*, may order the sum assessed on any such town, parish, or place, to be paid by and levied on the petty constable (B), in such manner as is above directed, in cases where no rate is made for the poor. 12 G. 2. c. 29. s. 4.

If they shall think convenient] By which words, the justices in those counties may order the rate to be paid by either of the two methods before mentioned, according to their discretions; that is to say, either by the churchwardens and overseers out of the poor rate; or by the petty constables by an assessment after the manner of the poor rate. And the reason of this clause seems to be, because some parishes in the northern counties being very large, and for that reason subdivided into several townships with regard to the poor, it may happen that some townships in the same parish may be high rated, and others low rated, towards the relief of their poor; therefore if a general sum for the county rate upon the whole parish, were to be charged upon all the inhabitants, in proportion to their poor rate, it would lay the burden very unequally. To remedy which, the justices by this clause may charge separately such sum as they shall think reasonable, upon each subdivision or constablewick, in order to lay the same equally throughout the parish: and if any township shall be aggrieved thereby, they may appeal as hereafter is directed, or remove it by *certiorari*.

High constable to pay to the treasurer.

11. The said high constables, at or before the next sessions respectively after they have received the money, shall pay the same to the treasurer; and the money so paid, shall be deemed the publick stock. 12 G. 2. c. 29. s. 6.

Treasurer's receipt.

12. And the treasurer's receipt shall be a sufficient discharge to the high constable. 12 G. 2. c. 29. s. 9.

High constable to account.

13. And the said high constables shall deliver in a true account on oath (if required) of the money by them received, before the said justices at their general or quarter sessions: And if any such high constable shall neglect or refuse to demand or levy as aforesaid;

The first part of the book is devoted to a general
 description of the subject matter, and to a
 summary of the principal results. The second
 part is devoted to a more detailed treatment
 of the various branches of the subject.

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 treatment of the various branches of the subject.

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 treatment of the various branches of the subject.

Special Agent

1910

I hereby certify that the following is a true and correct copy of the original as the same appears in the files of the Bureau of Investigation:

Name of Person: _____
 Address: _____
 City: _____
 State: _____
 Date: _____

Special Agent in Charge

said, or to account, the said justices at their general or quarter sessions may commit him to the common gaol, until he shall have caused such rates to be demanded and levied, and shall have rendered a true account. And if it shall appear by such account, that any sum is remaining in his hands, and he shall not pay over the same to the treasurer, they may commit him till he pay the same. 12 G. 2. c. 29. f. 8.

14. And the justices, at their general or quarter sessions, may oblige by their order, the petty constables or any other person empowered to levy, collect, or receive any sum for the purposes aforesaid, and who have any sum in their hands, to account and pay over the same, in like manner as the high constables. 12 G. 2. c. 29. f. 17. Petty constables and others to account.

15. And the treasurer shall pay so much of the money in his hands, to such persons, as the justices in sessions shall by their order from time to time appoint, for the uses and purposes of the said abovementioned acts, and for any other uses and purposes to which the publick stock of any county, city, division, or liberty, is or shall be applicable. 12 G. 2. c. 29. f. 6. Treasurer's disbursements.

16. And the treasurer shall keep a book of entries, of the sums by him received and paid; and shall deliver in a true account on oath if required, of his receipts and disbursements, to the justices at every general or quarter sessions, and also the proper vouchers for the same, to be kept amongst the records of the sessions. 12 G. 2. c. 29. f. 7, 8. Treasurer's account.

17. And the discharge of the said justices, by their order at their general or quarter sessions, shall be a sufficient discharge to the treasurer. 12 G. 2. c. 29. f. 9. Sessions order a discharge to the treasurer.

18. And no new rate shall be made, until it appear, by the treasurer's accounts, or otherwise, that three fourths of the money collected have been expended for the purposes aforesaid. 12 G. 2. c. 29. f. 10. New rate when to be made.

19. If the churchwardens and overseers of any parish or place, shall think such parish or place is over rated, they may appeal to the next general or quarter sessions, against such part of the rate only as may affect such parishes or places: but such rate, upon the appeal, shall not be quashed in regard to any other parishes or places. 12 G. 2. c. 29. f. 12. Appeal.

20. No *certiorari* to remove any rates, or any orders or other proceedings of the sessions touching such rates, shall be granted but upon motion the first week of the next term after the time for appealing from such rates or orders is expired; and on making it appear to the court by affidavit or otherwise, that the merits of the question on such appeal or orders, will by such removal come properly in judgment. And no such *certiorari* shall be allowed, until sufficient security be given to the treasurer, in the sum of 100*l.* to prosecute the *certiorari* with effect, and to pay the costs if the rates or orders shall be confirmed. Nor shall any such rates, orders, or proceedings be quashed for want of form only. 12 G. 2. c. 29. f. 21. Certiorari.

And no action shall be commenced against any person who shall have collected or received any money, or any rate which shall

County rate.

shall be quashed on a *certiorari*, or otherwise, for any money collected or received on such rate before the *certiorari* was brought; but the persons who have paid on such rate more than they ought to have paid, shall be repaid, or have the same allowed in the next rate. 12 G. 2. c. 29. s. 18.

A. High constable's warrant to levy the rate.

Westmorland, } To the churchwardens and overseers of the poor
Kendal ward. } of the township [or parish] of _____ in the
said county.

BY virtue of an order of his majesty's justices of the peace in and for the said county, in their general quarter sessions assembled, you are hereby required in thirty days time from your receipt of this precept, or otherwise having had due notice thereof, to pay to me, out of the money by you collected or to be collected for the relief of the poor, the sum of _____ being the proportion of your said township [or parish] for and towards the general county rate, for the repairing of bridges; repairing of the gaol, and for the relief of prisoners therein; and for the relief of the prisoners in the king's bench and marshalsea prisons; repairing and furnishing the house of correction, with the salary of the keeper thereof; the treasurer's salary; the coroner's fees; the charges concerning vagrants, soldier carriages, convicting and transporting felons, and other county charges. And herein you are not to fail, on the peril that shall ensue thereof. Given under my hand at Lathhead in the said county, the _____ day of _____

Tho. Dennison, High constable.

Or, in the northern counties abovementioned, the justices, if they think proper, instead of ordering the money to be paid by the churchwardens and overseers, may order it to be paid by the petty constables: and then the high constable's precept to the petty constables may be thus:

Westmorland, } To the constables of _____ in the said
Kendal ward. } county.

BY virtue of an order from his majesty's justices of the peace in and for the said county, in their general quarter sessions assembled, you are hereby required to raise the sum of _____ within your constablewick, for which you are to make an equal rate within your said constablewick, and to levy the same, in such manner as money for the relief of the poor is by law to be rated or levied: which said sum you are to pay unto me, in thirty days time from your receipt of this precept, or otherwise having had due notice thereof; the same being the proportion of your said constablewick, for and towards the general county rate, for the repairing of bridges.

And so repeat the several particulars as in the last precedent; and that, for this reason, that the people may know what it is they pay their money for.

Court leet. See Leet.

Court of Sessions. See Sessions.

Curriers. See Leather.

Customs.

THE laws relating to the customs, so far as justices of the peace, constables, and other such officers, are concerned therein, being considerably connected with the laws of excise, it is thought proper to refer this subject to the title *Excise*, where the whole will be more clearly comprehended under one view.

Custos rotulorum.

BY the 37 *H. 8. c. 1.* (which was altered by the 3 & 4 *Ed. 6. c. 1.* but restored by 1 *W. c. 21.*) No person shall be appointed to the office of *custos rotulorum*, but such as shall have a bill signed with the king's hand for the same; which bill signed shall be a sufficient warrant to the lord chancellor, to make a commission, assigning and authorizing thereby the same person to be *custos rotulorum*, until the king hath by another bill with his own hand appointed one other person to have the same office, by himself, or his sufficient deputy, learned in the laws, and meet and able to supply the said office.

In pursuance whereof, the last clause in the commission of the peace is generally to this effect: "Lastly, we have assigned you the aforesaid ——— keeper of the rolls of our peace in our said county, and therefore you shall cause to be brought before you and your said fellows, at the days and places aforesaid, the writs, precepts, processses, and indictments aforesaid, that they may be inspected, and by a due course determined, as is aforesaid."

Cutting out tongues. See Maim.

Cyder. See Excise.

Damage feasant. See **Distress.**

Debtors.

HOW prisoners for debt shall be demeaned. See title **Gaol.**

Insolvent debtors brought to the assizes, in order to be discharged, shall pay for their bringing thither, not exceeding 12 *d.* a mile; and if they are not able to pay, then the same shall be paid by the treasurer, out of the county stock. 3 *G. 2. c. 27. s. 2.*

The last insolvent act is that of the 28 *G. 2. c. 13.* for relief of persons imprisoned for debt, on or before *Jan. 1. 1755.* On which act no discharges are to be obtained after *Mar. 31. 1757.*

Deer. See **Game.**

Defamation. See **Slander.**

Demurrer.

A *Demurrer* (from *demorari*) signifies an *abiding* in point of law, upon which the defendant joins issue, allowing the fact to be true as laid in the indictment. *Wood 1082.*

In criminal cases not capital, if the defendant demur to an indictment, the court will not give judgment against him to answer over, but final judgment. 2 *Haw. 334.*

But regularly in all cases of felony, where a man pleads a special matter, tho' he conclude his plea with not guilty to the felony, or do not conclude it so, yet if his plea be tried, or found, or ruled against him, he shall be put to his plea of not guilty, and be tried for the felony; for tho' a man shall lose his land in some cases for mispleading, yet he shall not lose his life for mispleading. 2 *H. H. 257.*

Deodand.

1. **D**EODAND is, when any moveable thing inanimate, or beast animate, doth move to or cause the untimely death of any reasonable creature, by mischance, without the will or fault of himself, or of any person. 3 *Inst. 57.*

2. This,

REPUBLICAN PARTY

Platform

1. To maintain the integrity of the Constitution and the Union.

2. To protect the rights of the citizenry.

3. To promote the general welfare of the people.

PRINCIPLES

The Republican Party is committed to the following principles:

1. Individual liberty and personal responsibility.

2. Limited government and free enterprise.

3. The rule of law and the separation of powers.

4. The protection of the environment and natural resources.

5. The promotion of peace and international cooperation.

CONCLUSION

The Republican Party stands for the values and principles that have made our country great. We are committed to a future of freedom, opportunity, and prosperity for all.





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